Papers relating to the foreign relations of the United States, with the annual message of the president transmitted to Congress December 6, 1897. 1897

United States Department of State
Washington, D.C.: U.S. Government Printing Office, 1897

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55TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { DOCUMENT No. 1.

PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 6, 1897.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1898.

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MESSAGE.

To the Senate and House of Representatives:

It gives me pleasure to extend greeting to the Fifty-fifth Congress, assembled in regular session at the seat of Government, with many of whose Senators and Representatives I have been associated in the legislative service. Their meeting occurs under felicitous conditions, justifying sincere congratulation and calling for our grateful acknowledgment to a beneficent Providence which has so signally blessed and prospered us as a nation. Peace and good will with all the nations of the earth continue unbroken.

A matter of genuine satisfaction is the growing feeling of fraternal regard and unification of all sections of our country, the incompleteness of which has too long delayed realization of the highest blessings of the Union. The spirit of patriotism is universal and is ever increasing in fervor. The public questions which now most engross us are lifted far above either partisanship, prejudice or former sectional differences. They affect every part of our common country alike and permit of no division on ancient lines. Questions of foreign policy, of revenue, the soundness of the currency, the inviolability of national obligations, the improvement of the public service, appeal to the individual conscience of every earnest citizen to whatever party he belongs or in whatever section of the country he may reside.

The extra session of this Congress which closed during July last enacted important legislation, and while its full effect has not yet been realized, what it has already accomplished assures us of its timeliness and wisdom. To test its permanent value further time will be required, and the people, satisfied with its operation and results thus far, are in no mind to withhold from it a fair trial.

Tariff legislation having been settled by the extra session of Congress, the question next pressing for consideration is that of the currency.

The work of putting our finances upon a sound basis, difficult as it may seem, will appear easier when we recall the financial opera-

tions of the Government since 1866. On the thirtieth day of June of that year we had outstanding demand liabilities in the sum of $728,868,447.41. On the first of January, 1879, these liabilities had been reduced to $443,889,495.88. Of our interest-bearing obligations, the figures are even more striking. On July 1, 1866, the principal of the interest-bearing debt of the Government was $2,332,331,208. On the first day of July, 1893, this sum had been reduced to $585,037,100, or an aggregate reduction of $1,747,294,108. The interest-bearing debt of the United States on the first day of December, 1897, was $847,365,620. The Government money now outstanding (December 1) consists of $346,681,016 of United States notes, $107,793,280 of Treasury notes issued by authority of the law of 1890, $384,963,504 of silver certificates, and $61,280,761 of standard silver dollars.

With the great resources of the Government and with the honorable example of the past before us, we ought not to hesitate to enter upon a currency revision which will make our demand obligations less onerous to the Government and relieve our financial laws from ambiguity and doubt.

The brief review of what was accomplished from the close of the war to 1893, makes unreasonable and groundless any distrust either of our financial ability or soundness; while the situation from 1893 to 1897 must admonish Congress of the immediate necessity of so legislating as to make the return of the conditions then prevailing impossible.

There are many plans proposed as a remedy for the evil. Before we can find the true remedy we must appreciate the real evil. It is not that our currency of every kind is not good, for every dollar of it is good; good because the Government's pledge is out to keep it so, and that pledge will not be broken. However, the guaranty of our purpose to keep the pledge will be best shown by advancing toward its fulfillment.

The evil of the present system is found in the great cost to the Government of maintaining the parity of our different forms of money, that is, keeping all of them at par with gold. We surely can not be longer heedless of the burden this imposes upon the people, even under fairly prosperous conditions, while the past four years have demonstrated that it is not only an expensive charge upon the Government, but a dangerous menace to the National credit.

It is manifest that we must devise some plan to protect the Government against bond issues for repeated redemptions. We must either curtail the opportunity for speculation, made easy by the multiplied redemptions of our demand obligations, or increase the gold reserve

for their redemption. We have $900,000,000 of currency which the Government by solemn enactment has undertaken to keep at par with gold. Nobody is obliged to redeem in gold but the Government. The banks are not required to redeem in gold. The Government is obliged to keep equal with gold all its outstanding currency and coin obligations, while its receipts are not required to be paid in gold. They are paid in every kind of money but gold, and the only means by which the Government can with certainty get gold is by borrowing. It can get it in no other way when it most needs it. The Government without any fixed gold revenue is pledged to maintain gold redemption, which it has steadily and faithfully done and which under the authority now given it will continue to do.

The law which requires the Government after having redeemed its United States notes to pay them out again as current funds demands a constant replenishment of the gold reserve. This is especially so in times of business panic and when the revenues are insufficient to meet the expenses of the Government. At such times the Government has no other way to supply its deficit and maintain redemption but through the increase of its bonded debt, as during the Administration of my predecessor when $262,315,400 of four-and-a-half per cent. bonds were issued and sold and the proceeds used to pay the expenses of the Government in excess of the revenues and sustain the gold reserve. While it is true that the greater part of the proceeds of these bonds were used to supply deficient revenues, a considerable portion was required to maintain the gold reserve.

With our revenues equal to our expenses, there would be no deficit requiring the issuance of bonds. But if the gold reserve falls below $100,000,000, how will it be replenished except by selling more bonds? Is there any other way practicable under existing law? The serious question then is, shall we continue the policy that has been pursued in the past; that is, when the gold reserve reaches the point of danger, issue more bonds and supply the needed gold, or shall we provide other means to prevent these recurring drains upon the gold reserve? If no further legislation is had and the policy of selling bonds is to be continued, then Congress should give the Secretary of the Treasury authority to sell bonds at long or short periods, bearing a less rate of interest than is now authorized by law.

I earnestly recommend as soon as the receipts of the Government are quite sufficient to pay all the expenses of the Government, that when any of the United States notes are presented for redemption

in gold and are redeemed in gold, such notes shall be kept and set apart, and only paid out in exchange for gold. This is an obvious duty. If the holder of the United States note prefers the gold and gets it from the Government, he should not receive back from the Government a United States note without paying gold in exchange for it. The reason for this is made all the more apparent when the Government issues an interest-bearing debt to provide gold for the redemption of United States notes—a non-interest-bearing debt. Surely it should not pay them out again except on demand and for gold. If they are put out in any other way, they may return again to be followed by another bond issue to redeem them—another interest-bearing debt to redeem a non-interest-bearing debt.

In my view it is of the utmost importance that the Government should be relieved from the burden of providing all the gold required for exchanges and export. This responsibility is alone borne by the Government without any of the usual and necessary banking powers to help itself. The banks do not feel the strain of gold redemption. The whole strain rests upon the Government and the size of the gold reserve in the Treasury has come to be, with or without reason, the signal of danger or of security. This ought to be stopped.

If we are to have an era of prosperity in the country, with sufficient receipts for the expenses of the Government, we may feel no immediate embarrassment from our present currency; but the danger still exists and will be ever present menacing us so long as the existing system continues. And besides it is in times of adequate revenues and business tranquillity that the Government should prepare for the worst. We can not avoid without serious consequences the wise consideration and prompt solution of this question.

The Secretary of the Treasury has outlined a plan in great detail, for the purpose of removing the threatened recurrence of a depleted gold reserve and save us from future embarrassment on that account. To this plan I invite your careful consideration.

I concur with the Secretary of the Treasury in his recommendation that National banks be allowed to issue notes to the face value of the bonds which they have deposited for circulation, and that the tax on circulating notes secured by deposit of such bonds be reduced to one-half of one per cent. per annum. I also join him in recommending that authority be given for the establishment of National banks with a minimum capital of $25,000. This will enable the smaller villages and agricultural regions of the country to be supplied with currency to meet their needs.

I recommend that the issue of National bank notes be restricted

to the denomination of ten dollars and upwards. If the suggestions I have herein made shall have the approval of Congress, then I would recommend that National banks be required to redeem their notes in gold.

The most important problem with which this Government is now called upon to deal pertaining to its foreign relations concerns its duty toward Spain and the Cuban insurrection. Problems and conditions more or less in common with those now existing have confronted this Government at various times in the past. The story of Cuba for many years has been one of unrest; growing discontent; an effort toward a larger enjoyment of liberty and self-control; of organized resistance to the mother country; of depression after distress and warfare and of ineffectual settlement to be followed by renewed revolt. For no enduring period since the enfranchisement of the continental possessions of Spain in the Western continent has the condition of Cuba or the policy of Spain toward Cuba not caused concern to the United States.

The prospect from time to time that the weakness of Spain's hold upon the Island and the political vicissitudes and embarrassments of the home government might lead to the transfer of Cuba to a continental power called forth, between 1823 and 1860, various emphatic declarations of the policy of the United States to permit no disturbance of Cuba's connection with Spain unless in the direction of independence or acquisition by us through purchase; nor has there been any change of this declared policy since upon the part of the Government.

The revolution which began in 1868 lasted for ten years despite the strenuous efforts of the successive peninsular governments to suppress it. Then as now the Government of the United States testified its grave concern and offered its aid to put an end to bloodshed in Cuba. The overtures made by General Grant were refused and the war dragged on, entailing great loss of life and treasure and increased injury to American interests besides throwing enhanced burdens of neutrality upon this Government. In 1878 peace was brought about by the Truce of Zanjon, obtained by negotiations between the Spanish Commander, Martinez de Campos, and the insurgent leaders.

The present insurrection broke out in February, 1895. It is not my purpose at this time to recall its remarkable increase or to characterize its tenacious resistance against the enormous forces massed against it by Spain. The revolt and the efforts to subdue it carried destruction to every quarter of the Island, developing wide propor-

tions and defying the efforts of Spain for its suppression. The civilized code of war has been disregarded, no less so by the Spaniards than by the Cubans.

The existing conditions can not but fill this Government and the American people with the gravest apprehension. There is no desire on the part of our people to profit by the misfortunes of Spain. We have only the desire to see the Cubans prosperous and contented, enjoying that measure of self-control which is the inalienable right of man, protected in their right to reap the benefit of the exhaustless treasures of their country.

The offer made by my predecessor in April, 1896, tendering the friendly offices of this Government failed. Any mediation on our part was not accepted. In brief the answer read: "There is no effectual way to pacify Cuba unless it begins with the actual submission of the rebels to the mother country." Then only could Spain act in the promised direction, of her own motion and after her own plans.

The cruel policy of concentration was initiated February 16, 1896. The productive districts controlled by the Spanish armies were depopulated. The agricultural inhabitants were herded in and about the garrison towns, their lands laid waste and their dwellings destroyed. This policy the late Cabinet of Spain justified as a necessary measure of war and as a means of cutting off supplies from the insurgents. It has utterly failed as a war measure. It was not civilized warfare. It was extermination.

Against this abuse of the rights of war I have felt constrained on repeated occasions to enter the firm and earnest protest of this Government. There was much of public condemnation of the treatment of American citizens by alleged illegal arrests and long imprisonment awaiting trial or pending protracted judicial proceedings. I felt it my first duty to make instant demand for the release or speedy trial of all American citizens under arrest. Before the change of the Spanish Cabinet in October last twenty-two prisoners, citizens of the United States, had been given their freedom.

For the relief of our own citizens suffering because of the conflict the aid of Congress was sought in a special message, and under the appropriation of April 4, 1897, effective aid has been given to American citizens in Cuba, many of them at their own request having been returned to the United States.

The instructions given to our new Minister to Spain before his departure for his post directed him to impress upon that Government the sincere wish of the United States to lend its aid toward the ending of the war in Cuba by reaching a peaceful and lasting

result, just and honorable alike to Spain and to the Cuban people. These instructions recited the character and duration of the contest, the widespread losses it entails, the burdens and restraints it imposes upon us, with constant disturbance of National interests, and the injury resulting from an indefinite continuance of this state of things. It was stated that at this juncture our Government was constrained to seriously inquire if the time was not ripe when Spain of her own volition, moved by her own interests and every sentiment of humanity, should put a stop to this destructive war and make proposals of settlement honorable to herself and just to her Cuban colony. It was urged that as a neighboring nation, with large interests in Cuba, we could be required to wait only a reasonable time for the mother country to establish its authority and restore peace and order within the borders of the Island; that we could not contemplate an indefinite period for the accomplishment of this result.

No solution was proposed to which the slightest idea of humiliation to Spain could attach, and indeed precise proposals were withheld to avoid embarrassment to that Government. All that was asked or expected was that some safe way might be speedily provided and permanent peace restored. It so chanced that the consideration of this offer, addressed to the same Spanish Administration which had declined the tenders of my predecessor and which for more than two years had poured men and treasure into Cuba in the fruitless effort to suppress the revolt, fell to others. Between the departure of General Woodford, the new Envoy, and his arrival in Spain the statesman who had shaped the policy of his country fell by the hand of an assassin, and although the Cabinet of the late Premier still held office and received from our Envoy the proposals he bore, that Cabinet gave place within a few days thereafter to a new Administration, under the leadership of Sagasta.

The reply to our note was received on the 23d day of October. It is in the direction of a better understanding. It appreciates the friendly purposes of this Government. It admits that our country is deeply affected by the war in Cuba and that its desires for peace are just. It declares that the present Spanish Government is bound by every consideration to a change of policy that should satisfy the United States and pacify Cuba within a reasonable time. To this end Spain has decided to put into effect the political reforms heretofore advocated by the present Premier, without halting for any consideration in the path which in its judgment leads to peace. The military operations, it is said,

will continue but will be humane and conducted with all regard for private rights, being accompanied by political action leading to the autonomy of Cuba while guarding Spanish sovereignty. This, it is claimed, will result in investing Cuba with a distinct personality; the Island to be governed by an Executive and by a Local Council or Chamber, reserving to Spain the control of the foreign relations, the army and navy and the judicial administration. To accomplish this the present Government proposes to modify existing legislation by decree, leaving the Spanish Cortes, with the aid of Cuban Senators and Deputies, to solve the economic problem and properly distribute the existing debt.

In the absence of a declaration of the measures that this Government proposes to take in carrying out its proffer of good offices it suggests that Spain be left free to conduct military operations and grant political reforms, while the United States for its part shall enforce its neutral obligations and cut off the assistance which it is asserted the insurgents receive from this country. The supposition of an indefinite prolongation of the war is denied. It is asserted that the western provinces are already well-nigh reclaimed; that the planting of cane and tobacco therein has been resumed, and that by force of arms and new and ample reforms very early and complete pacification is hoped for.

The immediate amelioration of existing conditions under the new administration of Cuban affairs is predicted, and therewithal the disturbance and all occasion for any change of attitude on the part of the United States. Discussion of the question of the international duties and responsibilities of the United States as Spain understands them is presented, with an apparent disposition to charge us with failure in this regard. This charge is without any basis in fact. It could not have been made if Spain had been cognizant of the constant efforts this Government has made at the cost of millions and by the employment of the administrative machinery of the nation at command to perform its full duty according to the law of nations. That it has successfully prevented the departure of a single military expedition or armed vessel from our shores in violation of our laws would seem to be a sufficient answer. But of this aspect of the Spanish note it is not necessary to speak further now. Firm in the conviction of a wholly performed obligation, due response to this charge has been made in diplomatic course.

Throughout all these horrors and dangers to our own peace this Government has never in any way abrogated its sovereign prerogative of reserving to itself the determination of its policy and course

according to its own high sense of right and in consonance with the dearest interests and convictions of our own people should the prolongation of the strife so demand.

Of the untried measures there remain only: Recognition of the insurgents as belligerents; recognition of the independence of Cuba; neutral intervention to end the war by imposing a rational compromise between the contestants, and intervention in favor of one or the other party. I speak not of forcible annexation, for that can not be thought of. That by our code of morality would be criminal aggression.

Recognition of the belligerency of the Cuban insurgents has often been canvassed as a possible if not inevitable step both in regard to the previous ten years' struggle and during the present war. I am not unmindful that the two Houses of Congress in the spring of 1896 expressed the opinion by concurrent resolution that a condition of public war existed requiring or justifying the recognition of a state of belligerency in Cuba, and during the extra session the Senate voted a joint resolution of like import, which however was not brought to a vote in the House of Representatives. In the presence of these significant expressions of the sentiment of the Legislative branch it behooves the Executive to soberly consider the conditions under which so important a measure must needs rest for justification. It is to be seriously considered whether the Cuban insurrection possesses beyond dispute the attributes of Statehood which alone can demand the recognition of belligerency in its favor. Possession, in short, of the essential qualifications of sovereignty by the insurgents and the conduct of the war by them according to the received code of war are no less important factors toward the determination of the problem of belligerency than are the influences and consequences of the struggle upon the internal polity of the recognizing State.

The wise utterances of President Grant in his memorable message of December 7, 1875, are signally relevant to the present situation in Cuba and it may be wholesome now to recall them. At that time a ruinous conflict had for seven years wasted the neighboring Island. During all those years an utter disregard of the laws of civilized warfare and of the just demands of humanity, which called forth expressions of condemnation from the nations of Christendom, continued unabated. Desolation and ruin pervaded that productive region, enormously affecting the commerce of all commercial nations, but that of the United States more than any other by reason of proximity and larger trade and intercourse. At that

juncture General Grant uttered these words, which now as then sum up the elements of the problem:

"A recognition of the independence of Cuba being, in my opinion, impracticable, and indefensible, the question which next presents itself is that of the recognition of belligerent rights in the parties to the contest. In a former message to Congress I had occasion to consider this question, and reached the conclusion that the conflict in Cuba, dreadful and devastating as were its incidents, did not rise to the fearful dignity of war. * * * It is possible that the acts of foreign powers, and even acts of Spain herself, of this very nature, might be pointed to in defense of such recognition. But now, as in its past history, the United States should carefully avoid the false lights which might lead it into the mazes of doubtful law and of questionable propriety, and adhere rigidly and sternly to the rule, which has been its guide, of doing only that which is right and honest and of good report. The question of according or of withholding rights of belligerency must be judged in every case, in view of the particular attending facts. Unless justified by necessity, it is always, and justly, regarded as an unfriendly act and a gratuitous demonstration of moral support to the rebellion. It is necessary, and it is required, when the interests and rights of another government or of its people are so far affected by a pending civil conflict as to require a definition of its relations to the parties thereto. But this conflict must be one which will be recognized in the sense of international law as war.

"Belligerence, too, is a fact. The mere existence of contending armed bodies, and their occasional conflicts, do not constitute war in the sense referred to. Applying to the existing condition of affairs in Cuba the tests recognized by publicists and writers on international law, and which have been observed by nations of dignity, honesty and power, when free from sensitive or selfish and unworthy motives, I fail to find in the insurrection the existence of such a substantial political organization, real, palpable and manifest to the world, having the forms and capable of the ordinary functions of government toward its own people and to other states, with courts for the administration of justice, with a local habitation, possessing such organization of force, such material, such occupation of territory as to take the contest out of the category of a mere rebellious insurrection, or occasional skirmishes, and place it on the terrible footing of war, to which a recognition of belligerency would aim to elevate it.

"The contest, moreover, is solely on land; the insurrection has not possessed itself of a single seaport whence it may send forth its

flag, nor has it any means of communication with foreign powers except through the military lines of its adversaries. No apprehension of any of those sudden and difficult complications which a war upon the ocean is apt to precipitate upon the vessels, both commercial and national, and upon the consular officers of other powers, calls for the definition of their relations to the parties to the contest. Considered as a question of expediency, I regard the accordance of belligerent rights still to be as unwise and premature, as I regard it to be, at present, indefensible as a measure of right.

"Such recognition entails upon the country according the rights which flow from it difficult and complicated duties, and requires the exaction from the contending parties of the strict observance of their rights and obligations. It confers the right of search upon the high seas by vessels of both parties; it would subject the carrying of arms and munitions of war, which now may be transported freely and without interruption, in vessels of the United States, to detention and to possible seizure; it would give rise to countless vexatious questions, would release the parent government from responsibility for acts done by the insurgents, and would invest Spain with the right to exercise the supervision recognized by our treaty of 1795 over our commerce on the high seas, a very large part of which, in its traffic between the Atlantic and the Gulf States, and between all of them and the States on the Pacific, passes through the waters which wash the shores of Cuba. The exercise of this supervision could scarce fail to lead, if not to abuses, certainly to collisions perilous to the peaceful relations of the two States. There can be little doubt as to what result such supervision would before long draw this nation. It would be unworthy of the United States to inaugurate the possibilities of such result, by measures of questionable right or expediency, or by any indirection."

Turning to the practical aspects of a recognition of belligerency and reviewing its inconveniences and positive dangers, still further pertinent considerations appear. In the code of nations there is no such thing as a naked recognition of belligerency unaccompanied by the assumption of international neutrality. Such recognition without more will not confer upon either party to a domestic conflict a status not theretofore actually possessed or affect the relation of either party to other States. The act of recognition usually takes the form of a solemn proclamation of neutrality which recites the de facto condition of belligerency as its motive. It announces a domestic law of neutrality in the declaring State. It assumes the international obligations of a neutral in the presence of a public state of war. It warns all citizens and others within the jurisdiction of the

proclaimant that they violate those rigorous obligations at their own peril and can not expect to be shielded from the consequences. The right of visit and search on the seas and seizure of vessels and cargoes and contraband of war and good prize under admiralty law must under international law be admitted as a legitimate consequence of a proclamation of belligerency. While according the equal belligerent rights defined by public law to each party in our ports disfavors would be imposed on both, which while nominally equal would weigh heavily in behalf of Spain herself. Possessing a navy and controlling the ports of Cuba her maritime rights could be asserted not only for the military investment of the Island but up to the margin of our own territorial waters, and a condition of things would exist for which the Cubans within their own domain could not hope to create a parallel; while its creation through aid or sympathy from within our domain would be even more impossible than now, with the additional obligations of international neutrality we would perforce assume.

The enforcement of this enlarged and onerous code of neutrality would only be influential within our own jurisdiction by land and sea and applicable by our own instrumentalities. It could impart to the United States no jurisdiction between Spain and the insurgents. It would give the United States no right of intervention to enforce the conduct of the strife within the paramount authority of Spain according to the international code of war.

For these reasons I regard the recognition of the belligerency of the Cuban insurgents as now unwise and therefore inadmissible. Should that step hereafter be deemed wise as a measure of right and duty the Executive will take it.

Intervention upon humanitarian grounds has been frequently suggested and has not failed to receive my most anxious and earnest consideration. But should such a step be now taken when it is apparent that a hopeful change has supervened in the policy of Spain toward Cuba? A new government has taken office in the mother country. It is pledged in advance to the declaration that all the effort in the world can not suffice to maintain peace in Cuba by the bayonet; that vague promises of reform after subjugation afford no solution of the insular problem; that with a substitution of commanders must come a change of the past system of warfare for one in harmony with a new policy which shall no longer aim to drive the Cubans to the "horrible alternative of taking to the thicket or succumbing in misery;" that reforms must be instituted in accordance with the needs and circumstances of the time, and that these reforms, while designed to give full autonomy to the

colony and to create a virtual entity and self-controlled administration, shall yet conserve and affirm the sovereignty of Spain by a just distribution of powers and burdens upon a basis of mutual interest untainted by methods of selfish expediency.

The first acts of the new government lie in these honorable paths. The policy of cruel rapine and extermination that so long shocked the universal sentiment of humanity has been reversed. Under the new military commander a broad clemency is proffered. Measures have already been set on foot to relieve the horrors of starvation. The power of the Spanish armies it is asserted is to be used not to spread ruin and desolation but to protect the resumption of peaceful agricultural pursuits and productive industries. That past methods are futile to force a peace by subjugation is freely admitted, and that ruin without conciliation must inevitably fail to win for Spain the fidelity of a contented dependency.

Decrees in application of the foreshadowed reforms have already been promulgated. The full text of these decrees has not been received, but as furnished in a telegraphic summary from our Minister are: All civil and electoral rights of Peninsular Spaniards are, in virtue of existing constitutional authority, forthwith extended to Colonial Spaniards. A scheme of autonomy has been proclaimed by decree, to become effective upon ratification by the Cortes. It creates a Cuban parliament which, with the insular executive, can consider and vote upon all subjects affecting local order and interests, possessing unlimited powers save as to matters of state, war and the navy as to which the Governor-General acts by his own authority as the delegate of the central government. This parliament receives the oath of the Governor-General to preserve faithfully the liberties and privileges of the colony, and to it the colonial secretaries are responsible. It has the right to propose to the central government, through the Governor-General, modifications of the national charter and to invite new projects of law or executive measures in the interest of the colony.

Besides its local powers it is competent, first, to regulate electoral registration and procedure and prescribe the qualifications of electors and the manner of exercising suffrage; second, to organize courts of justice with native judges from members of the local bar; third, to frame the insular budget both as to expenditures and revenues, without limitation of any kind, and to set apart the revenues to meet the Cuban share of the national budget, which latter will be voted by the national Cortes with the assistance of Cuban senators and deputies; fourth, to initiate or take part in the negotiations of the national government for commercial treaties which may affect

Cuban interests; fifth, to accept or reject commercial treaties which the national government may have concluded without the participation of the Cuban government; sixth, to frame the colonial tariff, acting in accord with the peninsular government in scheduling articles of mutual commerce between the mother country and the colonies. Before introducing or voting upon a bill, the Cuban government or the chambers will lay the project before the central government and hear its opinion thereon, all the correspondence in such regard being made public. Finally, all conflicts of jurisdiction arising between the different municipal, provincial and insular assemblies, or between the latter and the insular executive power, and which from their nature may not be referable to the central government for decision, shall be submitted to the courts.

That the Government of Sagasta has entered upon a course from which recession with honor is impossible can hardly be questioned; that in the few weeks it has existed it has made earnest of the sincerity of its professions is undeniable. I shall not impugn its sincerity, nor should impatience be suffered to embarrass it in the task it has undertaken. It is honestly due to Spain and to our friendly relations with Spain that she should be given a reasonable chance to realize her expectations and to prove the asserted efficacy of the new order of things to which she stands irrevocably committed. She has recalled the Commander whose brutal orders inflamed the American mind and shocked the civilized world. She has modified the horrible order of concentration and has undertaken to care for the helpless and permit those who desire to resume the cultivation of their fields to do so and assures them of the protection of the Spanish Government in their lawful occupations. She has just released the "Competitor" prisoners heretofore sentenced to death and who have been the subject of repeated diplomatic correspondence during both this and the preceding Administration.

Not a single American citizen is now in arrest or confinement in Cuba of whom this Government has any knowledge. The near future will demonstrate whether the indispensable condition of a righteous peace, just alike to the Cubans and to Spain as well as equitable to all our interests so intimately involved in the welfare of Cuba, is likely to be attained. If not, the exigency of further and other action by the United States will remain to be taken. When that time comes that action will be determined in the line of indisputable right and duty. It will be faced, without misgiving or hesitancy in the light of the obligation this Government owes to itself, to the people who have confided to it the protection of their interests and honor, and to humanity.

Sure of the right, keeping free from all offense ourselves, actuated only by upright and patriotic considerations, moved neither by passion nor selfishness, the Government will continue its watchful care over the rights and property of American citizens and will abate none of its efforts to bring about by peaceful agencies a peace which shall be honorable and enduring. If it shall hereafter appear to be a duty imposed by our obligations to ourselves, to civilization and humanity to intervene with force, it shall be without fault on our part and only because the necessity for such action will be so clear as to command the support and approval of the civilized world.

By a special message dated the 16th day of June last, I laid before the Senate a treaty signed that day by the plenipotentiaries of the United States and of the Republic of Hawaii, having for its purpose the incorporation of the Hawaiian Island as an integral part of the United States and under its sovereignty. The Senate having removed the injunction of secrecy, although the treaty is still pending before that body, the subject may be properly referred to in this Message because the necessary action of the Congress is required to determine by legislation many details of the eventual union should the fact of annexation be accomplished, as I believe it should be.

While consistently disavowing from a very early period any aggressive policy of absorption in regard to the Hawaiian group, a long series of declarations through three-quarters of a century has proclaimed the vital interest of the United States in the independent life of the Islands and their intimate commercial dependence upon this country. At the same time it has been repeatedly asserted that in no event could the entity of Hawaiian statehood cease by the passage of the Islands under the domination or influence of another power than the United States. Under these circumstances, the logic of events required that annexation, heretofore offered but declined, should in the ripeness of time come about as the natural result of the strengthening ties that bind us to those Islands, and be realized by the free will of the Hawaiian State.

That treaty was unanimously ratified without amendment by the Senate and President of the Republic of Hawaii on the 10th of September last, and only awaits the favorable action of the American Senate to effect the complete absorption of the Islands into the domain of the United States. What the conditions of such a union shall be, the political relation thereof to the United States, the character of the local administration, the quality and degree of the elective franchise of the inhabitants, the extension of the federal laws to the territory or the enactment of special laws to fit the

peculiar condition thereof, the regulation if need be of the labor system therein, are all matters which the treaty has wisely relegated to the Congress.

If the treaty is confirmed as every consideration of dignity and honor requires, the wisdom of Congress will see to it that, avoiding abrupt assimilation of elements perhaps hardly yet fitted to share in the highest franchises of citizenship, and having due regard to the geographical conditions, the most just provisions for self-rule in local matters with the largest political liberties as an integral part of our Nation will be accorded to the Hawaiians. No less is due to a people who, after nearly five years of demonstrated capacity to fulfill the obligations of self-governing statehood, come of their free will to merge their destinies in our body-politic.

The questions which have arisen between Japan and Hawaii by reason of the treatment of Japanese laborers emigrating to the Islands under the Hawaiian-Japanese convention of 1888, are in a satisfactory stage of settlement by negotiation. This Government has not been invited to mediate, and on the other hand has sought no intervention in that matter, further than to evince its kindliest disposition toward such a speedy and direct adjustment by the two sovereign states in interest as shall comport with equity and honor. It is gratifying to learn that the apprehensions at first displayed on the part of Japan lest the cessation of Hawaii's national life through annexation might impair privileges to which Japan honorably laid claim, have given place to confidence in the uprightness of this Government, and in the sincerity of its purpose to deal with all possible ulterior questions in the broadest spirit of friendliness.

As to the representation of this Government to Nicaragua, Salvador and Costa Rica, I have concluded that Mr. William L. Merry, cofirmed as Minister of the United States to the States of Nicaragua, Salvador and Costa Rica, shall proceed to San José, Costa Rica, and there temporarily establish the headquarters of the United States to those three States. I took this action for what I regarded as the paramount interests of this country. It was developed upon an investigation by the Secretary of State that the Government of Nicaragua, while not unwilling to receive Mr. Merry in his diplomatic quality, was unable to do so because of the compact concluded June 20, 1895, whereby that Republic and those of Salvador and Honduras, forming what is known as the Greater Republic of Central America, had surrendered to the representative Diet thereof their right to receive and send diplomatic

agents. The Diet was not willing to accept him because he was not accredited to that body. I could not accredit him to that body because the appropriation law of Congress did not permit it. Mr. Baker, the present Minister at Managua, has been directed to present his letters of recall.

Mr. W. Godfrey Hunter has likewise been accredited to the Governments of Guatemala and Honduras, the same as his predecessor. Guatemala is not a member of the Greater Republic of Central America, but Honduras is. Should this latter Government decline to receive him, he has been instructed to report this fact to his Government and await its further instructions.

A subject of large importance to our country and increasing appreciation on the part of the people, is the completion of the great highway of trade between the Atlantic and Pacific known as the Nicaragua Canal. Its utility and value to American commerce is universally admitted. The Commission appointed under date of July 24th last "to continue the surveys and examinations authorized by the act approved March 2, 1895," in regard to "the proper route, feasibility and cost of construction of the Nicaragua Canal, with a view of making complete plans for the entire work of construction of such canal," is now employed in the undertaking. In the future I shall take occasion to transmit to Congress the report of this Commission, making at the same time such further suggestions as may then seem advisable.

Under the provisions of the act of Congress approved March 3, 1897, for the promotion of an international agreement respecting bimetallism, I appointed on the 14th day of April, 1897, Hon. Edward O. Wolcott of Colorado, Hon. Adlai E. Stevenson of Illinois, and Hon. Charles J. Paine of Massachusetts, as Special Envoys to represent the United States. They have been diligent in their efforts to secure the concurrence and coöperation of European countries in the international settlement of the question, but up to this time have not been able to secure an agreement contemplated by their mission.

The gratifying action of our great sister Republic of France in joining this country in the attempt to bring about an agreement among the principal commercial nations of Europe, whereby a fixed and relative value between gold and silver shall be secured, furnishes assurance that we are not alone among the larger nations of the world in realizing the international character of the problem and in the desire of reaching some wise and practical solution of it. The

British Government has published a résumé of the steps taken jointly by the French Ambassador in London and the Special Envoys of the United States, with whom our Ambassador at London actively coöperated in the presentation of this subject to Her Majesty's Government. This will be laid before Congress.

Our Special Envoys have not made their final report, as further negotiations between the representatives of this Government and the governments of other countries are pending and in contemplation. They believe that doubts which have been raised in certain quarters respecting the position of maintaining the stability of the parity between the metals and kindred questions may yet be solved by further negotiations.

Meanwhile it gives me satisfaction to state that the Special Envoys have already demonstrated their ability and fitness to deal with the subject, and it is to be earnestly hoped that their labors may result in an international agreement which will bring about recognition of both gold and silver as money upon such terms and with such safeguards as will secure the use of both metals upon a basis which shall work no injustice to any class of our citizens.

In order to execute as early as possible the provisions of the third and fourth sections of the Revenue Act approved July 24, 1897, I appointed the Honorable John A. Kasson of Iowa a Special Commissioner Plenipotentiary to undertake the requisite negotiations with foreign countries desiring to avail themselves of these provisions. The negotiations are now proceeding with several Governments, both European and American. It is believed that by a careful exercise of the powers conferred by that Act some grievances of our own and of other countries in our mutual trade relations may be either removed, or largely alleviated, and that the volume of our commercial exchanges may be enlarged, with advantage to both contracting parties.

Most desirable from every standpoint of national interest and patriotism is the effort to extend our foreign commerce. To this end our merchant marine should be improved and enlarged. We should do our full share of the carrying trade of the world. We do not do it now. We should be the laggard no longer. The inferiority of our merchant marine is justly humiliating to the national pride. The Government by every proper constitutional means should aid in making our ships familiar visitors at every commercial port of the world, thus opening up new and valuable markets to the surplus products of the farm and the factory.

The efforts which had been made during the two previous years by my predecessor to secure better protection to the fur seals in the North Pacific Ocean and Bering Sea, were renewed at an early date by this Administration and have been pursued with earnestness. Upon my invitation the Governments of Japan and Russia sent delegates to Washington and an international conference was held during the months of October and November last, wherein it was unanimously agreed that under the existing regulations this species of useful animals was threatened with extinction and that an international agreement of all the interested powers was necessary for their adequate protection.

The Government of Great Britain did not see proper to be represented at this conference, but subsequently sent to Washington, as delegates, the expert commissioners of Great Britain and Canada who had during the past two years visited the Pribilof Islands, and who met in conference similar commissioners on the part of the United States. The result of this conference was an agreement on important facts connected with the condition of the seal herd, heretofore in dispute, which should place beyond controversy the duty of the Governments concerned to adopt measures without delay for the preservation and restoration of the herd. Negotiations to this end are now in progress, the result of which I hope to be able to report to Congress at an early day.

International arbitration can not be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations without resorting to the horrors of war. Treaties embodying these humane principles on broad lines without in any way imperiling our interests or our honor shall have my constant encouragement.

The acceptance by this Government of the invitation of the Republic of France to participate in the Universal Exposition of 1900 at Paris was immediately followed by the appointment of a Special Commissioner to represent the United States in the proposed Exposition, with special reference to the securing of space for an adequate exhibit on behalf of the United States.

The Special Commissioner delayed his departure for Paris long enough to ascertain the probable demand for space by American exhibitors. His inquiries developed an almost unprecedented

interest in the proposed Exposition, and the information thus acquired enabled him to justify an application for a much larger allotment of space for the American section than had been reserved by the Exposition authorities. The result was particularly gratifying in view of the fact that the United States was one of the last countries to accept the invitation of France.

The reception accorded our Special Commissioner was most cordial and he was given every reasonable assurance that the United States would receive a consideration commensurate with the proportions of our exhibit. The report of the Special Commissioner as to the magnitude and importance of the coming Exposition and the great demand for space by American exhibitors supplies new arguments for a liberal and judicious appropriation by Congress to the end that an exhibit fairly representative of the industries and resources of our country may be made in an Exposition which will illustrate the World's progress during the nineteenth century. That Exposition is intended to be the most important and comprehensive of the long series of international exhibitions, of which our own at Chicago was a brilliant example, and it is desirable that the United States should make a worthy exhibit of American genius and skill and their unrivaled achievements in every branch of industry.

The present immediately effective force of the Navy consists of four battleships of the first class, two of the second, and forty-eight other vessels, ranging from armored cruisers to torpedo boats. There are under construction five battleships of the first class, sixteen torpedo boats and one submarine boat. No provision has yet been made for the armor of three of the five battleships, as it has been impossible to obtain it at the price fixed by Congress. It is of great importance that Congress provide this armor, as until then the ships are of no fighting value.

The present naval force, especially in view of its increase by the ships now under construction, while not as large as that of a few other powers, is a formidable force; its vessels are the very best of each type; and with the increase that should be made to it from time to time in the future, and careful attention to keeping it in a high state of efficiency and repair, it is well adapted to the necessities of the country.

The great increase of the Navy which has taken place in recent years was justified by the requirements for national defense, and has received public approbation. The time has now arrived, however, when this increase, to which the country is committed, should,

for a time, take the form of increased facilities commensurate with the increase of our naval vessels. It is an unfortunate fact that there is only one dock on the Pacific Coast capable of docking our largest ships, and only one on the Atlantic Coast, and that the latter has for the last six or seven months been under repair and therefore incapable of use. Immediate steps should be taken to provide three or four docks of this capacity on the Atlantic Coast, at least one on the Pacific Coast, and a floating dock in the Gulf. This is the recommendation of a very competent Board, appointed to investigate the subject. There should also be ample provision made for powder and projectiles, and other munitions of war, and for an increased number of officers and enlisted men. Some additions are also necessary to our navy-yards, for the repair and care of our larger number of vessels. As there are now on the stocks five battleships of the largest class, which can not be completed for a year or two, I concur with the recommendation of the Secretary of the Navy for an appropriation authorizing the construction of one battleship for the Pacific Coast, where, at present, there is only one in commission and one under construction, while on the Atlantic Coast there are three in commission and four under construction; and also that several torpedo boats be authorized in connection with our general system of coast defense.

The Territory of Alaska requires the prompt and early attention of Congress. The conditions now existing demand material changes in the laws relating to the Territory. The great influx of population during the past summer and fall and the prospect of a still larger immigration in the spring will not permit us to longer neglect the extension of civil authority within the Territory or postpone the establishment of a more thorough government.

A general system of public surveys has not yet been extended to Alaska and all entries thus far made in that district are upon special surveys. The act of Congress extending to Alaska the mining laws of the United States contained the reservation that it should not be construed to put in force the general land laws of the country. By act approved March 3, 1891, authority was given for entry of lands for town-site purposes and also for the purchase of not exceeding one hundred and sixty acres then or thereafter occupied for purposes of trade and manufacture. The purpose of Congress as thus far expressed has been that only such rights should apply to that Territory as should be specifically named.

It will be seen how much remains to be done for that vast and remote and yet promising portion of our country. Special authority

was given to the President by the Act of Congress approved July 24, 1897, to divide that Territory into two land districts and to designate the boundaries thereof and to appoint registers and receivers of said land offices, and the President was also authorized to appoint a surveyor-general for the entire district. Pursuant to this authority, a surveyor-general and receiver have been appointed, with offices at Sitka. If in the ensuing year the conditions justify it, the additional land district authorized by law will be established, with an office at some point in the Yukon Valley. No appropriation, however, was made for this purpose, and that is now necessary to be done for the two land districts into which the Territory is to be divided.

I concur with the Secretary of War in his suggestions as to the necessity for a military force in the Territory of Alaska for the protection of persons and property. Already a small force, consisting of twenty-five men, with two officers, under command of Lieutenant-Colonel Randall, of the Eighth Infantry, has been sent to St. Michael to establish a military post.

As it is to the interest of the Government to encourage the development and settlement of the country and its duty to follow up its citizens there with the benefits of legal machinery, I earnestly urge upon Congress the establishment of a system of government with such flexibility as will enable it to adjust itself to the future areas of greatest population.

The startling though possibly exaggerated reports from the Yukon River country, of the probable shortage of food for the large number of people who are wintering there without the means of leaving the country are confirmed in such measure as to justify bringing the matter to the attention of Congress. Access to that country in winter can be had only by the passes from Dyea and vicinity, which is a most difficult and perhaps an impossible task. However, should these reports of the suffering of our fellow-citizens be further verified, every effort at any cost should be made to carry them relief.

For a number of years past it has been apparent that the conditions under which the Five Civilized Tribes were established in the Indian Territory under treaty provisions with the United States, with the right of self-government and the exclusion of all white persons from within their borders, have undergone so complete a change as to render the continuance of the system thus inaugurated practically impossible. The total number of the Five Civilized Tribes, as shown by the last census, is 45,494, and this number has not materially increased; while the white population is estimated at

from 200,000 o 250,000 which by permission of the Indian Government has settled in the Territory. The present area of the Indian Territory contains 25,694,564 acres, much of which is very fertile land. The United States citizens residing in the Territory, most of whom have gone there by invitation or with the consent of the tribal authorities, have made permanent homes for themselves. Numerous towns have been built in which from 500 to 5,000 white people now reside. Valuable residences and business houses have been erected in many of them. Large business enterprises are carried on in which vast sums of money are employed, and yet these people, who have invested their capital in the development of the productive resources of the country, are without title to the land they occupy and have no voice whatever in the government either of the Nations or Tribes. Thousands of their children who were born in the Territory are of school age, but the doors of the schools of the Nations are shut against them and what education they get is by private contribution. No provision for the protection of the life or property of these white citizens is made by the Tribal Governments and Courts.

The Secretary of the Interior reports that leading Indians have absorbed great tracts of land to the exclusion of the common people, and government by an Indian aristocracy has been practically established, to the detriment of the people. It has been found impossible for the United States to keep its citizens out of the Territory and the executory conditions contained in the treaties with these Nations have for the most part become impossible of execution. Nor has it been possible for the Tribal Governments to secure to each individual Indian his full enjoyment in common with other Indians of the common property of the Nations. Friends of the Indians have long believed that the best interests of the Indians of the Five Civilized Tribes would be found in American citizenship, with all the rights and privileges which belong to that condition.

By Section 16 of the Act of March 3, 1893, the President was authorized to appoint three commissioners to enter into negotiations with the Cherokee, Choctaw, Chickasaw, Muscogee (or Creek) and Seminole Nations, commonly known as the Five Civilized Tribes in the Indian Territory. Briefly, the purposes of the negotiations were to be: The extinguishment of Tribal titles to any lands within that Territory now held by any and all such Nations or Tribes, either by cession of the same or some part thereof to the United States, or by allotment and division of the same in severalty among the Indians of such Nations or Tribes respectively as may be entitled to the same, or by such other method as may be agreed upon

between the several Nations and Tribes aforesaid, or each of them with the United States, with a view to such an adjustment upon the basis of justice and equity as may, with the consent of the said Nations of Indians so far as may be necessary, be requisite and suitable to enable the ultimate creation of a State or States of the Union which shall embrace the lands within said Indian Territory.

The Commission met much opposition from the beginning. The Indians were very slow to act and those in control manifested a decided disinclination to meet with favor the propositions submitted to them. A little more than three years after this organization the Commission effected an agreement with the Choctaw Nation alone. The Chickasaws, however, refused to agree to its terms, and as they have a common interest with the Choctaws in the lands of said Nations, the agreement with the latter Nation could have no effect without the consent of the former. On April 23, 1897, the Commission effected an agreement with both tribes—the Choctaws and Chickasaws. This agreement, it is understood, has been ratified by the constituted authorities of the respective Tribes or Nations parties thereto, and only requires ratification by Congress to make it binding.

On the 27th of September, 1897, an agreement was effected with the Creek Nation, but it is understood that the National Council of said Nation has refused to ratify the same. Negotiations are yet to be had with the Cherokees, the most populous of the Five Civilized Tribes, and with the Seminoles, the smallest in point of numbers and territory.

The provision in the Indian Appropriation Act, approved June 10, 1896, makes it the duty of the Commission to investigate and determine the rights of applicants for citizenship in the Five Civilized Tribes, and to make complete census rolls of the citizens of said Tribes. The Commission is at present engaged in this work among the Creeks and has made appointments for taking the census of these people up to and including the 30th of the present month.

Should the agreement between the Choctaws and Chickasaws be ratified by Congress and should the other Tribes fail to make an agreement with the Commission, then it will be necessary that some legislation shall be had by Congress, which, while just and honorable to the Indians, shall be equitable to the white people who have settled upon these lands by invitation of the Tribal Nations.

Hon. Henry L. Dawes, Chairman of the Commission, in a letter to the Secretary of the Interior, under date of October 11, 1897, says: "Individual ownership is in their (the Commission's) opinion absolutely essential to any permanent improvement in present con-

ditions, and the lack of it is the root of nearly all the evils which so grievously afflict these people. Allotment by agreement is the only possible method, unless the United States Courts are clothed with the authority to apportion the lands among the citizen Indians for whose use it was originally granted."

I concur with the Secretary of the Interior that there can be no cure for the evils engendered by the perversion of these great trusts excepting by their resumption by the government which created them.

The recent prevalence of yellow fever in a number of cities and towns throughout the South has resulted in much disturbance of commerce and demonstrated the necessity of such amendments to our quarantine laws as will make the regulations of the national quarantine authorities paramount. The Secretary of the Treasury in the portion of his report relating to the operation of the Marine Hospital Service calls attention to the defects in the present quarantine laws and recommends amendments thereto which will give the Treasury Department the requisite authority to prevent the invasion of epidemic diseases from foreign countries, and in times of emergency like that of the past summer will add to the efficiency of the sanitary measures for the protection of the people and at the same time prevent unnecessary restriction of commerce. I concur in his recommendation.

In further effort to prevent the invasion of the United States by yellow fever the importance of the discovery of the exact cause of the disease, which up to the present time has been undetermined, is obvious, and to this end a systematic bacteriological investigation should be made. I therefore recommend that Congress authorize the appointment of a commission by the President, to consist of four expert bacteriologists, one to be selected from the medical officers of the Marine Hospital Service, one to be appointed from civil life, one to be detailed from the medical officers of the Army and one from the medical officers of the Navy.

The Union Pacific Railway, Main Line, was sold under the decree of the United States Court for the District of Nebraska on the 1st and 2d of November of this year. The amount due the Government consisted of the principal of the subsidy bonds, $27,236,512, and the accrued interest thereon, $31,211,711.75, making the total indebtedness, $58,448,223.75. The bid at the sale covered the first mortgage lien and the entire mortgage claim of the Government, principal and interest.

The sale of the subsidized portion of the Kansas Pacific Line, upon which the Government holds a second mortgage lien, has been postponed at the instance of the Government to December 16, 1897. The debt of this division of the Union Pacific Railway to the Government on November 1, 1897, was the principal of the subsidy bonds, $6,303,000, and the unpaid and accrued interest thereon, $6,626,690.33, making a total of $12,929,690.33.

The sale of this road was originally advertised for November 4th, but for the purpose of securing the utmost public notice of the event it was postponed until December 16th and a second advertisement of the sale was made. By the decree of the Court the upset price on the sale of the Kansas Pacific will yield to the Government the sum of $2,500,000 over all prior liens, costs and charges. If no other or better bid is made this sum is all that the Government will receive on its claim of nearly $13,000,000. The Government has no information as to whether there will be other bidders or a better bid than the minimum amount herein stated. The question presented therefore is: Whether the Government shall under the authority given it by the Act of March 3, 1887, purchase or redeem the road in the event that a bid is not made by private parties covering the entire Government claim. To qualify the Government to bid at the sales will require a deposit of $900,000, as follows: In the Government cause $500,000 and in each of the first mortgage causes $200,000, and in the latter the deposit must be in cash. Payments at the sale are as follows: Upon the acceptance of the bid a sum which with the amount already deposited shall equal fifteen per cent. of the bid; the balance in installments of twenty-five per cent. thirty, forty and fifty days after the confirmation of the sale. The lien on the Kansas Pacific prior to that of the Government on the 30th July, 1897, principal and interest, amounted to $7,281,048.11. The Government, therefore, should it become the highest bidder, will have to pay the amount of the first mortgage lien.

I believe that under the act of 1887 it has the authority to do this and in absence of any action by Congress I shall direct the Secretary of the Treasury to make the necessary deposit as required by the Court's decree to qualify as a bidder and to bid at the sale a sum which will at least equal the principal of the debt due to the Government; but suggest in order to remove all controversy that an amendment of the law be immediately passed explicitly giving such powers and appropriating in general terms whatever sum is sufficient therefor.

In so important a matter as the Government becoming the pos-

sible owner of railroad property which it perforce must conduct and operate, I feel constrained to lay before Congress these facts for its consideration and action before the consummation of the sale. It is clear to my mind that the Government should not permit the property to be sold at a price which will yield less than one-half of the principal of its debt and less than one-fifth of its entire debt, principal and interest. But whether the Government, rather than accept less than its claim, should become a bidder and thereby the owner of the property, I submit to the Congress for action.

The Library building provided for by the act of Congress approved April 15, 1886, has been completed and opened to the public. It should be a matter of congratulation that through the foresight and munificence of Congress the nation possesses this noble treasure-house of knowledge. It is earnestly to be hoped that having done so much towards the cause of education, Congress will continue to develop the Library in every phase of research to the end that it may be not only one of the most magnificent but among the richest and most useful libraries in the world.

The important branch of our Government known as the Civil Service, the practical improvement of which has long been a subject of earnest discussion, has of late years received increased legislative and Executive approval. During the past few months the service has been placed upon a still firmer basis of business methods and personal merit. While the right of our veteran soldiers to reinstatement in deserving cases has been asserted, dismissals for merely political reasons have been carefully guarded against, the examinations for admittance to the service enlarged and at the same time rendered less technical and more practical; and a distinct advance has been made by giving a hearing before dismissal upon all cases where incompetency is charged or demand made for the removal of officials in any of the Departments. This order has been made to give to the accused his right to be heard but without in any way impairing the power of removal, which should always be exercised in cases of inefficiency and incompetency, and which is one of the vital safeguards of the civil service reform system, preventing stagnation and deadwood and keeping every employee keenly alive to the fact that the security of his tenure depends not on favor but on his own tested and carefully watched record of service.

Much of course still remains to be accomplished before the system can be made reasonably perfect for our needs. There are

places now in the classified service which ought to be exempted and others not classified may properly be included. I shall not hesitate to exempt cases which I think have been improperly included in the classified service or include those which in my judgment will best promote the public service. The system has the approval of the people and it will be my endeavor to uphold and extend it.

I am forced by the length of this Message to omit many important references to affairs of the Government with which Congress will have to deal at the present session. They are fully discussed in the departmental reports, to all of which I invite your earnest attention.

The estimates of the expenses of the Government by the several Departments will, I am sure, have your careful scrutiny. While the Congress may not find it an easy task to reduce the expenses of the Government, it should not encourage their increase. These expenses will in my judgment admit of a decrease in many branches of the Government without injury to the public service. It is a commanding duty to keep the appropriations within the receipts of the Government, and thus avoid a deficit.

WILLIAM McKINLEY.

EXECUTIVE MANSION,
December 6, 1897.

CORRESPONDENCE.

ARGENTINE REPUBLIC.

DISCRIMINATION AGAINST AMERICAN LUMBER.

Mr. Olney to Mr. Buchanan.

No. 187.] DEPARTMENT OF STATE,
Washington, December 31, 1896.

SIR: I inclose a copy of a letter[1] from Mr. E. F. Skinner alleging a discrimination by the Argentine Government against American and in favor of Canadian lumber.

It is presumed that, if it exists, it is in virtue of a special reciprocity treaty.

The Department would be glad to be advised on the subject.

I am, etc.,

RICHARD OLNEY.

Mr. Buchanan to Mr. Olney.

No. 304.] LEGATION OF THE UNITED STATES,
Buenos Ayres, February 1, 1897. (Received March 19.)

SIR: I have the honor to acknowledge the receipt of your No. 187, of December 31, 1896, with which you inclose a copy of a letter addressed to the Department by Mr. E. F. Skinner, representing the Gulf Coast Lumber Company, in which letter Mr. Skinner states that he is informed that a discriminating tariff exists here against American lumber and in favor of Canadian.

Assuming that the members of the Gulf Coast Lumber Association export yellow pine to this market, I am at a loss to understand the inquiry made by Mr. Skinner, inasmuch as the discriminating duty of which he speaks ceased January 1, 1895.

The discrimination against yellow pine had existed here for several years prior to my arrival in 1894. During that year I devoted my attention toward getting the rate on this class of lumber adjusted in some manner more nearly equitable than the rate then existing.

So that the Department's correspondent may understand the conditions that existed at that time, the difficulties met with in the effort to get the rates changed, and the result obtained, I beg to call your attention to the inclosures accompanying my No. 49, of August 13, 1894, and

[1] Not printed.

especially to Exhibit C of the "table of comparative statistics" therewith (see Foreign Relations, 1894, pp. 7–12); to my No. 63 of October 5, 1894 (see Foreign Relations, 1894, pp. 14–17); and to my No. 74 of November 19, 1894, and my cablegram of January 10, 1895 (see Foreign Relations, 1895, pp. 3, 4).

From the above correspondence it will be seen that under the Argentine tariff law of 1895 white-pine lumber paid $4.88 per 1,000 feet; spruce pine, $3.48 per 1,000 feet, and yellow pine, $4.18 per 1,000 feet.

No change in these rates was made in the tariff for 1896 and none has been made in the tariff law for 1897.

The benefits secured to our yellow-pine producers by the success of the legation's efforts in 1894 to secure an adjustment of values and tariffs as they had for some years applied to white, spruce, and yellow pine may be seen from the following comparative table showing the rates of duty and valuation of the three classes of lumber for 1894 and 1895:

	Year.	Valuation.		Duty.	
		Sq. meter.	*M. ft.*	*Per cent.*	*M. feet.*
White pine	1894	0.45	41.80	5	2.14
Do	1895	0.35	32.51	15	4.88
Spruce pine	1894	0.45	41.80	5	2.14
Do	1895	0.25	23.22	15	3.48
Yellow pine	1894	0.50	46.45	25	11.61
Do	1895	0.30	27.87	15	4.18

The result of the change thus made in the pine-lumber schedule is seen in the very large increase shown in the importation of yellow pine into this country since 1895. According to the Lamport and Holt Steamship Company's shipping list this increase amounted to nearly 20,000,000 feet during 1895.

As I advised you in my No. 186 of January 10, 1896, the duty on oak was reduced 10 per cent in the tariff for 1896. It remains the same under the tariff law for 1897.

I have, etc., WILLIAM I. BUCHANAN.

DISCRIMINATING DUTY ON COTTON-SEED OIL.

Mr. Olney to Mr. Buchanan.

No. 186.] DEPARTMENT OF STATE,
Washington, December 30, 1896.

SIR: I have to inclose for your information, and for such action as you may find practicable within the language of my letter to Mr. Gorham, a copy of a letter[1] from him of the 22d instant and of my reply[1] of the 30th concerning the statements that the Government of the Argentine Republic has largely increased the duty on cotton oil, thereby unjustly discriminating against an American product in favor of olive oil.

Awaiting your report, I am, etc., RICHARD OLNEY.

[1] Not printed.

Mr. Buchanan to Mr. Olney.

No. 303.] LEGATION OF THE UNITED STATES,
Buenos Ayres, February 1, 1897. (Received March 19.)

SIR: I have the honor to acknowledge the receipt of your No. 186, of December 30, 1896, with which you inclose copy of the correspondence had with Mr. George C. Gorham, representing the American Cotton Oil Company, with regard to the customs duty on cotton oil in this Republic.

Mr. Gorham states that "the Government of the Argentine Republic has largely increased the duty on cotton oil, an American product. The duty has hitherto been the same as that on olive oil, but is now to be increased 20 per cent."

I assume that what Mr. Gorham thus refers to is the fact that such a move was before the last Congress, during which it was discussed at some length and on several occasions. I was familiar and kept in touch with the arguments being made in support of the proposition advanced to increase the duty 2 cents per kilo, and took every opportunity in conversation with members to answer the criticisms and arguments being made. I was at one time inclined to believe the proposition would be carried, but am glad to say that it was not, and that the duty on cotton oil is the same for 1897 that it was for 1895 and 1896, viz, 10 cents specific duty per kilo, the same as olive and other "comestible" oils.

The reason urged in Congress in favor of raising the duty was that cotton oil entered into competition with a home product, "aceite de mani" (peanut oil). The manufacturers of the latter oil clamored to be protected against the American oil, which they claimed would ruin their industry. I explained to members that such a thing was illogical, inasmuch as the price of cotton-seed oil in New York at that time was higher than the price of peanut oil here, so that the home product needed nothing in the line of legislation to protect it.

That you may understand what the peanut-oil industry amounts to here, as it will always be put forward as a reason why the duty on cotton oil shall not be reduced—a thing I wish very much to see done—I may say that the industry is principally confined to the provinces of Corrientes and Santa Fe. There are about 8,000 acres in peanut cultivation in the Republic. The production is about 2,500 pounds per acre. The yield in oil is about 22 per cent. Two-thirds of this is first quality. The total yield of oil in the Republic would be, therefore, more or less, three and a quarter million pounds. There are 13 peanut-oil factories, large and small, in the Republic. Eight of these are in the city.

In Argentine statistics cotton oil is not separated from table oils. All "aceites comestibles" are classified as "olive oil." It thus happens that in the Argentine statistics for the year 1895 291,100 kilos of "olive oil" are alleged to have been imported here from the United States. This, of course, was cotton oil. The figures do not, however, agree with those of the United States Statistical (Bureau?), which gives a higher figure.

There is a possibility that the high duty kept on this oil here results in a considerable quantity finding its way through the custom-house as lubricating oil, which pays a very much lower rate of duty.

I believe an effort should be made to secure a further reduction in the duty on cotton oil strictly on the merits of the case, without reference to the question of olive or any other vegetable oil, with the exception of palm oil, which pays 0.04 specific per kilo and might be used as a leverage to secure a reduction on cotton oil. A reference to the closing

portion of the inclosure which accompanied my No. 49[1] of August 13, 1894, and to Exhibit C of the table of comparative statistics to which I therein referred, which shows that the subject has had my attention more than once. At that time I secured a reduction from 12 cents per kilo to 10 cents. It may be well to state that to secure another reduction it will require a well-directed effort to dislodge the prejudice which exists here against the oil.

It is difficult to make the average person here believe that the oil here is digestible or that it can be and is used as an adulterant of table oils.

Possibly under the circumstances this should not be done. It may be best to treat it as a fine lubricant or crude oil similar to palm oil. The American Cotton Oil Company can best decide that. I believe a large trade can be built up here by them if they will give the subject their careful attention. Especially do I believe this since on the next to the last day of the last Congress linseed oil was put on the tax list at 12 cents specific duty per kilo, a rise of more than 250 per cent in the rate. But this was done to protect the factories now existing in the Republic. While that action will affect our trade somewhat, it will not be so serious for us as for Great Britain, the shipments of this oil to this country during 1895 having amounted to but 2,829 kilos from the United States, as against 268,037 kilos from Great Britain and 5,692 from Germany. Possibly this rise in the rate of linseed oil may be the means of increasing the consumption of cotton oil if the opportunity is made use of.

I am ready to second any efforts that will aid in widening the market for our product, and have already planned a campaign before the next Congress in favor of cotton oil and several other products which we produce to a greater extent than other countries.

I trust the above may throw some light on the subject of your dispatch, and have the honor, etc.,

WILLIAM I. BUCHANAN.

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[1] See Foreign Relations, 1894, p. 7.

AUSTRIA-HUNGARY.

SEIZURE OF PASSPORT OF AN AMERICAN CITIZEN.

Mr. Olney to Mr. Tripp.

No. 274.] DEPARTMENT OF STATE,
Washington, December 16, 1896.

SIR: I inclose for your information a copy of a letter from Mr. Leopold Rieder, of Newark, N. J., of the 10th instant, complaining that on or about the 20th of June last, while he was in Austria, the authorities of that country took possession of his passport and refused to return it to him, notwithstanding his frequent requests that it might be restored to him.

You are requested to make inquiries in the proper quarter with a view to ascertaining the grounds upon which the Austrian authorities refused to return Mr. Rieder's passport, and to make such representations to the Austro-Hungarian Government as the facts may be found to justify.

I am, etc.,

RICHARD OLNEY.

Mr. Tower to Mr. Sherman.

No. 6.] UNITED STATES LEGATION,
Vienna, July 6, 1897. (Received July 23.)

SIR: Referring to the dispatch No. 274, addressed under date of the 16th of December, 1896, by the Hon. Richard Olney, Secretary of State, to my predecessor, the Hon. Bartlett Tripp, upon the subject of a complaint made at the State Department by Mr. Leopold Rieder, of Newark, N. J., in regard to the seizure of his passport by the local authorities during a visit which he made to Galicia, his native country, in the summer of 1896, I have the honor to inclose to you herewith copies of the correspondence which has taken place between the minister of the United States and the Imperial and Royal ministry of foreign affairs.

Upon receipt of the dispatch from the Secretary of State, Mr. Tripp addressed a note to Count Goluchowsky, Imperial and Royal minister of foreign affairs, dated the 29th day of December, 1896, a copy of which is inclosed herewith, calling his attention to the complaint of Mr. Rieder, and requesting him to cause investigation to be made as to the facts of the case, and if no sufficient cause were found for the detention of the passport in question, to have such instructions given to the local officials of Galicia as should prevent the recurrence of such conduct in the future.

I have received from the Imperial and Royal foreign office a reply to this communication, dated the 22d of June, 1897, a translation of which is also inclosed herewith.

It appears therefrom that the attention of the local authorities was attracted to Mr. Rieder during his stay in Galicia, as they would nat-

urally be to a returned emigrant, and that by reason of a request made at that time by his sister for a permit to go to America he was suspected of carrying on an illicit emigration agency. It is more than likely that the police sought also to test his liability to perform military service. He was summoned to appear before the magistrate and give an account of himself. To this summons he paid no attention, however, but gave up his American passport, saying that that would explain the situation. Thereupon an official inquiry was begun, which was delayed by the transfer of the proceedings from the court of origin to another, established in the meantime, which had jurisdiction of the case. The decision having been reached by the magistrate, after due examination, that no cause of action lay against Mr. Rieder, his passport was ordered to be given back to him. But before that time Mr. Rieder had left Galicia upon his return to America, and could not be found. The passport, which is numbered 12722, and was issued to Leopold Rieder by the Hon. Richard Olney on the 3d day of June, 1896, has been returned to this legation, and is now inclosed to you herewith. It seems probable that if Mr. Rieder had consented to appear and make a statement to the magistrate when he was summoned he would have saved himself much annoyance, and would have had his passport given back to him without delay.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1 in No. 6.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, December 29, 1896.

YOUR EXCELLENCY: By direction of the State Department at Washington I am instructed to call your excellency's attention to the case of Leopold Rieder of Newark, N. J., a naturalized citizen of the United States, who complains and says that in the month of August, 1896, he visited Galicia, his native country, for a temporary stay, and that on the next day after his arrival at the city of Rzeszow, in Galicia, he was visited by the mayor of the city, or his clerk, and asked for his passport; that the same was thereupon taken from him and has not been since returned to him; that after remaining at his former home for six weeks, and having made frequent demands for his passport, he was obliged to return to the United States without the same.

I am requested to ask your excellency to cause investigation to be made as to the facts of this case, and if they be found as represented, and no sufficient cause exists for the detention of such passport, it is to be hoped such instructions will be given to the local officials of Galicia as will prevent recurrence of such conduct in the future.

With renewed assurances, etc.,

BARTLETT TRIPP.

[Inclosure 2 in No. 6—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *June 22, 1897.*

In reply to the esteemed note of December 29, 1896, numbered 166, relating to the complaint made by Leopold Rieder against the confiscation by the Imperial and Royal authorities of his passport, the ministry

of foreign affairs begs to inform the United States' legation of the results of the investigation made in the premises.

Upon a request made by Machle Rieder, of Lutzka, the sister of the plaintiff, Leopold Rieder, for a passport to go to America, suspicion was aroused that Leopold Rieder, who was then in Lutzka, was carrying on an illegal emigration agency. The district captain at Rzeszow therefore directed the chief of community at Lutzka, Johann Norvakowsky, to investigate this matter thoroughly. The latter, after having conferred with some of the older inhabitants of the place, reported that Rieder had left Rzeszow when he was a child, emigrated to America, is not inscribed on any of the record books of the place, has not rendered any military service, and that his age can not be stated accurately. Thereupon the chief of community summoned Mr. Rieder to appear before the district captain at Rzeszow. Rieder, however, did not appear in compliance with this summons, but handed his passport voluntarily to the judge, with the remark that the district captain at Rzeszow would be able with this document to bring the matter to a termination.

On the strength of this remark the chief of community at Lutzka transferred the case, with the documents of Rieder, to the district captain in Rzeszow on the 21st day of October, 1896, and they were afterwards sent to Stryzow, where, in the meantime, a district captaincy had been established.

There being no cause for further action in the matter—and since the provisions of the treaty of September 20, 1870, between the United States and Austria-Hungary, exempted Rieder from punishment—the district captain at Stryzow, under date of January 15, 1897, ordered that the passport should be given back to Mr. Rieder, which order, however, could not be carried out, because Rieder had left for America in the fall of 1896, without having asked for the return of his passport.

The passport in question is herewith respectfully placed at the disposal of the legation of the United States.

WELSERSHEIMB,
For the Minister.

EXECUTION OF FOREIGN JUDGMENTS IN CROATIA.

Mr. Hengelmüller to Mr. Sherman.

AUSTRO-HUNGARIAN LEGATION,
Bar Harbor, July 2, 1897.

MR. SECRETARY OF STATE: In re a suit between two Croatian citizens domiciled in Allegheny County, Pa., which has been decided by a justice of the peace of said county, the plaintiff in whose favor judgment has been rendered has made application to a Croatian court, to the end that certain real estate belonging to the defendant, and lying within the jurisdiction of the said Croatian court, may be levied upon in satisfaction of said judgment.

Since, according to the civil procedure in force in Croatia, executions in pursuance of the decisions of foreign courts can not take place unless the decisions of Croatian courts are enforced by the courts of the country in which the decision to be enforced in Croatia has been rendered, I have been instructed to secure authentic information as to whether the laws of the State of Pennsylvania permit the enforcement of foreign decisions (among them those of Croatian courts), and, if so, whether such enforcement is permitted on the basis of reciprocity, and what proceedings are usual in such cases.

I have been so instructed for the reason that there is no treaty or other international agreement in existence between the Imperial and Royal Monarchy and the United States of America whereby the enforcement of judgments pronounced by the courts of one country appears to be guaranteed in the other.

I consequently have the honor, Mr. Secretary of State, to ask your kind mediation to this end, and I avail, etc.,

HENGELMÜLLER.

Mr. Adee to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, July 21, 1897.

SIR: Referring to your note of the 2d instant, in regard to a case in which execution of a judgment of a justice of the peace in Allegheny County, Pa., is sought in Croatia, where it can only be granted in the event of reciprocity existing in Pennsylvania for the like judgments rendered in Croatia, I have the honor to inclose for your information a copy of a letter[1] from the Governor of the State of Pennsylvania, stating—

that under the laws of Pennsylvania the judgment of a court of competent jurisdiction in Croatia would be respected to the extent of permitting such judgment to be sued upon in the courts of Pennsylvania, the judgment itself, when properly proven to have been given, upon due notice to the defendant, according to the laws of Croatia, forming the basis of the suit here, and would be accepted as conclusive of the rights adjudicated between the parties in the country where the judgment was rendered. In the suit thus brought in Pennsylvania on a judgment rendered in Croatia, the defendant would have the right to defend only as to matters arising since the rendition of the judgment, such as payment made, a release, etc. No execution would be permitted to issue on a foreign judgment until judgment was obtained here upon such foreign judgment, in the manner above indicated.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

TRICHINÆ IN IMPORTED AMERICAN PORK.

Mr. Hengelmüller to Mr. Olney.

AUSTRO-HUNGARIAN LEGATION,
Washington, October 6, 1896.

MR. SECRETARY OF STATE: In the month of May last 10 kilos of pork of American origin were declared in the slaughterhouse at Teplitz, Bohemia, to contain trichinæ. The investigation showed that the pork in question was covered by a certificate issued in Chicago, April 3, 1896, sub Z, 44, apparently on the ground of a microscopical examination concerning the unquestioned healthy condition of the meat.

In view of the fact that the importation of hog products from the United States into Austria is by no means inconsiderable, and that the certificates from the original place of shipment must absolutely provide a guaranty of safety, which was made a condition in 1891 for the repeal of the prohibition of the importation of pork coming from the United

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[1] Not printed.

States (Reichsgesetz Blatt, No. 168, ex 1891), I have the honor to address to your excellency the request to bring this case to the knowledge of the proper authorities of the Federal Government, to the end that it may take such measures as to bring about a reliable examination and a trustworthy certification with respect to these exportations of hog products.

Accept, etc., HENGELMÜLLER.

Mr. Olney to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, October 15, 1896.

SIR: Referring to your note of the 6th instant, relative to trichinæ having been found in pork accompanied by an American certificate of microscopic inspection at Leplitz, Bohemia, I have the honor to inform you that the Department has received a letter, of the 9th instant, from the Acting Secretary of Agriculture, stating that an investigation shows that the pork referred to in your note was shipped from Chicago April 3, 1896, under certificate No. 44, and was consigned to Hamburg, Germany; that the meat had received a careful and thorough microscopical inspection, and was found free from trichinæ before it was packed; that there appears to be no evidence that the meat shipped from Hamburg to Bohemia under this certificate was the same meat that was shipped from Chicago to Hamburg; that there is an apparent possibility that the meat containing the trichinæ did not come from the package covered by the certificate, and that there have been no direct shipments of pork from the United States to Austria-Hungary that have been certified by the American Department of Agriculture.

The American Acting Secretary of Agriculture observes that it must be apparent that this Government can only guarantee the meat which is taken from original packages; that it can not prevent substitutions in other countries, and that the microscopical inspection is conducted with great care, and every precaution is adopted to prevent any unwholesome meat from being packed in cases covered by certificates.

Accept, etc.,

RICHARD OLNEY.

INSANE AMERICANS IN AUSTRIAN ASYLUMS.

Prince Wrede to Mr. Olney.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, May 27, 1896.

MR. SECRETARY OF STATE: As will appear from the inclosed reports from the board of administration of the Imperial and Royal public hospital, transmitted hither by the Imperial and Royal mayoralty in Vienna, a further retention in that hospital of the American citizen, Amalie Roeber, is no longer expedient. She has been in the psychiatric department since February 17, 1896, and it is now desired by the board of directors of that hospital that, as she is able to undergo the voyage, she be taken charge of by an institution in her own country.

In having the honor to inform your excellency of the above I venture

to bespeak your kind intermediation concerning the recognition of residence and citizenship of Amalie Roeber, whose family and traveling papers are likewise inclosed, and to ask to be duly informed of the result of the action taken in this matter, and if possible of the time when the charge of the aforesaid person will be assumed and the place where it will occur.

Requesting the return of the inclosures, accept, etc.,

R. WREDE.

Mr. Adee to Prince Wrede.

DEPARTMENT OF STATE,
Washington, July 31, 1896.

SIR: Referring to your note of the 27th of May last in regard to the case of Amalie Roeber, who is now confined in an insane hospital in Austria-Hungary, I have the honor to inform you that the Department has received a letter from the executive office of the State of New York inclosing an official report from the State commission of lunacy, from which it appears that the commission is not satisfied from the documents you submitted that Amalie Roeber is a proper charge upon the State of New York, inasmuch as it nowhere appears that she has been a resident of the State at any time within the past twenty years. The commission, therefore, holds that the State of New York would not be justified in accepting Mrs. Roeber as a public charge.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Hengelmüller to Mr. Olney.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, November 4, 1896.

MR. SECRETARY OF STATE: As will be seen by the accompanying report of the director of the general hospital of Vienna, which has been transmitted to this legation by the Imperial and Royal statthalter in that city, Albert Levy, an American citizen, who has been in the psychiatric department of that institution since August 24, 1896, appears, owing to chronic insanity, not to be a fit person to be left in the aforesaid hospital, and the director therefore desires that Albert Levy, who is well enough to be removed, may be taken to a hospital in his own country.

In having the honor to apprise your excellency of the foregoing I take the liberty—inclosing Albert Levy's passport,[1] bearing date of June 29, 1896, No. 14630, and his certificate of naturalization,[1] which is dated San Francisco, June 6, 1887, both of which documents leave not the slightest doubt as to his American citizenship—to request your excellency's kind mediation to the end that proper steps may be taken to secure the removal of the above-named person to a hospital for the insane in the United States. I beg, furthermore, to be informed of the

[1] Not printed.

result of the action taken by your excellency, and of the time and the place where the American authorities will take charge of Albert Levy. Finally, I beg that the inclosures may be returned to me.

Accept, etc.,

HENGELMÜLLER.

[Inclosure—Translation.]

To His Excellency the Imperial and Royal Statthalter of Lower Austria:

Albert Levy, who, as appears from the inclosed passport, is an American citizen, and who has been in our psychiatric-clinical department since the 24th of August last, is, according to the physician's certificate, which is likewise herewith inclosed, not a fit subject for further treatment in this institution, owing to chronic mental derangement, and should, therefore, be removed to a hospital for the insane in his own country.

Your excellency is consequently most respectfully requested to make suitable arrangements, through the proper diplomatic channel, for the removal of the aforesaid insane person to such a hospital in the United States of America.

BINDER.

VIENNA, *October 10, 1896.*

Mr. Hengelmüller to Mr. Olney.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, November 16, 1896.

Mr. SECRETARY OF STATE: In your obliging note of July 31 last, No. 124, your excellency had the kindness to inform me that the competent authorities of the State of New York did not hold themselves bound to receive the American citizen, Amalie Roeber, in any insane asylum in that State, inasmuch as it did not appear from the documents submitted that she had been a resident of that State within the last twenty years.

The Imperial and Royal mayoralty (statthalterei), whom I duly advised of this statement, has of late again requested me to endeavor to secure her reception in an asylum for the insane in this country. The above authorities refer, in support of their request, to the fact that the American citizenship of Amalie Roeber is proved beyond a doubt by the inclosed documents (to be kindly returned), and that, therefore, the right in principle of the demand can not be questioned.

I further invite your excellency's attention to the additional circumstance that at the time of receiving the aforesaid American citizen, the Imperial and Royal Hospital in Vienna was solely guided by views of humanity, and did not first endeavor to obtain certitude upon minor circumstances which would have aided in insuring at that time her reception in one or the other asylums of her country.

It appears to me no more than equitable, therefore, that the burden of the support of Amalie Roeber, whose American citizenship can not be questioned, should be borne by an asylum of her own country.

In view thereof I have the honor to request your excellency to cause suitable action to be taken looking to her reception in an asylum here, and at the same time to inform me as early as practicable of the manner by which this will be effected.

In order to aid in determining the question what public institution

in this country the duty devolves upon of caring for Amalie Roeber, I beg to submit the following data:

The aforesaid was a child 9 years old when she removed to New York with her aunt; according to the inclosed[1] marriage certificate she there married at the age of 23 Emil Roeber, whose certificate of naturalization is likewise inclosed, and she appears to have lived with him partly in Boston and partly in New York until 1888.

In looking forward to an obliging reply from your excellency in this matter, I avail, etc.,

HENGELMÜLLER.

Mr. Hengelmüller to Mr. Olney.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, December 23, 1896.

MR. SECRETARY OF STATE: Pursuant to reports of the administration of the general hospital of Vienna, transmitted hither by the Statthalterei in Vienna, it is no longer found convenient for that hospital to continue the charge of Boris Adler, an American citizen, who has been an inmate of the psychiatric department thereof since November 6 last, under treatment for protracted insanity. The board of directors of the above-mentioned hospital accordingly request that Boris Adler, who is able to undergo transportation, be received in some institution in his own country.

I have the honor to communicate the above facts to your excellency, and to inclose Boris Adler's passport,[2] issued April 24, 1895, and his naturalization certificate,[2] dated February 25, 1895, which two documents leave no doubt concerning his American citizenship.

I accordingly beg to claim your kind intermediation with a view to cause the necessary measures to be taken in order that the above-mentioned patient may be accepted in an insane asylum of his own country, and to advise me at the proper time of the result thereof with respect to indicating the time and place when and where the American authorities will receive him.

Requesting the return of inclosures, accept, etc.,

HENGELMÜLLER.

Mr. Olney to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, January 9, 1897.

SIR: I have the honor to acknowledge the receipt of your note, with inclosures of November 16, last, relating to Amalie or Amalia Roeber, at present an inmate of the psychiatric department of the general hospital in Vienna, whose case has been the subject of previous correspondence between your legation and the Department.

In your last note you renew the request of your Government that the patient be returned to, and presumably at the expense of, the United States.

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[1] Inclosures not printed.
[2] Not printed.

The following are alleged to be the facts in the case:

That Amalie Roeber came to the United States with an aunt when she was 9 years of age; that on the 19th of September, 1867, she was married to Emil Roeber; that on October 24, 1867, Emil Roeber was naturalized a citizen of the United States before the court of common pleas of the city of New York, and that a passport was issued to her by the United States legation at Vienna, November 30, 1888.

By the enumeration of the above facts, supported by the inclosures in your note, it is not shown in what State Amalie Roeber last resided before her departure for Europe, nor exactly how long she has been absent from the United States.

Waiving the question that might properly be raised as to her intent to return to this country before she was attacked with dementia and had become an inmate of the hospital in Vienna, and admitting that she should be returned, it would necessarily have to be determined of what State she was a resident before the authorities thereof would be justified, if at all, in receiving her.

If this can not be definitely shown, it naturally follows that neither the State of New York nor that of Massachusetts can be rightfully expected to assume such a charge. There is no Federal law or appropriation, moreover, under which an insane citizen of the United States can be returned from Europe to this country. If, therefore, the friends or relatives of the person in question can not be found, or will not have her removed, the Department perceives no way in the present status of the case by which a compliance with the request of your Government can be effected.

Returning the inclosures to your note, I avail myself, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, January 13, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 23d ultimo, relating to the case of Boris Adler, a naturalized citizen of the United States, at present an inmate of the psychiatric department of the General Hospital of Vienna, whose authorities request that he be returned to the United States.

This case was promptly brought to the attention of the governor of Indiana. I am now in receipt of a reply from the executive department of that State, dated the 4th instant, to the effect that Boris Adler was a resident of Indianapolis, Ind., and that he has a brother residing in that city who is poor.

It appears from the papers submitted in your note that the unfortunate man can not be brought from Vienna to his home without the attendance of a warder for the whole journey, thus adding greatly to the expense of transportation and making it beyond the financial ability of his brother to undertake it.

Should he be returned to the United States, however, there does not appear, according to the letter of the governor of Indiana, that there would be any objection on the part of the State authorities to receive him and place him in an insane asylum.

As explained in previous correspondence on recent cases of like character, such as those of Amalie Roeber and others, the Federal

Government is without authority of law or appropriated funds to bring such persons back, even at the instance of their relatives; but, on the other hand, it makes no demand upon other governments to remove foreign lunatics who have been admitted to State or district asylums, confining itself in exceptional cases to giving information through the diplomatic channel, in order that the relatives may have the opportunity to care for the individual. Your inquiry appears to have been of this class, and is accordingly answered by conveying to you the information received from the executive department of Indiana.

In returning the inclosures contained in your note I avail, etc.,

RICHARD OLNEY.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, May 19, 1897.

Mr. SECRETARY OF STATE: Mr. Ira Robinson, prosecuting attorney of Taylor County, W. Va., has informed me, by the inclosed letter, that Josef Eisenmann, said to be an Austrian subject, is now held in jail in Taylor County as a lunatic, and the aforesaid prosecuting attorney has expressed a wish that this legation will take the necessary steps to have him removed to a private hospital or otherwise cared for.

I have informed Mr. Robinson, in reply, that this legation has no funds at its disposal for the purpose mentioned by him, and that I would transmit his letter to the State Department, inasmuch as it raises a question of international law.

In the absence of any treaty stipulation on the subject, I do not consider myself authorized to address a definite request to the Federal Government in connection herewith. I think, however, that it is proper for me to bring the matter to its notice, for the reason that the course pursued, according to Mr. Robinson's letter, in Eisenmann's case, he being confined in jail instead of being taken to an insane asylum, is not in harmony either with the principles of humanity or with the course pursued by us toward American citizens who have become insane in Austria-Hungary.

The question of the removal to asylums in their own country of destitute American citizens who are receiving care and treatment in Austrian insane asylums has given rise to frequent correspondence between this legation and the Department of State, in the course of which the Federal Government has, it is true, declined to cause these unfortunate persons to be removed to American asylums, but has nevertheless referred to the fact that, when the case is reversed, i. e., when insane foreigners have been admitted into American State or district asylums, it presents no claim for indemnity to their Governments. I take the liberty, in this connection, to call your attention to the case of Amalie Roeber and that of Boris Adler, which were discussed last winter, and especially to your predecessor's note of January 13, 1897, No. 145.

Without proposing to deduce, from the assurance contained in the concluding portion of the note above referred to, a claim for the actual removal to an insane asylum of every Austrian subject who has become insane in this country, or in any wise to discuss the legal questions arising in reference hereto, I desire simply to present the matter in its purely humanitarian aspect, pointing to the fact that in all such cases Amer-

ican citizens who have become insane in Austria have been removed to our public asylums, where they have been treated and cared for, and to the additional fact that the application for compensation, or for the removal of the unfortunate persons to their homes, has not been made until some time afterwards, and then through the diplomatic channel.

I should be very grateful, Mr. Secretary of State, if you would have the kindness to inform me of the steps taken in Eisenmann's case.

Accept, etc.,

HENGELMÜLLER.

[Inclosure.]

Mr. Robinson to Mr. Hengelmüller.

GRAFTON, W. VA., *May 17, 1897.*

SIR: I beg to inform you that Josef Eisenmann, an Austrian subject, has been arrested in this county on a charge of insanity, and has been duly adjudged a lunatic. He is now held in jail here, the State Hospital for the Insane refusing to take him for the reason that he is not a citizen of this State.

The authorities of his country are now called upon to provide for him. The man is in such condition that he should have attention at once, and it is the opinion of physicians that treatment in some private hospital will restore him to his right mind in time.

You will please let me hear from you at once what the representative of his country will do for him.

I inclose you a letter written by him to some one in Austria, which you can forward if you deem the same advisable. I also send an impression made by a rubber stamp found among his papers. It seems that he landed in this country in July last.

This county has no right to provide for this lunatic, and you will therefore take steps in his behalf at once.

I shall be pleased to give you any further information in this matter, and you may freely call upon me for the same.

With great respect, I am, etc.,

IRA E. ROBINSON,
Prosecuting Attorney.

Mr. Sherman to Mr. Hengelmüller.

No. 171.] DEPARTMENT OF STATE,
Washington, June 18, 1897.

SIR: Referring to your note of the 4th of November last, relative to the case of Albert Levy, an American citizen, who is confined in an asylum in Austria as a person afflicted with chronic insanity, I have the honor to inform you that the Department has just received from the office of the executive branch of the government of California a reply to a letter addressed to the governor of that State by the Department on December 9 last, in reference.

It appears that the case was at once referred by the governor to the police authorities of San Francisco, who have been unable to obtain any information in regard to the matter except that Levy was thought to be of unsound mind when he resided in California; that he had no

relatives in this country so far as can be ascertained, and would appear to have been married to an Austrian woman who did not accompany him to the United States.

A letter from the office of the governor says that the State of California can take no action in the matter; that it cares for all dependent afflicted persons within its borders, but has no law authorizing its officials to send abroad for persons who would be a proper charge upon the State if they resided within its jurisdiction.

Accept, etc.,

JOHN SHERMAN.

ADOPTION OF THE METRIC SYSTEM BY AUSTRIA-HUNGARY.

Mr. Olney to Mr. Townsend.

No. 226.] DEPARTMENT OF STATE,
Washington, May 18, 1896.

SIR: I am in receipt of a letter from the Hon. Charles W. Stone, chairman of the Committee on Coinage, Weights, and Measures of the House of Representatives, dated the 11th instant, stating that the committee has under consideration a bill for the adoption of the metric system of weights and measures for this country, and inquiring for authoritative information upon the following points:

First. Whether or not any serious difficulty was encountered by Austria-Hungary in making the change from the customary weights and measures to those of the metric system, together with any information as to the manner in which such change was made and the time occupied in making it.

Second. How far said system is satisfactory in practical operation, and whether there is any disposition or desire to return to the former system.

Third. What effect, if any, has the adoption of the metric system had on the trade and commerce of Austria-Hungary in adopting it.

You will give the matter your consideration and send hither all possible information that you may obtain upon the subject for transmission to Mr. Stone on the reassembling of Congress in December next.

I am, etc.,

RICHARD OLNEY.

Mr. Townsend to Mr. Olney.

No. 212.] UNITED STATES LEGATION,
Vienna, October 16, 1896. (Received Oct. 29).

SIR: In reply to the Department's note of May 18 last, numbered 226, containing a series of interrogatories in regard to the experience of Austria-Hungary when adopting the metric system of weights and measures and the laws relating thereto, desired for the use of the Committee on Coinage, Weights, and Measures of the House of Representatives, I have the honor to transmit answers to the above as follows:

The metric system of weights and measures was adopted by act of Parliament in Austria-Hungary on July 23, 1871. This act, after enumerating the tables of the metric system, contained a table of the various weights and measures then in use in every part of the Monarchy,

and with their equivalents in the metric system and all changes from the old to the new system were required by law to be made according to this table. A period of four years and six months, or until January 1, 1876, was allowed for the practical development of the new system, after which date the metric system was made compulsory.

A translation of Articles V and VI of the act of 1871 is as follows:

ARTICLE V.

The weights and measures of the metric system, as enumerated in Article III, will be exclusively used in public traffic commencing January 1, 1876. After this period the use of weights and measures used heretofore and which are succeeded by the weights and measures just mentioned as well as the use of the carat weight and the weight for measuring oil will be prohibited.

For the measuring of land, however, the Government grants a prolongation of the time, and will hereafter make known the period when the new measure will be applied to land.

ARTICLE VI.

Anyone illegally using any other system of weights and measures than the metric in public traffic will be fined one hundred florins, together with confiscation of these weights and measures. A repetition of the act will be regarded as an aggravating circumstance when passing sentence. The fine will be paid into the poor fund of the community where the act was committed. In case of inability to pay the fine imprisonment will be substituted, reckoning one day's imprisonment for each five florins fined.

The leading wholesale and retail merchants of Vienna inform me that there was a certain amount of confusion experienced in making the change from the old to the new system at first, which was probably greatly due to the natural prejudice against any changes in existing customs, but merchants soon realized that the metric system, already in use in the principal commercial countries of Europe with which Austria-Hungary had the bulk of her commercial relations, proved to facilitate the mercantile operations between Austria-Hungary and those countries.

On March 31, 1875, or nine months before the new system was made compulsory, Parliament found it necessary to pass a law fixing the value of fractions of a kreuzer in making the transfer from the old to the new systems, according to the table of relative values between the old and the new systems, as published in the original act of July 23, 1871. A translation of the above act of 1875 is as follows:

Law of March 31, 1875, relating to the change of the present weights and measures to the metric system.

ARTICLE I.

The Government is authorized, when carrying out the new law of the metric system, to make such adjustment in the conversion from old to new measure which the nature of the circumstances and the requirements of traffic seem to render necessary.

ARTICLE II.

The Government is, moreover, authorized to change the weight and measure unit which has heretofore served in the assessment of taxes to a corresponding unit in the new system, and to fix the rates of payment according to the unit in the new system. On this adjustment of the amounts assessed fractions above one-half kreutzer will be considered one kreutzer, fractions less than half a kreutzer will be considered as half a kreutzer.

The universal opinion of the numerous wholesale and retail merchants whom I have interviewed on the subject of the metric system in Austria-Hungary is strongly in favor of the system, and they all agree that there seems to be no desire to return to the old system. The trade and commerce of Austria-Hungary increased steadily after the adoption of

the metric system; between 1870 and 1880 the exports increased from 395,000,000 florins to 676,000,000 florins. The national economists with whom I have spoken on the subject agree that this increase was only in a small measure due to the adoption of the metric system, but statistics show that the trade of Austria-Hungary with countries using the metric system materially increased after its adoption by this country.

I have, etc.,

LAWRENCE TOWNSEND.

MILITARY SERVICE—CASE OF KARL SITAR.

Mr. Tripp to Mr. Olney.

No. 232.] UNITED STATES LEGATION,
Vienna, February 18, 1897. (Received March 6.)

SIR: I have the honor to report the case of Karl Sitar, who was arrested for violation of the military laws of Austria-Hungary upon complaint of Mr. Nettles, consul of the United States at Trieste, and released upon exhibition of his papers disclosing his American citizenship.

For some reason, unexplained by Mr. Sitar himself, he seems in the first instance to have failed to claim his rights as an American citizen and to have exhibited his citizen papers only when arrested for violation of the military laws of Austria-Hungary.

I have, etc., BARTLETT TRIPP.

[Inclosure 1 in No. 232.]

Mr. Tripp to Count Goluchowsky.

F. O. 169.] UNITED STATES LEGATION,
Vienna, January 17, 1897.

YOUR EXCELLENCY: Mr. Nettles, the consul of the United States at Trieste, calls the attention of this legation to the case of Karl Sitar, in which the facts as stated by him are as follows:

Mr. Sitar is a native of Austria-Hungary, was born in 1873, and emigrated to the United States when 17 years of age, and where, after a continuous residence of five years, he was naturalized and became a citizen of the United States. On the 20th of December, 1896, he returned to Austria for a brief visit to his mother, having with him his certificate of naturalization and a passport from the State Department at Washington in due form. Upon his arrival to Toplitz, Unter-Krain, he was arrested and examined, and being found unfit for military duty was held for violation of the military law of Austria-Hungary and proceedings are now pending against him. He was ordered to Laibach, as I am informed, for military examination, but criminal proceedings, as it appears, are pending against him at Rudolfswerth, in Krain.

If these facts are as reported by the consul at Trieste, the case comes so clearly within the terms of the treaty of 1870 and the cases Ladislav, Sedivy, and others decided under the treaty that I trust your excellency will cause immediate suspension of the proceedings against Mr. Sitar and require the local officers of that province in future in similar cases to respect the rights of citizens bearing American passports.

Extending my thanks to your excellency for the uniformly kind and prompt intervention of the Government of Austria-Hungary in previous cases of arrest or violation of the rights of American citizens, I take this occasion to renew, etc.

BARTLETT TRIPP.

[Inclosure 2 in No. 232—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *February 16, 1897.*

In reply to the esteemed note of January 17 last, No. 169, the Imperial and Royal ministry of foreign affairs has the honor of informing the legation of the United States of America that the result of investigations which have been made shows that the enrollment of the American citizen Karl Sitar took place at the time in consequence of Sitar's voluntarily reporting himself to the district captain at Rudolfswerth as one liable to military duty, and in total ignorance of the fact that he had acquired foreign citizenship.

On his subsequent examination he was found physically too weak and unfit for military service.

The proceedings undertaken against him for violation of paragraph 48 of the military law were immediately discontinued as soon as the question of Sitar's citizenship became known.

WELSERSHEIMB,
For the Minister.

MILITARY SERVICE—CASE OF MAE TEWEL.

Mr. Tripp to Mr. Olney.

No. 235.] UNITED STATES LEGATION,
Vienna, February 28, 1897. (Received March 20.)

SIR: I have the honor to hand you herewith copy of correspondence of this legation with the imperial and royal ministry of foreign affairs of Austria-Hungary in the case of Mae or Mendel Tewel.

It seems from the note of the ministry of foreign affairs that Mr. Tewel's arrest was caused by reason of the erroneous name given in the certificate of naturalization and passport, in which he was described as Mae Tewel instead of Mendel Tewel, his true name, and that he was discharged upon proof that he was in fact the person to whom the papers were issued.

I have no information as to how the error occurred, but am led to presume that the clerk who made the entry of the judgment of naturalization in his case may, as has in so many other cases occurred, have incorrectly understood and written the foreign name in his records, and the victim of such mistake has for reasons of supposed safety subsequently adopted it as his true name.

I have, etc., BARTLETT TRIPP.

[Inclosure 1 in No. 235.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, January 28, 1897.

YOUR EXCELLENCY: Complaint has been made to this legation by Mae Tewel, a naturalized citizen of the United States, that he has been arrested and held to answer for violation of the military laws of Austria-Hungary, before the district court at Tarnow, Galicia.

The facts, so far as they have been communicated to this legation, are stated as follows:

Mae Tewel, a native of Brosteck, Galicia, emigrated to the United States in 1885, where he continuously resided until December, 1896. On the 7th of September, 1896, he was naturalized a citizen of the United States at Fork, in the State of Pennsylvania, and a certificate of naturalization was duly issued to him. In December, 1896, desiring to visit his relatives who reside in Galicia, he applied to the Department of State at Washington for a passport, which was duly issued to him, bearing date December 21, 1896, and numbered 18735. On or about the 14th of January, 1897, Mae Tewel, accompanied by his wife and two children, arrived in Krakau, having with him his certificate of naturalization and passport.

On the 25th of January, 1897, Mae Tewel was arrested by the police at Krakau, charged with violation of the military laws of Austria-Hungary, in having failed to perform his military duty, and was turned over to the provincial court at Tarnow, where he is still held in custody. Upon his arrest he exhibited his certificate of naturalization and passport and claimed exemption from arrest and immunity from punishment under the treaty existing between the United States and Austria-Hungary. The authorities, however, declined to release him, but took away from him his passport and certificate of naturalization, and have since declined to return the same.

I shall be glad if your excellency will cause this matter to receive immediate attention, and to be given to this legation, at the earliest possible moment, the grounds of the arrest and detention of Mae Tewel, of which at this time his family are wholly uninformed.

Permit me to again renew, etc.,

BARTLETT TRIPP.

[Inclosure 2 in No. 235—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, *February 24, 1897.*

SIR: The ministry of foreign affairs has not omitted to act in compliance with the desire expressed in the esteemed note of January 28, No. 171, and has made investigations touching the reasons leading to the arrest of Mae Tewel, a naturalized American citizen.

A communication received from the imperial and royal ministry of justice conveys to the knowledge of this ministry the fact that Mendel Tewel was arrested at Krakau on suspicion of violation of paragraph 45 of the military law of April 11, 1889, No. 41.

The person arrested was in possession of a passport and a certificate of having acquired American citizenship, the documents having been given, however, to a person named Mae Tewel, which first of all required

proofs of identity to be produced. As soon as this question had been settled by affidavit of witnesses, Mae Tewel was set at liberty on January 28 last, in compliance with Article II of the treaty of September 20, 1870, and criminal proceedings against him discontinued.

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

WELSERSHEIMB,
For the Minister.

MILITARY SERVICE—CASE OF PAUL SCHWABEK.

Mr. Tower to Mr. Sherman.

No. 33.] UNITED STATES LEGATION,
Vienna, December 27, 1897. (Received Jan. 15, 1898.)

SIR: I have the honor to report to you for your information the case of Paul Schwabek, a naturalized citizen of the United States, recently arrested in Hungary for nonperformance of military duty and released from the army by the intervention of this legation.

The said Paul Schwabek was born in Roone, near Bittsén, in Hungary, on the 7th of December, 1875, and is the son of John Schwabek, who emigrated to America also, and was naturalized at Baltimore in the year 1884. Paul Schwabek emigrated to America in the year 1889, when he was 13 years of age, and went to live with his father in Baltimore. He continued to reside in America until the present year, when he decided to return to Hungary to visit his mother, who now lives there, his father being dead. He landed in Bremen from New York, and proceeded at once to his native village, Roone, where he arrived on the evening of the 4th of September, 1897. Upon the following morning he was summoned before the local magistrate (Oberstuhlrichter), in Bittsén, charged with having evaded the military service of Hungary, and was forced to serve in the Seventy-first Infantry Regiment of Hungarian Troops of the Line.

At the time of his arrest Schwabek declared his American citizenship and showed his passport, issued by the Department of State on the 20th of August, 1897; but as the Hungarian magistrate could not read the passport, he took no official notice of its validity. Thereupon Schwabek appealed to this legation for help.

My first step was to inquire, by telegram addressed to the Oberstuhlrichter at Trencsén, on the 21st of September, upon what ground Schwabek had been arrested and enrolled in the army. After waiting a week, during which the magistrate made no reply, I addressed the inquiry to him again, by telegram, on the 28th of September. He answered, by letter dated the 24th of September, that Schwabek had been arrested because he had failed to perform his military duty and was not able to prove his American citizenship. I replied by letter on the 30th of September to this communication, which had erroneously been sent to the United States consulate-general and was forwarded by him, that Schwabek had a passport, which was proof of his American citizenship; and I asked that, as this American citizen had been arrested without cause, he should be set at liberty. I offered at the same time to authenticate the passport if the magistrate would send it here for that purpose. In reply to this the magistrate wrote me on the 3d of October that, as he had not considered Schwabek's passport a sufficient proof of his American citizenship, he had found it necessary

to proceed according to the laws of Hungary; that, consequently, Schwabek's case had been referred to the superior authorities, and would ultimately be decided by the Hungarian ministry of public defense, but that he could not comply with my request to set Schwabek at liberty. He assured me, however, that the case would be settled "according to law and right," as soon as possible.

After waiting for two weeks, during which I hoped to hear that justice had been done to Schwabek by the authorities of Hungary, and that I should not be forced to address the Imperial Government upon the subject, not having received any further communication, I forwarded a dispatch on the 19th of October to Count Goluchowski, minister of foreign affairs, in which I stated the case, reminding him that under the laws of the United States Mr. Schwabek had become an American citizen through the naturalization of his father, he having dwelt in the United States with his father while yet a minor, and that he had a passport to prove his citizenship. I asked the Count Goluchowski to take proper steps to have Schwabek released at once, and also to instruct the authorities of Trencsén to give in all cases due credence and respect to a passport of the United States of America.

On the 5th of November Mr. Schwabek wrote me to say that he had been set at liberty on the preceding day; and the minister of foreign affairs informed me in a preliminary dispatch, dated the 19th of November, and a supplementary note of the 20th of December, that Paul Schwabek's American citizenship had been fully established and his name stricken from the lists of the Austro-Hungarian army.

I have, etc.,

CHARLEMAGNE TOWER.

PROTEST AGAINST THE TARIFF BILL.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

AUSTRO-HUNGARIAN LEGATION,
Washington, April 13, 1897.

Mr. SECRETARY OF STATE: Pursuant to instructions, I have the honor to invite your attention to the provisions of the tariff bill now before the Senate of the United States which relates to the duty on sugar, and conflict, on the one hand, with our right of the most favored nation treatment, and on the other threatens to heavily damage Austro-Hungarian exports.

The above-mentioned bill provides, namely, in Schedule E, No. 206, that sugar exported from such countries which grant a direct or indirect bounty shall pay, apart from the actual duty upon entrance set forth in No. 206, an additional duty to the amount of the bounty granted, so far as this bounty shall be in excess of any internal tax collected upon such sugars or upon the raw materials (beet or cane) used in their manufacture.

The question of the discriminating tariff treatment against our sugar has already been the subject of negotiation between the Imperial and Royal Government and the Government of the United States. The Imperial and Royal Government had looked upon the additional duty of one-tenth per pound upon sugar coming from Austro-Hungary provided for in the tariff act of August 28, 1894, as a violation of the right of the most favored nation granted to her by Article V of the treaty of 1829, and instructed me on that occasion to protest against it.

This instruction I had the honor to carry out in a note of January 3, 1895, to Secretary Gresham, and I therefore consider it unnecessary to repeat here the views advanced therein which my Government entertains to-day in their entirety. On the other hand, I beg to call attention to the fact that the Government of the United States has recognized our right to protest against any additional duty upon our sugar which is based upon our export bounty, as it will appear from the report of Secretary Gresham to the President, of October 12, 1894, and that the President in his annual message of December, 1894, recommended to Congress the repeal of the additional duty in question.

The bill now pending in Congress has in view a much greater increase of the discriminating additional duty on sugar, and threatens, therefore, our trade with the United States with new injury. In view thereof the Imperial and Royal Government has instructed me to call the attention of the Federal Government to the disposition of these proposed provision s to infringe upon treaty obligations, and in connection therewith to express the hope that it will lend its assistance in order to enlighten Congress upon the existing treaty obligations between our countries, and to prevent that the proposed increase of the additional duty upon our sugar, against which the Imperial and Royal Government must further protest, should become a law.

Accept, etc.,

HENGELMÜLLER.

Mr. Sherman to Mr. Hengelmüller.

No. 159.] DEPARTMENT OF STATE,
Washington, April 17, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, in which you allege that the duties imposed by the tariff bill now pending before the Senate of the United States violate the most favored nation right granted to Austria-Hungary by the treaty of 1829, and will heavily damage the exports from your country to the United States.

In reply I beg to inform you that copies of your note have been sent to the appropriate committees of Congress for their information and consideration.

Accept, etc.,

JOHN SHERMAN.

FORM OF OATH TO BE TAKEN BY AUSTRO-HUNGARIAN SUBJECTS BECOMING NATURALIZED AMERICAN CITIZENS.

Prince Wrede to Mr. Olney.

[Translation.]

No. 1243.] AUSTRO-HUNGARIAN LEGATION,
Washington, June 8, 1896.

MR. SECRETARY OF STATE: Referring to the matter which arose in connection with the case of Mr. Braun, relative to the form of the oath to be taken by Austrian or Hungarian subjects who desire to become citizens of the United States, and referring furthermore to the statements which your excellency had the kindness to make to Mr. von Hengelmüller, the Imperial and Royal envoy, I now have the honor, in

pursuance of instructions received, to submit the following remarks concerning the adoption of a form for the oath to be taken by Austrians or Hungarians who seek to become American citizens, which shall fully meet the requirements of the political relations of the Austro-Hungarian Monarchy.

The object desired can be attained only by such a wording of the oath as shall mention the fact of the existence of separate Austrian and Hungarian citizenship, and shall also, in referring to the sovereign allegiance to whom is renounced by the person relinquishing his Austrian or Hungarian citizenship, make express mention of the joint character of the ruler, who unites the two constituent parts of the monarchy under his scepter.

Conformably to these considerations the oath in question should be so worded as to state (according as the person seeking to become an American citizen is a citizen of Austria or of Hungary) that such person renounces his "Austrian" or "Hungarian" citizenship. To this statement (whether the applicant for American naturalization is an Austrian or a Hungarian) the following words might be appended, as they appear in substance, in the oaths now used in the United States: "and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to His Majesty the Emperor of Austria and Apostolic King of Hungary."

Trusting that this suggestion will meet your excellency's approval, and that due notice to that effect will kindly be communicated to the district courts of the United States, I avail myself, etc.,

R. WREDE.

Mr. Olney to Prince Wrede.

No. 121.] DEPARTMENT OF STATE,
Washington, July 7, 1896.

SIR: Referring to your note of the 8th ultimo relative to the proper form of the declaration which should be used under section 2165 of the Revised Statutes of the United States for the naturalization of subjects of the Empire of Austria or of the Kingdom of Hungary, respectively, I have the honor to inclose for your use copies of a memorandum[1] in regard to the subject which the Department has transmitted to the governors of the several States and to the Attorney-General of the United States for the information of the various Federal and State courts of the Union which are authorized to issue certificates of naturalization.

Accept, etc.,

RICHARD OLNEY.

[1] Not printed.

BELGIUM.

PASSPORTS CASES.

Mr. Adee to Mr. Storer.

No. 7.] DEPARTMENT OF STATE,
Washington, July 23, 1897.

SIR: I have to inform you that the passport applications for the quarter ending June 30 last, which accompanied Mr. Ewing's dispatch No. 235, have been received.

With regard to the case of Edward Otto Beyer, it is observed that the passport was granted without the production of his naturalization certificate, Mr. Ewing being "satisfied the above-named Edward Otto Beyer is the identical person," etc. Only under exceptional circumstances should a passport be issued to a naturalized citizen without a previous inspection of his naturalization certificate. Occasionally, when the good faith of the applicant is palpable and the refusal to issue the passport might work hardship, the fact that he has lost or left behind him his certificate may not operate to cause the minister to refuse him his passport, but the circumstances of the case should be always set forth and the applicant's sworn statement of them should be required. This was not done in this case.

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Storer to Mr. Sherman.

No. 16.] LEGATION OF THE UNITED STATES,
Brussels, August 18, 1897. (Received August 30.)

SIR: I have the honor to request instructions from the Department regarding the issuance of a passport under the following state of facts:

On the 11th day of January, 1875, my predecessor then in office, Mr. Jones, issued a passport, No. 345, to "Mr. M. D. Hennessy, wife, and son." No record exists as to the evidence of citizenship then shown, nor am I advised whether at that time the regulations of the Department called for the production of certificate of naturalization. I am informed, however, that Mr. Hennessy was personally well known to the minister, Mr. Jones, at the time of his appointment as minister, having been president of one of the street-car lines of Chicago while Mr. Hennessy was president of another line in the same city.

Mr. Hennessy, of whose identity I am entirely convinced, applies to me for a new passport, but without his old passport, which has long ago been mislaid or lost, and without naturalization papers.

He was naturalized in Somerset, Perry County, Ohio, and read law in Cincinnati. He recorded a certified copy of his naturalization cer-

tificate in Chicago, but can not obtain a copy there as all the records of Cook County were destroyed by the Chicago fire. He subsequently applied for another certified copy from Perry County, Ohio, and was officially informed that the records of that county had also been destroyed by fire. Coming to Europe with his family shortly before January, 1875, and knowing the then minister at this post, he took out the passport I have mentioned. His wife is dead, his son has been educated in Europe, and he himself has spent most of his time in the south of Europe since 1875 on account of his health, returning, however, from time to time for business purposes. He is still a taxpayer of Rockford, in the State of Illinois, and has never had any intention of forfeiting his citizenship. He applies to this legation for a passport, supposing that one having been issued to him another would be, as a matter of course.

In the light of the instructions on this subject, and more particularly having in mind the letter of the Department, No. 7, addressed to my predecessor, Mr. Ewing, July 23, 1897, I have declined to issue a passport to Mr. Hennessy until I receive further instructions from the Department on the subject.

I have ventured, however, to promise Mr. Hennessy that I would request of the Department a telegraphic reply to this letter, the expense of which will be reimbursed the Department. If this course can be followed it would save Mr. Hennessy some inconvenient delay in Belgium.

I have, etc.,

BELLAMY STORER.

Mr. Sherman to Mr. Storer.

No. 21.] DEPARTMENT OF STATE,
Washington, September 1, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 16, of the 18th ultimo, submitting to the Department the application of Mr. M. D. Hennessy for a passport.

You state that your predecessor issued a passport on January 11, 1875, to Mr. Hennessy, wife, and son, and that he now applies to you for a new passport, but that he is unable to present his certificate of naturalization, being of alien birth, alleging that it has been destroyed by fire. You ask for instructions as to your duty in this case and in similar applications which may come before you. In reply you are informed that the requirement that a person of alien birth should produce his certificate of naturalization when making application for a passport is of long standing and should be carefully enforced; but sometimes, through the loss or destruction of the document, it is necessary to make an exception to the rule when the issuing official is satisfied of the good faith of the application and when its rejection might result in serious inconvenience or hardship. The nature of the secondary evidence which may be required is governed by the circumstances surrounding each case, but the general rule laid down in Mr. Bayard's instruction to Mr. Vignaud, June 13, 1888 (Foreign Relations, 1888, p. 542), appears to be applicable to the case under consideration:

(*a*) The prior existence of the certificate must be shown.
(*b*) If burned or otherwise destroyed, such destruction of the certificate must be proved. * * *
A party who can not produce his naturalization certificate can not supply it by parole proof unless he also proves that the original record of the naturalization is unattainable and can not be reproduced by a certified copy.

In issuing Mr. Hennessy a passport under the conditions set forth above it would be well to advise him that for his future protection and convenience he should make an effort to have the record of his naturalization restored. As it was, according to his statement, recorded in a Chicago court, it is thought he may be able to accomplish its restoration under the "burnt record act" passed by the Illinois legislature some years since for the relief of persons in Mr. Hennessy's situation.

Respectfully, yours,

JOHN SHERMAN.

Mr. Storer to Mr. Sherman.

No. 24.] LEGATION OF THE UNITED STATES,
Brussels, September 4, 1897. (Received September 16.)

SIR: I have the honor to request instructions for issuing a passport under the following circumstances:

A person representing himself to be Elea Luboschey presents to-day passport No. 6410, purporting to be issued by the State Department January 6, 1894, evidently stamped and not signed "W. Q. Gresham."

The personage presenting it is correctly described in the passport, and states that he is a child of a man who was a naturalized citizen of the United States while his son was under the age of 21 and living in Chicago. He has no proof, except his possession of the passport, and his resemblance to the description, that he is the person named therein, and the passport itself is in very bad condition.

He can not supply any of the information called for in the affidavit set out in form No. 178, as he does not know the year of his father's naturalization or the date when his father emigrated from Russia. As the passport was visaed April 14, 1894, by the consul-general at Berlin, and as his description is accurate, I should have given him a new one had it been within the two years. His appearance, his birthplace (Russia), and his own statement that he has been in Siberia and recently came from Spain led me to decline to issue a passport to him unless the records in the State Department under passport No. 6410 show that at that time he was able to give a satisfactory account of the naturalization of his father and his own identity.

If the Department will inform me whether the records there show this fact and that in consequence I am authorized to issue him a passport on taking up the old one, I shall act accordingly.

I have, etc.,

BELLAMY STORER.

Mr. Sherman to Mr. Storer.

No. 31.] DEPARTMENT OF STATE,
Washington, September 18, 1897.

SIR: I have to acknowledge the receipt of your No. 24, of the 4th instant, in regard to the application of Elea Luboschey for a passport.

The records of the Department show that Elea Luboschey received from it a passport, dated January 6, 1894, and numbered 6410, on proof of his own naturalization before the superior court of Illinois at Chicago on November 14, 1893. It not infrequently happens that the son of a naturalized citizen of the United States secures naturalization in his

own right because of the difficulty of proving his father's naturalization. I inclose a copy of the application of Mr. Luboschey on which the Department issued him a passport, in order that you may examine carefully the applicant before your legation. If his identity with the person who received the passport from the Department is satisfactory to you, a new passport may be issued to him if he be found entitled to it in other respects.

With reference to the stamped signature on his old passport, I have to inform you that on all passports issued by Mr. Gresham the signature was stamped. This was also the case with passports issued during the terms of Secretaries Seward, Evarts, Blaine, Foster, and Olney, and is the custom at the present time. On passports issued by Secretaries Fish and Bayard the signature was in writing.

Respectfully, yours,

JOHN SHERMAN.

Mr. Storer to Mr. Sherman.

No. 42.] LEGATION OF THE UNITED STATES,
Brussels, October 26, 1897. (Received November 5.)

SIR: I beg to report the following case in order that the facts may be in the possession of the Department should occasion arise to ask instructions:

Stephan E. Bayer presents himself, asking whether or no he is an American citizen and entitled to the protection of a passport.

He shows his certificate of birth in Dresden in the year 1871, issued by an Israelite rabbi. This certificate was not given until January 18, 1876, and recites that this child was the son of Elias Bayer, citizen of New York, and of Elise, his wife. On the back of this certificate of birth or "Geburtschein" is a certificate of the United State consul at Dresden as to the genuineness of the rabbi's signature, and in this certificate the consul recites that both Elias Bayer and his wife are citizens of the United States and residents of New York City. This certificate is under the consular seal. The applicant further is in possession of passport 13217, issued by the State Department to Elias Bayer November 18, 1884, covering himself, his wife, and two minor children. The applicant, who seems to speak with the utmost frankness, says that Elias Bayer, the father, unmarried, went to America from Germany in 1857 or 1858; that he came back to Dresden in 1869 or 1870, and there, in 1870, married his wife; that he himself is one of the two minor children spoken of in the passport, and his sister, now living, is the other.

The father, Elias Bayer, went back to America alone in 1884, and stayed three months, obtaining this passport at that time. Neither the mother nor either of the two children has ever been to America, nor has their father ever been back since 1884.

He states that his father always calls himself an American citizen, as he himself has also always done; that at the age military service was due from him to the German Government he was in Berlin, told the chief of police that he was an American citizen, and in proof gave him the "Geburtschein" and consular certificate that I have described. He says that the chief of police retained the paper for some time; that when the military authorities sought his service he referred them to the chief of police, and finally this certificate was returned to him and

he never was troubled in the matter further. He now comes to Brussels, has registered himself at the city hall as an American citizen, saying that he can not call himself anything else. Should he call himself a German, he may be pursued for military service, and should he refuse to give any nationality he may be expelled from Belgium.

I refused to issue him a passport.

From the nature of the case it is possible some future complication may arise, and, as I stated, I thought it well that the matter should be in possession of the Department for reference in case of correspondence.

I have, etc.,

BELLAMY STORER.

Mr. Sherman to Mr. Storer.

No. 52.] DEPARTMENT OF STATE,
Washington, November 8, 1897.

SIR: Your No. 42, of the 26th ultimo, has been received. You therein state the facts in the case of Stephan E. Bayer upon which you have refused to issue to him a passport.

Mr. Bayer asks whether he is an American citizen and whether he is entitled to the protection of a passport. Determination of the fact of citizenship is not an executive function. What is reserved to the executive is the use of its proper discretion as to the protection of a person abroad when the facts prima facie establish his citizenship by origin or naturalization, and the issuance of a passport is part of the exercise of that discretion. The question simply is whether the circumstances of Stephan E. Bayer's origin and residence abroad are consonant with citizenship on the face of the facts and with continued protection while he sojourns without the territory of the United States.

The essential fact to be ascertained is whether at the time of Stephan E. Bayer's birth abroad his father, Elias Bayer, was a citizen of the United States, and entitled, while so residing in a foreign country, to the continued protection of this Government.

The records show that Elias Bayer, the father, was naturalized before the supreme court of New York on May 12, 1868. A few days thereafter he received from the Department passport No. 37399, dated May 22, 1868. Sixteen years later another passport (No. 13217) was issued to him by the Department on November 18, 1884, upon surrender of the old one. No record appears of the issuance of any other passport in his favor between the dates mentioned.

Stephan E. Bayer was born in Dresden in 1871, only three years after the naturalization and return to Germany of his father. There is nothing adduced to suggest that the father, Elias, by unduly prolonged residence abroad then—as has been seen, only about three years—or by any other act, had renounced his acquired status. He is to be assumed to be an American citizen by birth abroad of American parents, unless he has lost such citizenship since he reached majority. Section 1993, Revised Statutes, expressly meets the circumstances of a child so born abroad never residing in the United States. Germany, it would seem, has never made adverse claim to his allegiance, so that the abstract question of his right of option between two conflicting allegiances upon reaching majority is not material to the case. Under German law and treaty it would seem that no proper claim to his allegiance can be made by Germany. Belgium, the country of his present

residence, has obviously no claim thereto. The case is to be treated precisely like that of a native-born citizen of the United States who has gone abroad and remained six years—the time which has elapsed since Stephan E. Bayer came of age. Such person would doubtless be required to show, before a passport could be issued to him, that he intended to return to the United States within some reasonably definite period, or at least that he had a definite intention to return for the purpose of residing here permanently. In other words, in such case, upon compliance with the usual requirements, a passport would be granted, warning the applicant of the necessity of properly conserving his citizenship in the future.

If Stephan E. Bayer meets the presumption created against any valid intent to come to the United States, resulting from the circumstances of his long residence abroad, and fully complies with the prescribed requirements, including declaration of intention to return to and reside in the United States, there would seem to be no reason why a passport should be refused to him unless his expressed intention be negatived by facts or circumstances known to you.

Respectfully, yours,

JOHN SHERMAN.

Mr. Storer to Mr. Sherman.

No. 43.] LEGATION OF THE UNITED STATES,
Brussels, October 26, 1897. (Received November 6.)

SIR: I have the honor to ask whether the facts I submit to you can make a difference in the opinion of the Department once given in the same case. Mrs. Marie Klugmann obtained a passport from my predecessor, Mr. Ewing, April 1, 1895, which is numbered 45. She applies to this legation, showing the former passport, in view of the letter of the Department on this subject to Mr. Ewing, numbered 150, bearing date of July 15, 1895. I had no alternative but to decline to issue a new passport.

The following facts, however, would seem to appeal with great weight to the discretion of the Department: Mrs. Klugmann was told at the time when she took out her passport, in 1895, that she would always have the right to a renewal of the same on the return of the former one. She was never informed in any way of the view taken of her legal rights by the Department.

Last spring she left her husband and several children in Russia in order to visit her married daughter at Lille, France. On her way there through Brussels she expected to apply for a renewal of her passport, but got the impression some way or other that the minister was not in town, and consequently did not make the application. Her return to Brussels from Lille in order to get a new passport was delayed by the birth of a grandchild, and she has made no application until now, on the eve of her departure to her home and family in Russia.

My inability to issue her a passport falls on her and her family as a great misfortune, as well as an apparent injustice, since she can not cross the Russian frontier without it. She states under oath that it is the intention of her husband and herself to go with their children to the United States in March next, where his sister and her family are now living, and in this statement she is emphatically supported by the affirmation of her son-in-law, a very intelligent French gentleman,

engaged in business in Lille and well known in Brussels. They are people of large means in Russia and own property in New York, but whether real or personal Mrs. Klugmann could not inform me.

I am convinced of the truth of the statements made, and the case is one in which it seems to me the Department might without risk make an exception to its general ruling and instruct me to issue the passport. Of course, in the force of the disapproval of the issuing of the first passport, I can take no action except under instructions from you.

I have, etc.,

BELLAMY STORER.

Mr. Sherman to Mr. Storer.

No. 57.] DEPARTMENT OF STATE,
Washington, November 10, 1897.

SIR: Your No. 43, of the 26th ultimo, presents anew the case of Mrs. Marie Klugmann, and, on the grounds therein advanced, inquires whether the Department may not review its instruction to your predecessor, No. 150, of July 15, 1895, and permit the issuance to Mrs. Klugmann of the passport she needs in order to go to Russia, there to rejoin her husband and children, with a view to the return of the family to the United States in March next, as she states it is their intention to do.

The case presents embarrassing features. Both the son, Adolph Klugmann, and the wife, Marie, are declared in the applications upon which Mr. Ewing granted them separate passports April 1, 1895, to have been born in Russia, the son at Saratoff and the wife at St. Petersburg. The given name of the husband is not stated, and nothing is reported by you regarding him save that he would seem to have quitted the United States soon after his naturalization and is now residing in Russia.

There are on file in this Department the oaths of allegiance upon which separate passports were issued September 5, 1883, to Jacob Klugmann and Marie Klugmann by the United States legation at St. Petersburg, but as the regulations did not then require the transmission of duplicate applications to the Department the facts upon which those passports were granted can not now be ascertained, unless from that legation.

There are also on file applications upon which passports Nos. 1334 and 1335 were issued by the United States legation at Berlin December 10, 1891, to Jacob Klugmann and Marie Klugmann, respectively, in lieu of the previous passports issued at St. Petersburg September 5, 1883. Jacob Klugmann therein declares birth at Tilsit, Germany, naturalization at New York October 20, 1868; last departure from New York in 1871, residence at St. Petersburg, and purpose to return to the United States within two years. His wife also declares like intent in the separate application. She does not allege to have ever been in the United States, and the application of the son, Adolph, in 1895, indicates the domicile of his parents in Russia, at Saratoff, as early as February 7, 1875, when he was born.

The right of Mrs Klugmann to protection depends upon the like right of her husband. On the face of the known facts he, a naturalized citizen, has for twenty-six years withdrawn himself from the country of his adoption and resided for most of that time in the country of his wife's origin. His last passport, obtained in 1891 through another

legation than in the country of his residence, swears to the intent to return to the United States within two years, which he has not done, although six years have since elapsed. It would require very positive proof of fact to overcome the presumption that Jacob Klugmann has long abandoned the right to protection while residing abroad. If his application were under consideration on the stated facts a passport would be refused.

The foreign-born wife can only claim protection through her husband's citizenship. It seems she has never been in the United States and can claim no independent status as a citizen, notwithstanding what appears to have been her systematic procurement of separate passports at various missions outside of Russia, in each of which instances a purpose to come to the United States within two years is declared on oath.

The case of the son, Adolph, is somewhat different. If it be established that at the date of his birth in Russia, February 7, 1875, his father, Jacob, was still a citizen in good standing, and as such entitled to protection, Adolph Klugmann's case may, and probably does, fall under the provisions of section 1993, Revised Statutes, and although he has passed his majority by nearly two years, he might be granted a passport to enable him to come within the immediate future to the United States, here to reside and fulfill the obligations of a citizen. If now in Russia, his application should be made to the United States minister at St. Petersburg, to whom copy of the correspondence in this case will be sent for information.

If Jacob Klugmann, the husband, should make application to the legation at St. Petersburg and establish facts in his favor to overcome the adverse presumptions created by the circumstances of his prolonged residence abroad, the issuance of a passport to him would include his wife in the title to protection. But unless the status and right of the husband be so established the Department can not authorize the issuance of a fresh passport to the wife, Marie Klugmann.

Respectfully yours,

JOHN SHERMAN.

PROHIBITION OF AMERICAN CATTLE AND MEATS.

Mr. Sherman to Mr. Storer.

No. 2.] DEPARTMENT OF STATE,
Washington, June 5, 1897.

SIR: It seems proper, before you enter upon the duties of your post, to direct your especial attention to a matter which, for a number of years past, has been the occasion of correspondence between the Governments of the United States and Belgium, and which, by reason of the obnoxious and differential treatment of the matter in Belgium, has become a subject of grave concern to this Government.

I refer to the prohibition of American cattle, sheep, and fresh beef by Belgium, as being a serious and apparently arbitrary interference with the trade of this country, which has been adopted and maintained without any adequate reason.

The instructions on file in your legation will show the elaborate proof submitted by this Government that no dangerous diseases of cattle and sheep exist in this country which would endanger the live stock of Belgium, and that no diseases have, in fact, been communicated by the

cattle of this country to those of Belgium. Even assuming, for argument's sake, that such diseases did exist here, or had been shown to be communicable, the regulations adopted by Great Britain, whereby animals are allowed to be landed and slaughtered at the wharves under quarantine restrictions would be a complete protection. No such measure of relief is, however, afforded. On the contrary, the Belgian prohibition goes much further, and extends to dressed beef. This prohibition is entirely unnecessary in fact, and is the more objectionable inasmuch as the Government of the United States inspects and certifies to the healthfulness of all beef which is permitted shipment to all European countries. The subject is one of obvious interest to both countries and the benefits of the trade are mutual, as are the disadvantages of its prohibition. A populous country like Belgium, of comparatively limited area, must necessarily look abroad for a notable share of its food supplies and naturally must look in the most healthful and cheapest market, which the United States are prepared to furnish. An unrestricted trade in meat-producing animals and other products, if they received fair treatment in the Belgian markets, would doubtless soon develop and become an important item of our agricultural exports, while the quality and price of such products would benefit the Belgian consumer.

The immediate occasion of this instruction is found in a letter received by me from the Secretary of Agriculture, under date of May 22, with which is included a letter addressed by Messrs. Thomas Ronaldson & Co., of Antwerp, to their London house, in which certain statements in the matter are said to have been made in the course of an interview of the Antwerp Chamber of Commerce with Minister De Bruyn, at Brussels. Copy of these is inclosed for your fuller information.

It is desired that as soon as practicable after you shall have entered on the duties of your office you shall seek an interview with the minister for foreign affairs, and, if possible, through his kindly intervention, obtain opportunity to confer with the minister having charge of the matter in question. You will endeavor to impress upon the Belgian authorities the earnest conviction of the Government of the United States that the exclusion of American cattle from Belgium is as indefensible in point of fact as their prohibition of our meat products is irrational. You will invite their attention to the fact that the United States, notwithstanding their enormous area and the vast production of marketable live stock, have accomplished what no European government appears to have yet succeeded in doing under much more favorable auspices, and have exterminated pleuro-pneumonia in this country. You will show the extraordinary precautions taken in the transportation of cattle through our own territory, and in their exportation therefrom, to insure absolute healthfulness at every stage from the breeding farm to the ship. You will advert to the elaborate measures adopted by this country to inspect all animal food products before exportation, and to testify to the healthfulness thereof—a system which, if it exists in any country in Europe, can not be more thoroughly organized or effective than ours is. And, without appearing to make any threatening prognosis, you will advert to the bad effects which the continuance of this causeless Belgian prohibition of our meat animals and meat products must invariably create in the minds of the national legislators, and the danger that countervailing action of some kind may be taken. It is the earnest desire of this Government to avoid all retaliatory measures, as well as pretext for retaliation.

As the Belgian Government must abundantly know by this time, the United States Government has gone out of its way to meet the technical

and often apparently unreasonable objections of foreign governments, and has adopted at great cost to itself a Federal inspection of food products unequaled in thoroughness and in the magnitude of its operations by any system of inspection known in other countries; and that, through the concurrence of the national Congress, laws have been passed giving to the executive officers of this Government powers of inspection and repression which the domestic interest of our farmers and consumers might not alone have sufficed to accord. If the true objection in Belgium, or in any other quarter, be not against a condition of the product which it is sought to export, but against any exportation of food animals or food products from this country to Belgium, it is but due to international comity that the facts should be frankly viewed, in order that they may be dealt with in equal frankness.

You will report from time to time the result of the representations you are instructed to make, and should it be represented to you that the prohibitory measures of Belgium rest upon or respond to the prohibitory legislation of England, Germany, or any other country, you may confer with the United States representatives in those countries, communicating for their information such facts in this relation as you may be able to obtain.

A copy of this instruction will be furnished to the United States ambassadors at London and Berlin for their information.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 2.]

Mr. Wilson to Mr. Sherman.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., May 22, 1897.

SIR: I have the honor to inclose for your information a copy of a letter from Messrs. Thomas Ronaldson & Co., Antwerp, Belgium, addressed to their London house, and handed to this Department by Messrs. Patterson, Ramsay & Co., steamship agents and brokers, Baltimore, Md.

The prohibition of American cattle, sheep, and fresh beef by Belgium is a serious, and apparently arbitrary, interference with the trade of this country, which has been adopted and maintained without any adequate reason. No diseases have been communicated by the cattle of this country to those of Belgium, and there are no dangerous diseases of such animals existing here which would endanger the live stock of that country. But even if there were such diseases the regulations adopted by Great Britain, allowing animals to be landed and slaughtered at the wharves, under quarantine restrictions, would be a complete protection. The prohibition of dressed beef apparently has no grounds for its support except the desire of the Agrarian party to prevent competition. This is the more evident as our Government inspects and certifies to the healthfulness of all beef which is permitted shipment to European countries. A prohibition for such a purpose ought not, however, to be tolerated by this Government, and I would urge for your consideration the question as to whether the time has

not come when the Belgian Government should be plainly informed that the prohibition of American products must inevitably and speedily lead to the prohibition of Belgian products by this country.

It appears from the letter of Thomas Ronaldson & Co. that Minister De Bruyn would not be surprised at receiving such a communication from this Government, and that it might lead to a reconsideration of the orders now in force. An unrestricted trade in meat-producing animals and their products, if it received fair treatment in the Belgian markets, would soon develop and become a very large item of our agricultural exports. I trust that the Department of State will take up this matter and press it vigorously until American exporters receive just and fair treatment in the markets of Belgium.

Very respectfully,

JAMES WILSON, *Secretary.*

[Subinclosure in No. 2.]

ANTWERP, *February 13, 1897.*

Messrs. THOS. RONALDSON & CO., *London.*

DEAR SIRS: Cattle prohibition: We beg to advise you that in compliance with our persistent demands the chamber of commerce have obtained an interview with Minister De Bruyn at Brussels a day or two ago.

The deputation consisted of Mr. W. Linden, president, and Mr. Corty, secretary, of the chamber; Mr. Morren, representing the importers from the Plate; and Mr. Gregoir, representing the importers from the United States.

At the interview these gentlemen fully exposed the present position, and obtained an expression of opinion from the minister which fully confirms what we have always said, viz, that only direct pressure from the Governments interested, in the shape of a threat of retaliation, will bring about a withdrawal of the prohibitory restrictions.

The Plate shippers are now interested, seeing that by a recent ministerial order all cattle and sheep coming from the Plate or elsewhere, except the United States and Canada, must be slaughtered within three days of being landed here. In the case of the United States and Canada cattle are, of course, absolutely prohibited: Now, it is evident that this new restriction means total prohibition against Plate importations, because to compel importers to slaughter within three days would land them every time in a huge loss, as there is no tremendous demand in this small country, as there is in London, Liverpool, etc.

The minister stated that in regard to sheep he thought the measures were too drastic, and that he would be prepared to assist importers when the various shipments arrived, but this without making any definite amendment of the law.

As to cattle, he stated that the pressure brought to bear upon him by the agricultural party was such that he could not see his way to do anything but strictly follow the law as laid down by the royal and ministerial decrees.

When the deputation pointed out that it was illogical to close the frontier against cattle coming from the River Plate, where diseases had never been known, and from the United States and Canada, where only one case (and that contested) of pleuro-pneumonia had ever been stated, while the frontier was continually open for some time to cattle coming from Holland and Germany, where pleuro-pneumonia and foot-and-mouth disease were continually prevalent, he replied, "Yes, it was illogical, but it was the law and he had to follow it." He added that until the countries interested made a direct threat of retaliation, so that he might go to the agriculturists and show them a good reason for reopening the frontier, nothing would be done. This is what we have always said, and we are more than ever convinced that until the Government at Washington do insist, nothing will be done to relieve us of these scandalous prohibitory restrictions.

We hand you herewith copy of a circular issued by Mr. Gregoir, which confirms what we have now advised you as to the interview with Minister DeBruyn. Please return this, as we wish to send it by Tuesday's mail to Messrs. Patterson, Ramsay & Co., to whom we shall also send copy of this letter.

Yours, very truly,

THOS. RONALDSON & CO.

Mr. Sherman to Mr. Storer.

No. 39.] DEPARTMENT OF STATE,
Washington, October 1, 1897.

SIR: Referring to your No. 25[1] of the 10th ultimo, I inclose herewith copy of a letter from the Secretary of Agriculture covering his reply to the letter which you sent him directly on the same day in regard to the status of affairs in Belgium relative to the trade in American animals and meats.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 39.]

Mr. Wilson to Mr. Sherman.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., September 28, 1897.

SIR: I am in receipt of a letter of the 10th instant from Hon. Bellamy Storer, United States minister at Brussels, giving the present status of the regulations in Belgium concerning the importation of American animals and meats. I have thought best to reply to this letter at some length; but as this negotiation is an important one, I send my letter inclosed herewith for your information, and that you may forward it with such instructions from your Department as you may consider advisable.

Thanking you for the instructions which you have issued in this matter, I am,

Very respectfully, JAMES WILSON, *Secretary.*

[Subinclosure in No. 39.]

Mr. Wilson to Mr. Storer.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., September 28, 1897.

SIR: I am in receipt of your letter of the 10th instant in regard to the status of affairs in Belgium relative to the trade in American agricultural products, and particularly to animals and meats. It affords me pleasure to learn that you have given the matter so much attention, and fully informed yourself as to the present status of affairs. There is no doubt but that, so far as the exportation of live animals to Belgium is concerned, the trade should be satisfied with an extension of the time animals may be held before slaughter. The present limit of three days is too short a time and does not give an opportunity for the animals to recover from the effects of the voyage, nor does it allow time to find purchasers and dispose of the animals to advantage. The limit should be two weeks instead of three days; or if two weeks can not be obtained, then certainly ten days should be granted.

The Belgian Government should also be willing to admit American fresh meats which have been inspected by this Department, and which bear the inspection marks and are accompanied by certificates of inspection. This inspection is made by our Government, and the certificate is a Government certificate. The refusal to accept this certificate and admit such inspected meats is an official announcement that the Belgian Government is suspicious of this inspection and of the guarantee

[1] Not printed.

which our Government gives with the meat. This Government can hardly permit without emphatic protest such questioning of its official work and such implied doubts as to its good faith. I hope you will urge this matter upon the Belgian Government, and endeavor to secure the concessions in regard to live animals and fresh meats which are mentioned above.

There is every reason to desire friendly relations with the Belgian Government, and that the arbitrary interference with trade which has been begun by that Government may be stopped before it is necessary to adopt retaliatory measures bearing upon Belgian exports to the United States. It appears from our statistics that we receive over $200,000 of meat products from Belgium annually, and nearly $200,000 worth of wines. If we continue to receive these products from the Belgian farms without other restrictions than the regular tariffs imposed by law, it will be expected by our people that the Belgian Government should receive the products of our farms in the same friendly manner. I hope you may be able to convince the Belgian Government that an exchange of products upon this liberal basis is only giving fair and just consideration to the international traffic, and that arbitrary prohibitions under the form of sanitary regulations which go beyond the steps necessary to guard against disease are undesirable.

I note your statement that the Department of State has already instructed you to give this matter early attention, and I hope that you will present it as early and as vigorously as is possible.

Very respectfully,

JAMES WILSON, *Secretary.*

TONNAGE DUES ON BELGIAN VESSELS.

Mr. Le Ghait to Mr. Olney.

[Translation.]

LEGATION OF BELGIUM,
Washington, November 18, 1896.

Mr. SECRETARY OF STATE: In accordance with instructions given me by my Government, I have the honor to address to your excellency a request for the purpose of obtaining that the system of favorable discrimination which is exercised in regard to tonnage dues in the United States ports to vessels from German and Dutch ports be extended to vessels arriving from the ports of Belgium.

My Government believes it has a right to this favorable discrimination, based upon reciprocity, for the following reasons:

1. Tonnage dues were abolished in Belgium by royal decree of July 21, 1863, issued in execution of article 2 of the law of June 13 of the same year.

2. A royal decree dated January 11, 1896, issued in execution of the law of July 12, 1895, exempted in a general way, from February 1, 1896, seagoing vessels from light-house dues.

3. At the same time wharfage, port or harbor dues collected in Belgian ports, taxes which represent the price of services rendered and do not enter into the Government treasury, have been very considerably reduced. At present they nowhere exceed 50 centimes per measured ton.

In the hope that your excellency will kindly admit that under these conditions Belgium has a right to benefit by the exemption from tonnage dues accorded to vessels leaving the ports of Germany and the Netherlands, I beg you to accept, etc.,

A. LE GHAIT.

Mr. Olney to Mr. LeGhait.

No. 98.] DEPARTMENT OF STATE,
Washington, November 27, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, touching the possible exemption from the payment of tonnage dues of vessels from Belgian ports upon entering those of the United States.

I at once brought a copy of your note to the attention of the Secretary of the Treasury, and I am now in receipt of a reply from the Acting Secretary, of the 23d instant, stating that before considering your request that Department deemed it necessary that a complete statement should be furnished by your Government showing the designation, amount, and purpose of taxes levied on shipping in the various ports of Belgium and by what authority such taxes are levied.

The minister of the United States at Brussels has been directed to obtain such statement if possible and send it hither for transmission to Mr. Carlisle.

Accept, etc., RICHARD OLNEY.

Mr. Olney to Mr. Ewing.

No. 228.] DEPARTMENT OF STATE,
Washington, November 27, 1896.

SIR: In view of a letter from the Acting Secretary of the Treasury of the 24th instant, I have to request that you ascertain and forward a complete statement showing the designation, amount, and purpose of taxes levied on shipping in the various ports of Belgium, and by what authority such taxes are levied; also, whether any discrimination is made between American and Belgian vessels in the imposition of such taxes.

As pertinent to this I inclose for your information a copy of a note from the Belgian minister at this capital of the 18th instant, and of my reply of the 27th touching the possible exemption of vessels from Belgian ports from the payment of tonnage dues upon entering those of the United States.

You will give the subject prompt and careful consideration.

I am, etc.,

RICHARD OLNEY.

Mr. Ewing to Mr. Sherman.

No. 222.] LEGATION OF THE UNITED STATES,
Brussels, April 2, 1897. (Received April 12.)

SIR: On receipt of your dispatch No. 228 of November 28, 1896, I addressed a letter to the minister for foreign affairs in order to be furnished with full information as to the taxes levied on vessels entering the Belgian ports, and expressed the desire to be informed also whether there exists any discrimination between American vessels and vessels of Belgian origin entering the said ports.

I have just received, in reply to my communication, a note which, it is claimed, contains complete information on the subject. A copy of this note I inclose herewith, together with a translation into English.

As will be seen, the regulations, orders, etc., referred to in the said note will be found in the pamphlets hereunto annexed.

In transmitting this note, which has been prepared by the minister of railroads, posts, and telegraphs (to whose office pertains the merchant marine) in collaboration with his colleague, the minister of finance, the minister of foreign affairs desires to state that the taxes or duties to be paid by vessels entering the Belgian ports represent in fact the value of services rendered only, and that in levying such duties no distinction is made between Belgian and American vessels. He therefore expresses the hope that our Government, considering this fact, will not hesitate to exempt from tonnage dues Belgian vessels entering American ports.

I have, etc.,

JAS. S. EWING.

[Inclosure in No. 222.—Translation.]

NOTE.

In the ports of Antwerp, Ghent, and Ostend wharfage and dock dues are levied conformably to the tariffs established for Antwerp by royal decrees of January 25 and 29, 1896 (Annexes 1 and 2), for Ghent, by a communal council order of March 21, 1893 (page 36 of Annex 3), and for Ostend by a royal decree of January 31, 1896 (Annex 4).

In consequence of these duties, paid into the city treasuries, vessels find at all hours of the day berths in deep water alongside of quays, lighted, guarded, and provided with sheds and improved machinery for unloading and loading; the docks, with a constant water-level, are also provided with quays, lighted, guarded, and furnished with necessary apparatus.

In Belgium, the communal administrations thus furnish to navigation facilities and advantages that are furnished elsewhere by private companies.

Speaking of Antwerp alone, the capital immobilized in the construction of the various docks and quays of the Schelde—exclusive of the expenses of the original establishment of special services—amounts to about 120,000,000 francs. The maritime establishments produced in 1896, from harbor dues, about 2,500,000 francs, from which 750,000 francs must be deducted for general expenses. The net profit of the capital invested is thus a little less than 1½ per cent, while the average rate of interest on the loans which furnished the greater part of the immobilized capital is 3.27 per cent.

In addition there exist at Antwerp certain optional dues:

(1) For service rendered vessels requesting the assistance of tugs in the docks (Annex 5).

(2) For the use of dry docks (Annex 6).

(3) For storing goods on the covered and open quays of the Schelde and of the docks after the expiration of the free use, provided for by the regulations of these quays (Annexes 7 and 8).

(4) For the use of the hydraulic cranes and other machinery belonging to the city and utilized to expedite the unloading or the loading of cargoes (Annexes 9 and 10).

The communal administration of Ghent also levies for the use of sheds, dry docks, port apparatus, etc., the nonobligatory duties detailed on pages 38 et seq. of Annex III.

From the preceding statements it results that the different duties, obligatory or optional, to be paid by vessels in Belgian ports constitute the price of services really rendered, and, that being the case, it matters little, with regard to the interests of navigation, whether these dues are collected by private enterprises or by communal administrations.

The navigation duties levied by the State are confined to the wharfage dues established for the outer harbor of Ostend by a royal decree of December 24, 1895. (See the Moniteur of December 29, 1895, Annex XI.) These dues, like those collected by the cities of Antwerp, Ghent, and Ostend, represent the remuneration of the expenses of construction and repair of the quays (Annex XII), and for maritime police (Annex XIII), and to the fee to be paid for issuing bills of health, under the application of the royal decree of April 25, 1868 (see the Moniteur of April 27, 1868), their designation proves that they do not constitute duties properly so called, and can not therefore enter into consideration in the examination of the question raised.

Finally, in the application of the various duties and taxes mentioned above no distinction is made between Belgian and American vessels.

Count Lichtervelde to Mr. Sherman.

BELGIAN LEGATION,
Washington, April 5, 1897.

MR. SECRETARY OF STATE: The minister of foreign affairs informs me that he has communicated to Mr. Ewing the information on the matter of taxes collected on vessels in the Belgian ports, which was the subject of his excellency Mr. Olney's letter to Mr. LeGhait dated November 27, 1896.

In taking the liberty of calling the special attention of your excellency to the fact that for the application of the various dues and taxes in question no distinction is made between Belgian and American vessels, I have the honor to renew the request that the favorable treatment in regard to tonnage dues which is extended in the ports of the United States to vessels proceeding from ports of certain countries may be accorded to vessels arriving from Belgian ports.

I avail myself, etc.,

LICHTERVELDE.

Mr. Sherman to Count Lichtervelde.

No. 20.] DEPARTMENT OF STATE,
Washington, May 19, 1897.

SIR: Referring to your note of the 5th ultimo, relative to the request of your Government for the exemption of the vessels of Belgium (clearing from Belgian ports) from tonnage dues in the ports of the United States, I have the honor to inform you that the Department has received a letter from the Acting Secretary of the Treasury stating that the law under which application is made by the Belgian Government for the exemption from tonnage taxes of vessels entering the United States from Belgian ports is section 11 of the act of June 19, 1886, which reads as follows:

> The President of the United States shall suspend the collection of so much of the duty herein imposed, on vessels entered from any foreign port, as may be in excess of the tonnage and lighthouse dues, or other equivalent tax or taxes, imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter as often as it may become necessary by reason of the changes in the laws of the foreign countries above-mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage-duty, if any, to be collected under such suspension: *Provided, further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues or duties imposed on the vessels of such country, or on the cargoes of such vessels.
>
> But this proviso shall not be held to be inconsistent with the special regulation by foreign countries, of duties and other charges on their own vessels, and the cargoes thereof, engaged in their coasting trade, or with the existence between such countries and other states of reciprocal stipulations founded on special conditions and equivalents, and thus not within the treatment of American vessels under the most favored nation clause in treaties between the United States and such countries.

The Acting Secretary of the Treasury observes that under this law the tonnage tax now imposed in the United States on vessels entering the United States from Belgian ports is 6 cents per net ton, not to exceed 30 cents per annum, while article 1 of the royal Belgian decree, dated January 25, 1896 (Annex 1, Stad Antwerpen, Scheepvaartrechten, 1896), provides: "Seagoing vessels entering the docks will pay to the city

(Antwerp) for each voyage a tax of fifty centimes per net ton Moorson, whatever the number of voyages during the year may be," and that, moreover, by article 3 vessels discharging or taking on cargo, when not admitted to the docks, are required to pay the same charges, and by the same article a reduction is made in the tonnage dues in cases where the same vessel makes ten voyages or more during the year.

The Acting Secretary of the Treasury states, furthermore, that upon an examination it appears to his Department:

First. That the tonnage taxes imposed at Antwerp are higher than those imposed in the United States, the former being about 9 cents per net ton while the latter are but 6 cents; the former are imposed on each entry of a vessel while the latter are imposed on not to exceed five entries of the same vessel during the year.

Second. That the taxes are imposed by a foreign Government, as is shown by the royal sanction of the action of the local authorities at Antwerp.

Third. That the tonnage taxes levied at Antwerp can not be regarded as strictly dock charges, as they are imposed on vessels at anchor as well as on those admitted to the docks.

Fourth. That the tonnage taxes appear in effect to be "other equivalent taxes" to those imposed in the United States. The fact that tonnage taxes in the United States are devoted to the maintenance of the marine hospital, while in Belgium they are applied toward paying interest on extensive harbor improvements, does not appear to alter the fact that, should the exemption asked for be granted, vessels from Belgium would be exempted from taxation in the United States based on tonnage, while vessels from the United States would continue subject to taxation in Belgium, based on tonnage. The Government of the United States expends annually large sums of money to secure deep water in its harbors, for which no charge is imposed on vessels, American or foreign, entering those harbors.

In view of these considerations the Treasury Department is of the opinion that the exemption from tonnage taxes of vessels entering the United States from Belgium should not be granted, pursuant to section 11 of the act of June 19, 1886.

In conclusion, the Acting Secretary of the Treasury says that it is not deemed necessary to review in detail the Belgian regulations for the harbors of Ghent and Ostend, which are not in principle essentially different from those at Antwerp, or to review optional charges, such as employment of tugs, storage, etc., at Antwerp, which are not involved in the consideration of the application in question.

Accept, etc.,

JOHN SHERMAN.

BRAZIL.

DEPOSIT OF SHIP'S ARTICLES WITH PORT AUTHORITIES.

Mr. Adee to Mr. Conger.

No. 82.] DEPARTMENT OF STATE,
Washington, December 3, 1897.

SIR: I inclose copy of a dispatch from our minister to the Argentine Republic, reporting that the Brazilian consul-general at Buenos Aires declined to furnish the captain of the U. S. bark *Antioch* with a bill of health to enable him to clear his vessel for Rio de Janeiro, unless he presented the original of the ship's articles to him for certification, and to be by him affixed to the manifest.

As the ship's articles were, in accordance with the laws and consular regulations of the United States, deposited in the hands of our consular officer at Buenos Aires, and could not be lawfully restored by him to the captain until the latter had presented his manifests, bill of health, duly certified by the Brazilian consular officer, and clearance papers from the Argentine authorities, the captain offered to furnish the Brazilian official with a certified copy of them. This he declined to receive. To prevent detention of the ship, our minister advised the captain and the vice-consul of the United States to present the original to the consul-general, who attached the document, together with his certificate as to its "genuineness," to the ship's manifest by a card.

The ship's articles or shipping articles are defined as containing all the conditions of the contract with the crew as to service, pay, voyage, and all other things, and, in accordance with paragraph 194 of the United States Consular Regulations, must be produced by the master to any consular officer of the United States, whenever the latter may think it necessary to the discharge of his duty toward any seaman. They are needed by the consular officer in the case of a dispute between the master and seamen, and on many other occasions. The crew list, shipping articles, and register constitute "the ship's papers," and are regarded by international custom, sanctioned expressly or impliedly by most modern commercial and consular treaties, as the national papers of the ship, the originals of which should always be in the custody of the master at sea, and in that of the consular officer of the nation in a foreign port.

As above stated, the laws of the United States require, under a penalty of $500, every master of a United States vessel which sails from a port of the United States, on his arrival at a foreign port, to deposit his register, his sea letter, and Mediterranean passport, if he has any, with the consular officer of the United States at the port. Paragraph 175 of our Consular Regulations adds that—

> It is usual also to deposit with the consular officer the crew list and shipping articles; and these documents, together with the register, are generally described as the "ship's papers."

Article XXXI of the treaty of 1828 between the United States and Brazil (which was abrogated in 1841) indicates that the Brazilian laws,

like our own, contemplated that the ship's papers, as national papers of the vessels, must be in the hands of either the master or the consul.

It provided that the consuls shall have power to require the assistance of the national authorities for the arrest of deserters, "proving by an exhibition of the registers of the vessel, or ship's roll, or other public documents that those men were part of said crews." The ship's articles form a part of this evidence. In the case under consideration they could not have been presented to the Argentine authorities by our consular officer if they had been in the hands of a Brazilian official.

Moreover, the strength of their evidence as "national" papers is impaired when they bear a certification of their "genuineness" from the official of a foreign nation.

In this connection it may be well for you to examine the laws of Brazil in regard to ship's papers. They are probably, as above indicated, very similar to our own.

There has been at times an effort on the part of certain of the South American Republics to require the master of a foreign vessel to deposit the ship's papers with the port authorities, instead of with the consul of his nation. This contention has been uniformly resisted by the United States, as well as by other governments, on the ground of its inconvenience, its inconsistence with the spirit of international law and with the express or implied stipulations of treaties. Colombia and Venezuela both receded from their position. You will find the correspondence with Colombia published in Foreign Relations, 1879 and 1880; that with Venezuela in Foreign Relations, 1882 and 1883.

You will observe from Mr. Buchanan's dispatch that the Government of France is understood to have protested at Rio de Janeiro against the practice of the Brazilian consul-general at Buenos Aires.

The Department will be glad to have you present its views on this subject to the Government of Brazil, pointing out the inconvenience, if not impropriety, of the course pursued by its officer, which it trusts will be abandoned.

Respectfully, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROMOTION OF TRADE.

Mr. Thompson to Mr. Sherman.

No. 571.] LEGATION OF THE UNITED STATES,
Petropolis, May 31, 1897. (Received June 23.)

SIR: I have the honor to transmit under separate cover the reports of the minister for foreign affairs and minister of justice and interior presented to His Excellency the President of the Republic on the 14th instant.

The report of the minister for foreign affairs treats principally of negotiations with neighboring countries for the delineation and establishment of boundaries. More or less progress has been made in every case, but the most important and interesting have been those with France, which culminated on the 10th ultimo with the acceptance and signing of a treaty of arbitration by which the question of the boundary line is to be submitted to the Government of the Swiss Confederation for decision.

The question at issue, which includes the disputed territory of Amapa, arises from different interpretations of article 8 of the treaty of Utrecht,

the Brazilian Government contending that by the River Japac, mentioned by the treaty, the Oyapoc was intended, while the French Government maintains that the Araguary was intended.

The arbiter is at liberty to select either of these rivers or any river between the two.

Referring to the recent visit of the commission from the National Association of Manufacturers, the report says:

In the report presented by my predecessor on April 30, 1896, it appears that some of the principal chambers of commerce of the United States of America had determined to send to Brazil delegates who, for their enlightenment and that of others, desired to inform themselves in regard to the resources of this country and of the proper way of developing the commercial relations with this country. The Government responded to an invitation from the American legation that those delegates would receive all possible aid for the happy and complete success of their mission, and they did so, returning well satisfied, as appears from the correspondence which accompanies this report. (Appendix No. 1.)

It appears that the British legation has succeeded in arranging here for the acceptance of certificates from the board of trade (British) as satisfactory evidence of the tonnage of British vessels, thus obviating the necessity of other admeasurements. It has occurred to me that some similar arrangement should be made for our vessels, and I will communicate with the consul-general to ascertain the present practice, and if found arduous or burdensome on shipping interests, ask your consideration of the question.

Other portions of the report refer to detail matter in which we have no general interest.

I have, etc.,

THOS. L. THOMPSON.

ATTEMPTED ASSASSINATION OF PRESIDENT MORAES.

Mr. Conger to Mr. Sherman.

[Telegram.]

PETROPOLIS, *November 5, 1897.*

Brazilian soldier attempted to assassinate the President to-day. Minister of war, defending him, was killed. Great excitement, but not general alarm.

CONGER.

Mr. Conger to Mr. Sherman.

No. 56.] LEGATION OF THE UNITED STATES,
Petropolis, November 10, 1897. (Received Dec. 7.)

SIR: I have the honor to confirm your telegrams of the 8th and 9th instants, respectively, as follows:

WASHINGTON, *November 8, 1897.*

CONGER, *Minister, Rio:*

Express to the President our gratification at his escape and our sincere regrets and sympathy on account of the assassination of General Bittencourt.

SHERMAN.

WASHINGTON, *November 9, 1897.*

CONGER, *Minister, Rio:*

If not already done, convey in name of the President congratulations on providential escape of President of Brazil.

SHERMAN.

The first was received at 8 p. m. Monday, the 8th instant. I at once prepared a note, transmitting same, a copy of which I inclose, and yesterday morning went to Rio de Janeiro and placed it in the hands of the minister for foreign affairs, emphasizing, in our personal interview, the fact that it was an expression of the sentiments of our entire Government and people.

The minister thanked me, for himself and his Government, very cordially for the friendly and sympathetic message, as well as for the note which I had written him on the subject on the 6th instant, a copy of which I also inclose.

I then called personally on the President, and expressed the gratification of my Government—mentioning particularly the President and the Secretary of State—over his fortunate escape and their profound sympathy on account of the assassination of Marshal Bittencourt, informing him that I had placed copy of my telegraphic instructions in the hands of the minister for foreign affairs.

The President seemed to be most painfully affected over the situation, especially over the fact that the Marshal's life was given to save his. He very feelingly received my expressions of congratulation and condolence, and bade me, most heartily, to thank the President, the Secretary of State, and all my people for their kind and friendly expressions in this, the saddest occasion of his life.

On my return to Petropolis last night I found your telegram of the 9th instant, and although I had construed the former telegram to include the President, and so expressed myself in my personal interview with President Moraes, yet I thought best to transmit an additional message, which I immediately did by means of the note, a copy of which I inclose.

I shall undoubtedy receive, in due time, formal acknowledgments of my notes, and will then forward copies.

I should add, that immediately upon receiving the news of the attempted assassination I joined with the members of the diplomatic corps, resident in Petropolis, in sending to the minister for foreign affairs a telegram, copy and translation of which is herewith inclosed.

I have, etc.,

E. H. CONGER.

[Inclosure 1 in No. 56.]

Mr. Conger to General de Castro Cerqueira.

LEGATION OF THE UNITED STATES,
Petropolis, November 6, 1897.

MR. MINISTER: The news of the horrible crime attempted yesterday against the life of His Excellency, the President, and which resulted in the death of his heroic preserver, the minister of war, has painfully shocked all good people the world over, and already enlisted for Brazil and her citizens the liveliest sympathy.

Such attempts, so frequent of late, are not merely attacks against individuals, but direct blows aimed at order and good government everywhere, and can not be too severely condemned.

For myself—and I am sure I voice the responsive sentiment of my Government, as well as every one of the order-loving citizens of the United States—I beg to tender my hearty congratulations over the President's

fortunate escape, and to offer my sincerest sympathy to your excellency, your colleagues, and all Brazilians, whose delicate sensibilities must keenly feel the horror of this dreadful murder of your distinguished colleague, compatriot, and citizen, Marshal Bittencourt.

Sadly, but sincerely, my dear Mr. Minister, I renew, etc.,

E. H. CONGER.

[Inclosure 2 in No. 56.]

Mr. Conger to General de Castro Cerqueira.

LEGATION OF THE UNITED STATES,
Petropolis, November 8, 1897.

MR. MINISTER: I have the honor to place in the hands of your excellency the following copy of a telegram, which I have just received from my Government:

CONGER, *Minister.*

Express to the President our gratification at his escape, and our sincere regrets and sympathy on account of the assassination of Marshal Bittencourt.

SHERMAN.

And in accordance with what I know to be the real sentiments of my Government I beg, through your excellency, to make this expression to the President in the fullest measure possible.

Again, I improve the opportunity, etc.,

E. H. CONGER.

[Inclosure 3 in No. 56.]

Mr. Conger to General de Castro Cerqueira.

LEGATION OF THE UNITED STATES,
Petropolis, November 9, 1897.

MR. MINISTER: Upon my return from Rio de Janeiro to-day I found awaiting me a belated telegram instructing me to convey, in the name of the President of the United States, his personal congratulations to the President of Brazil on his providential escape, and his profound sympathy and condolence over the cruel death of your distinguished minister of war.

In asking your excellency to kindly deliver this message to the President, I am sure that from no source can you receive more genuine sentiments of congratulation and sympathy than from him who speaks not only for himself but for all the good people of the United States of America.

I have the honor to reiterate, etc.,

E. H. CONGER.

[Inclosure 4 in No. 56.—Translation.—Telegram.]

The Diplomatic Corps to the President.

PETROPOLIS, *November 5.*

The members of the diplomatic corps residing at Petropolis, profoundly shocked by the wicked attack directed against your person,

offer to your excellency their felicitations and their best wishes, and beg you to accept the expression of their sincere condolenee over the heroic death of his excellency, the minister of war.

GIERS.	VAN DEN STEEN.
PORTELLA.	CHINDA.
PICHON.	GUIDI.
LLABERIA.	RAIKES.
MESEY.	GRIESSINGER.
CONGER.	

Mr. Conger to Mr. Sherman.

No. 57.] LEGATION OF THE UNITED STATES,
Petropolis, November 10, 1897. (Received Dec. 7.)

SIR: Since writing my dispatch No. 56 of this morning I have received a telegram from the President of Brazil, a copy and translation of which I inclose.

I have, etc.,

E. H. CONGER.

[Inclosure in No. 57.—Translation.]

President Moraes to Mr. Conger.

PRESIDENTIAL PALACE OF THE REPUBLIC,
November 10, 1897.

Greatly obliged. I thank your excellency for the congratulations sent me upon my providential escape, and for the expressions of sorrow on account of the heroic death of the minister of war.

PRUDENTE MORAES.

Mr. Conger to Mr. Sherman.

No. 58.] LEGATION OF THE UNITED STATES,
Petropolis, November 10, 1897. (Received Dec. 7.)

SIR: I have the honor to confirm my cipher telegram of the 5th instant.

About 1 o'clock of the afternoon of November 5 the President was returning from on board the steamer *Espirito Santo*, where he had been, accompanied by his cabinet and military and civil staff, to welcome a contingent of officers and troops just returning victorious from the "Canudas war," and had just landed at the war arsenal, where there had gathered an immense crowd, composed of friends and families of the returning soldiers, and the public generally. As the crowd parted to make room for the Presidential party a young soldier sprang quickly in front of the President and twice snapped a pistol at him. The pistol failing to discharge, he instantly drew a large knife or poignard and was about to plunge it into the President, when Marshal Bittencourt, the minister of war, pushed the President aside, grappled with the soldier, and himself received five serious wounds, from which he died within ten minutes.

Col. Luiz Moraes, a nephew of the President and chief of his military staff, in attempting to disarm the soldier and save the minister of war, was seriously but not dangerously wounded.

The assassin was a young soldier of the Tenth Infantry by the name of Marcelino Bispo de Mello, who was immediately incarcerated.

The same evening the President issued a proclamation "to the nation," of which I inclose a copy and translation.

On the 6th instant the minister of war was interred at the expense of the Government, a large public burial being had and the President accompanying the cortege to the cemetery.

* * * * * * *

The U. S. cruiser *Cincinnati*, at present being in the Rio harbor en voyage to Montevideo, I have suggested to the commander, Captain Chester, the propriety of a temporary stay here, and he has consented to remain for a few days, awaiting developments.

I have, etc.

E. H. CONGER.

[Inclosure in No. 58.—Translation.]

To the nation:

Profoundly hurt, in my estimation of men and Brazilians, by the premeditated attempt against me, and which sacrificed one of the most devoted servants of the nation, the brave Marshal Carlos Machado Bittencourt, I must affirm in the most solemn manner that this horrible crime will not have the effect of moving me one single line from the obligation of my constitutional mission.

The precious blood of a Brazilian marshal, heroically shed in defense of the person of the Chief Magistrate, gives a guaranty that those charged with sustaining public authority and institutions will not hesitate in the discharge of their duty, even when carried to the extreme of sacrifice.

The sublime popular indignation manifested in this tragic moment, the unquestionable proofs of support and solidarity given to the President, fortifies me in the conviction that I can depend upon the Brazilian people to sustain, with dignity and courage, the authority with which I am invested by their spontaneous and sovereign will.

Order and law will be respected as the honor of the Republic demands.

PRUDENTE J. DE MORAES E BARROS.

Mr. Mendonça to Mr. Sherman.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, November 10, 1897.

SIR: I have the honor to communicate to your excellency that by a cable dispatch of this date the minister of foreign relations, in the name of the President of the United States of Brazil, intrusts me with the agreeable duty of presenting to the Government of the United States of America the sincere thanks of the Brazilian Government for the friendly sentiments expressed by Minister Conger, on the behalf of this Government, for the preservation of President Moraes from assassination and for the death of Marshal Bittencourt while defending the President.

In fulfilling this duty I can assure your excellency that the expression of the friendly regard of the President of the United States has been received by the President of Brazil with the most cordial feeling.

Accept, etc.

SALVADOR DE MENDONÇA.

Mr. Sherman to Mr. Mendonça.

No. 19.] DEPARTMENT OF STATE,
Washington, November 13, 1897.

SIR: It has given me pleasure to receive your note of the 10th instant, reporting the appreciation with which the President and Government of Brazil have received, through our minister at Petropolis, the message of the President of the United States expressing his congratulations at the escape of President Moraes from assassination and his condolence in view of the murder of Marshal Bittencourt.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Conger.

No. 69.] DEPARTMENT OF STATE,
Washington, November 13, 1897.

SIR: I inclose for your information copy of a note from the minister of Brazil at this capital, reporting the appreciation with which the President and Government of Brazil have received from you the message of the President expressing his congratulations at the escape of President Moraes from assassination and his condolence in view of the murder of Marshal Bittencourt.

Respectfully, etc., JOHN SHERMAN.

CHILE.

ARBITRATION OF CLAIM OF FRENCH CITIZEN, CHARLES FRERAUT, AGAINST CHILE.

Mr. Strobel to Mr. Sherman.

No. 143.] LEGATION OF THE UNITED STATES,
Santiago, May 31, 1897. (Received July 3.)

SIR: On the 26th instant I received a visit from the under secretary of foreign relations of Chile, Señor Ricardo Phillips, who stated that the claim of the French citizen, Charles Freraut, against Chile, based upon the confiscation of nitrate property and machinery during the war with Peru, had been pending for a number of years, and that the French legation had proposed its arbitration. The Chilean Government, he continued, was disposed to accept this proposal, and as an evidence of respect for the United States and appreciation for myself he desired to know whether I would be willing to act as arbitrator between the two Governments.

I replied that the task of an arbitrator was an ungrateful one, and that I had no desire to act in that capacity. At the same time, as a last resort, I should not feel justified in declining if the Governments of France and Chile requested my Government to authorize me to act.

I suggested, however, that before deciding upon the arbitration, further effort should be made in order to see whether a direct arrangement between the two Governments might not be practicable.

I am since informed that in accordance with my suggestion a definite proposition has been formulated by the Chilean Government which affords a basis of settlement. I therefore hope that the arbitration will not be necessary, and that the Department will not be addressed on the subject.

In any case, I have regarded the incident as worthy of mention, as showing the development of good feeling on the part of this Government toward the United States.

I have, etc.,

EDWARD H. STROBEL.

Mr. Gana to Mr. Sherman.

[Translation.]

CHILEAN LEGATION,
Washington, July 6, 1897.

SIR: In fulfillment of instructions just transmitted to me by my Government by telegraph, I have the honor to inform your excellency that by agreement of the Governments of Chile and France Mr. Charles [Edward] H. Strobel has been in his private capacity selected as umpire to arbitrate an old claim existing against Chile. To discharge the duty confided to Mr. Strobel will occupy three months. Mr. Strobel being still the diplomatic representative of the United States in Chile,

my Government requests me to submit this agreement to the knowledge of the Government of your excellency, as I now have the honor to do.

I avail myself, etc.,

DOMINGO GANA.

Mr. Sherman to Mr. Gana.

No. 24.] DEPARTMENT OF STATE,
Washington, July 8, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, in which you state, under telegraphic advice from your Government, that Mr. Edward H. Strobel, the United States minister to Chile, has been in his private capacity selected as umpire to arbitrate an old French claim against Chile, and, inasmuch as Mr. Strobel is at the present time the diplomatic agent of this country at Santiago, you request that he be authorized to accept the office.

The South American mail which reached this Department on the 3d instant brought a dispatch from Mr. Strobel reporting that the under secretary for foreign relations of Chile had sounded him as to his acceptance of the post of arbitrator, if jointly tendered on behalf of Chile and France, and that he had expressed his willingness so to act if the United States Government should approve; but had suggested further efforts for a direct adjustment of the claim which, at the time of writing, had been hopefully reopened.

Mr. Strobel's successor, Mr. Henry L. Wilson, of the State of Washington, was appointed and confirmed on June 9 ultimo to succeed Mr. Strobel, and will shortly set out for his post of duty. As he will thus relieve Mr. Strobel before the announced arbitration can be completed, if not indeed before it can be actually begun, it is necessary to have a distinct understanding in advance that the tender of the office of arbitrator shall be made to and accepted by Mr. Edward H. Strobel in his individual capacity, and is to be carried on to its finality by him in person, without devolving upon his successor in office when he shall be relieved in the near future. Assuming this understanding to be the purpose and wish of the Chilean and French Governments, as your note indicates, I have to-day telegraphed to Mr. Strobel authorizing him to accept the office of arbitrator, if jointly tendered to him, upon the above-stated condition.

It affords me much pleasure to acquiesce in this renewed application of the salutary principle of arbitration in settlement of international disputes.

Accept, sir, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Strobel.

No. 149.] DEPARTMENT OF STATE,
Washington, July 9, 1897.

SIR: I have to acknowledge the receipt of your No. 143, of May 31 last, and to commend your action therein reported touching the inquiry of the under secretary of foreign relations whether you would be willing to act as arbitrator in the matter of the claim of the French citizen, Charles Freraut, against Chile.

On the 6th instant the Department received a note from the Chilean minister at this capital in which, under telegraphic advice from his Government, he stated that you had been selected in your private capacity as umpire to arbitrate the claim, and, in view of the fact that you are at the present time the diplomatic agent of the United States, requested that you be authorized to accept the office.

Understanding that the tender of the office of arbitrator should be made to and accepted by you in your individual capacity, and is to be carried on to its finality by you in person, without devolving upon your successor in office, I telegraphed you yesterday as follows:

At the request of Chile and France you may accept French arbitration as an individual, the office not to devolve upon your successor.

For your further information, I inclose copies of the notes exchanged between the minister and the Department on the subject.

Respectfully, etc.,

JOHN SHERMAN.

Mr. Strobel to Mr. Sherman.

No. 155.] LEGATION OF THE UNITED STATES,
Santiago, July 29, 1897. (Received Sept. 1.)

SIR: Referring to my dispatches, No. 143, of May 31, and No. 153, of July 9, 1897, I have the honor to inclose copies and translations of the notes of Senor Morla Vicuña, minister of foreign relations of Chile, and Count Saint-Aulaire, chargé d'affaires of the French Republic at this capital, requesti g me to act as arbitrator in the claim of the French citizen, Charles Freraut, against the Government of Chile. A copy and translation of the protocol between the two Governments appointing me arbitrator and of the message on the subject of the President of Chile to Congress are also inclosed.

In view of the terms of the Department's telegram to me of the 8th instant, I beg to call attention to the fact that the office is conferred upon me as an individual, and that no mention is made in the protocol of my official position.

I have, etc.,

EDWARD H. STROBEL.

[Inclosure 1 in No. 155.—Translation.]

Mr. Vicuña to Mr. Strobel.

No. 876.] REPUBLIC OF CHILE,
MINISTRY OF FOREIGN RELATIONS,
Santiago, July 22, 1897.

SIR: As I had the satisfaction of stating to you verbally, the Governments of Chile and France, desiring to bring to a friendly conclusion a claim of long standing of the French citizen Charles Freraut against Chile, have agreed to submit it to arbitration, and for that purpose on the 3d instant signed a protocol, of which I have the honor to transmit to you a certified copy, and by virtue of which there is conferred upon you, as an individual, the office of arbitrator. The text of this agreement will be submitted without delay to the approbation of Congress.

In order that you may at once take cognizance of the papers in the

case, I beg to send you a package containing all documents relative to the claim.

The Government of Chile is gratified that this opportunity has presented itself of giving to you, in the last days of your mission in Chile, a testimonial of the high estimation to which your distinguished qualities entitle you.

I renew, etc., C. MORLA VICUNA.

[Inclosure 2 in No. 155.—Translation.]

Proctocol.

Republic of Chile, ministry of foreign relations.

The minister of foreign relations of Chile, Señor Don Carlos Morla Vicuna, and the chargé d'affaires ad interim of France, Count Saint-Aulaire, having met in the department of foreign relations of Chile for the purpose of putting an end to the claim of the French citizen, Charles Freraut, founded, as is shown by the claimant, upon the failure to execute various contracts relative to the nitrate works "Barrenechea," have agreed upon the following articles:

ARTICLE 1.

The Governments of Chile and France appoint Mr. Edward H. Strobel, in order that, as arbitrator and friendly intermediary, he may proceed ex aequo bono, with full powers to decide the following points: (*a*) Is or is not the claim of the French citizen, Charles Freraut, presented against the Government of Chile with the diplomatic support of the legation of France, a just claim? (*b*) If it is a just claim, in whole or in part, what sum should the Government of Chile pay to Mr. Freraut or to his representatives as an indemnity and complete settlement of the said claim?

ARTICLE 2.

The contracting parties agree in addition that Mr. Edward H. Strobel shall decide the above questions by taking into account the correspondence which has been exchanged between the representatives of the two Governments in Santiago and the documents and proofs furnished during the controversy in regard to the subject-matter of the said claim, and in view of the memorial or brief which either party may present if it is regarded advisable to do so.

ARTICLE 3.

The period of three months is fixed as the time within which the claim of Mr. Charles Freraut should be decided definitely by the arbitrator appointed by the present agreement.

ARTICLE 4.

The decision of the abitrator, which shall be without appeal, must, however, declare that the sum awarded to the claimant shall be paid by the Government of Chile in five equal annual installments without interest, and the payment of the first installment shall be made within six months after the decision.

ARTICLE 5.

The contracting parties agree to remunerate the services of the arbitrator with a fee of five hundred pounds (£500), the whole of which shall be paid by the Chilean Government if the decision does not give to the claimant any indemnity, and shall be equally divided between the claimant and the Chilean Government if the decision is to any extent in favor of the claimant.

Done in Santiago, in duplicate, and in the Spanish and French languages, on the 3d day of July, 1897.

[L. S.] CARLOS MORLA VICUÑA.
[L. S.] SAINT-AULAIRE.

A true copy.

[L. S.] E. PHILLIPS.

[Inclosure 3 in No. 155.]

Mr. Strobel to Mr. Vicuña.

LEGATION OF THE UNITED STATES,
Santiago, July 24, 1897.

SIR: I have the honor to acknowledge receipt of your excellency's note of the 22d instant, inclosing a copy of a protocol by which the Governments of Chile and France have agreed to submit to my decision, as arbitrator, the claim of the French citizen, Charles Freraut, against the Government of Chile, and transmitting to me the documents relative to the claim.

In reply I take pleasure in informing your excellency that I accept, with a due sense of the responsibility incurred, the important charge which the two Governments have deemed proper to confer upon me, and which I shall execute to the best of my ability.

At the same time I desire to express to your excellency my high appreciation, not only of the mark of confidence with which, at the close of my mission, I have been honored by the Government of Chile, but also of the commendatory terms with which your excellency, in the note referred to, has been good enough to refer personally to myself.

I gladly avail myself of the occasion to renew, etc.,

EDWARD H. STROBEL.

[Inclosure 4 in No. 155.]

M. Saint-Aulaire to Mr. Strobel.

LEGATION OF FRANCE,
Santiago, July 22, 1897.

MR. MINISTER: As I have already had the honor to communicate to you verbally, I signed on the 3d instant, with the minister of foreign relations of Chile, a protocol, by virtue of which it has been agreed to submit to your decision, as arbitrator, a claim presented by the French citizen, Charles Freraut, against the Chilean Government.

In accordance with the declaration recently addressed to you by Mr. Morla Vicuña, this choice, which is not based upon any previous exchange of views, merely sanctions a step which each of the two Governments, by a coincidence of great significance, proposed to take with a view of designating your high personality for this mission of justice and equity.

While congratulating myself on having been able to contribute toward furnishing in this way, a testimonal of the sentiments inspired by the elevation of your character, and the qualities which distinguish you, I have the honor to request your acceptance of the mission in question, and I eagerly embrace this occasion to request you to be good enough to accept, etc.,

SAINT-AULAIRE.

[Inclosure 5 in No. 155.]

Mr. Strobel to M. Saint-Aulaire.

LEGATION OF THE UNITED STATES,
Santiago, July 24, 1897.

SIR: I have the honor to acknowledge receipt of your note of the 22d instant, notifying me that you have signed, with the minister of for-

eign relations of Chile, a protocol by which it is agreed to submit to my decision, as arbitrator, the claim of the French citizen, Charles Freraut, against the Chilean Government.

In accordance with the terms of my reply of this date to the note addressed to me by Señor Morla Vicuña upon this subject, I take pleasure in informing you that, with a due sense of the responsibility incurred, I accept the important charge which it has been deemed proper to confer upon me, and which I shall endeavor to execute to the best of my ability.

At the same time I desire to express to you my warm appreciation of the mark of confidence with which I have been honored by you, accompanied, as it is, by the expression of regard and esteem in which you have been good enough to allude personally to myself.

I take advantage of the occasion, etc.,

EDWARD H. STROBEL.

[Inclosure 6 in No. 155.—Translation.]

Fellow-citizens of the Senate and House of Deputies:

For some time past there has been pending for the consideration of the Government of Chile a claim of the French citizen, Charles Freraut, supported by the legation of France.

The claimant bases his demand upon the failure to execute a contract concluded on December 28, 1877, by the Government of Peru with Thomas Hart & Co., by whom the contract was assigned to him, the subject of the contract being the nitrate works "Barrenechea," situated in the province of Tarapaca.

In 1882 the ministry of foreign relations transmitted the papers in this claim to the ministry of finance, in order that an opinion might be given by the latter department regarding the proposition presented by Freraut for the settlement of his claim.

In the ministry of finance a detailed examination of the claim was made, which resulted in establishing that the claim could not be settled administratively, because there was an adverse decision of the courts based on the provisions of the treaty of Ancon, and that it must be referred to the National Congress for settlement.

In 1893 the claimant, in view of the above decision, presented himself to Congress and requested its aid. The committee charged with studying the petition decided that the Government of Chile, through the minister of foreign relations, should be authorized to make a definite arrangement with the claimant, taking as a basis whatever justice and equity there was in the claim, and duly making a report to Congress of the form of settlement.

As the different attempts which have been made since that date to reach a direct agreement with the claimant have given no result, the ministry of foreign relations, in order to arrive at some conclusion, has believed it to be its duty to accept arbitration as a means of settlement; and for this purpose, and proceeding in accord with the legation of France. has conferred the office of arbitrator upon Mr. Edward H. Strobel, in his individual character, that he might decide the claim of Freraut in accordance with the protocol signed in this capital on the 3d instant, which is submitted for your approval, and which is accompanied herewith by a duly-certified copy.

The responsible character and distinguished antecedents of the person appointed, as well as the elevation and prudence with which he has discharged the representation of the Government of the United States in Chile, have been sufficient reasons to induce the Government of Chile to intrust to Mr. Strobel this delicate mission of confidence.

FEDERICO ERRAZURIZ.
C. MORLA VICUÑA.

Santiago, July 12, 1897.

CHINA.

FOSTERING OF AMERICAN INTERESTS IN CHINA.

Mr. Olney to Mr. Denby.

No. 1376.] DEPARTMENT OF STATE,
Washington, December 19, 1896.

SIR: I have to acknowledge the receipt of your No. 2632, of November 5, 1896, concerning American enterprises in China, and to say that, while agreeing with you that you should not assume directly or impliedly in the name of this Government any responsibility for, or guaranty of, any American commercial or industrial enterprise trying to establish itself in China, the Department thinks that you should use your personal and official influence and lend all proper countenance to secure to reputable representatives of such concerns the same facilities for submitting proposals, tendering bids, or obtaining contracts as are enjoyed by any other foreign commercial enterprise in the country. It is not practicable to strictly define your duties in this connection, nor is it desirable that any instructions which may have been given should be too literally followed. Your own judgment and experience, the standing of the firms who seek your assistance and of their agents, must all be given due weight and your action shaped accordingly. Broadly speaking, you should employ all proper methods for the extension of American commercial interests in China, while refraining from advocating the projects of any one firm to the exclusion of others.

In this connection it is proper to remark that the Department does not consider it any part of your duty, or of that of the staff of your legation, to devote so much time and labor as you state they do to writing and translating papers for Americans desirous of submitting them to the Chinese Government.

The Department trusts that you will keep it thoroughly advised as to all American enterprises of which you may hear in China, as, with the exception of the dispatch under acknowledgment, it has only received one—No. 2534, of May 25 of this year—bearing upon this most interesting and important subject, and it is not possible to fully understand the scope of the "great plans" of the Americans which you state are now on the eve of becoming assured. The Department would like to know something more of the plans and the individuals connected therewith, if it is practicable for you to send them.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2671.] LEGATION OF THE UNITED STATES,
Pekin, January 10, 1897. (Received Feb. 26.)

SIR: I have the honor to inform you that I had, day before yesterday, an important interview with the Tsung-li Yamên. It has been the practice of the Yamên to delegate one or two ministers to receive the foreign representatives and discuss with them whatever questions were raised.

On this occasion I desired to be received by Prince Kung and Weng Tung-to, who are members of the grand council and the Yamên, as well as by the more distinguished other members of the Yamên.

On the occasion of his New Year's visit I saw Prince Kung and asked him to be present at this interview. He said he would be unable to be there, but asked me to state what my business was. I accordingly briefly told him that I wished the Yamên to wire to Sheng Taotai, the director of railroads, that he must treat the Americans fairly and make a contract with them to build the Hankow-Pekin line of road. I do not now state the entire conversation, because it will appear in full in my report of the interview with the Yamên. The prince promised me that he would wire to Sheng that he must treat the Americans favorably.

I found at the Yamên the following ministers: Prince Ching, Weng Tung-ho, Li Hung Chang, Chang Yin-huan, Ching Hsin, and Ure Ting-fen. I stated that I came to see the Yamên to discuss with them certain questions in which my countrymen were interested; that while I was not authorized by my Government to demand of the Chinese Government contracts to build railroads or to do any other work, yet it was, as I conceived, my duty to see that the rights of my compatriots should be protected as well in the matter of contracts as in other matters; that my Government had not demanded any compensation, direct or indirect, for its services to China, though all the gentlemen present well knew that to the Department of State belonged the honor of having made peace for China; that the services rendered by other powers were made possible only by our proposal of and conducting to a successful termination the adoption of peace negotiations; that other powers had demanded and received rewards for their action; that to one power a large strip of territory on the Mekong was ceded; that to another the right to build railroads in Manchuria was granted; that with another a contract was made to buy ships; that with all three powers advantageous loans were made; that it was conceded by all the officials who had been consulted on railroad questions that Americans could better than any other people build great railroads; that the Government had been distinctly advised on all sides to treat with Americans for building its great lines of railroads; that it had gone out all over the world that contracts would be made with Americans; that from a political point of view it was conceded on all hands that the work of developing China should be conceded to Americans, because the United States had and could have no ulterior designs on Asiatic territory; that to refuse now to grant contracts to Americans might develop a bad feeling among our people at home and make them less friendly than they always had been to China; that a few weeks ago it was understood that the contract for building the Hankow-Pekin line was actually let to Americans—a preliminary contract had been made with the American China Development Company; that this company was composed of men who were worth several hundred millions of taels; that it was beyond all peradventure able to execute any contract it might make; that at the instance of Sheng Taotai and other distinguished persons (meaning Li Hung Chang) well-known experts and financiers had come to Shanghai; that they were there in consultation with Sheng, and they had represented to me that Sheng was not disposed to treat them fairly; that it would be a breach of good faith to fail to make a contract with these representatives of American interests, and I had to demand that they wire to Sheng to contract with the American company for the building of the Hankow-Pekin line; that I did not desire to go into details of the contracts to be made, but would leave them to the parties concerned.

The Yamên replied to me that Sheng had been appointed director-general of railroads and had the sole control of all the questions involved. I said I knew he had been so appointed, but it was idle to say that the Government of China did not control him. It controlled absolutely all its officials. Sheng had been favorable to the Americans, as everybody knew, until he was recently attacked in the English newspapers. He was afraid of their denunciation. His hands must be strengthened. He must be told to pay no attention to newspaper talk and to act in a straightforward, business way.

Li Hung Chang said the important question was the rate of interest at which money was to be furnished; that they could get money at 3 per cent. I said that nobody would loan money to China at 3 per cent, and especially to a railroad company, but that the rate of interest depended on the granting of the right of constructing the railroad; that if the contract to build the railroad and furnish the material were granted to Americans the rate of interest could be satisfactorily arranged; that certainly without these conditions nobody could loan money to a railroad company without a government indorsement.

Li then said that it must be understood that there must be no concession, meaning no ownership by a foreign company of the railroad. I said it was understood that the railroad would not become the property of any foreign company, but that, of course, proper measures would be taken to secure any loan that was made.

There were frequent interruptions of this conversation by Weng Tung-ho, Prince Ching, Chang Yin-huan, and Li Hung Chang. It was finally understood that the Yamên was to report the substance of this interview to Sheng and was to recommend that he come to terms with the American company, and I was to advise the company to be conciliatory and liberal.

As my instructions on the question of assisting my fellow-citizens in industrial enterprises are somewhat strict, I beg to say that I did not conceive that I exceeded their fair scope in taking the action above set out. I have not felt authorized to demand, as a compensation for any services rendered by the Department of State, any concessions. On the other hand, I have found myself unable to maintain absolute silence, which would be construed into indifference. I have not participated in the actual making of contracts, though, as an old lawyer, I have confidentially advised applicants as to the measures to be adopted; but when a preliminary contract is made I believe it to be my duty to insist on the rights of my fellow-citizens. The Department approved my conduct in the matter of securing to the Baldwin Locomotive Works a contract to which it was fairly entitled, and I hope it will approve my conduct as above set out.

There are at Shanghai several Americans engaged in discussing with Sheng the terms of a contract for building railroads. Among them are ex-Senator Washburn, Messrs. Whitney, Cary, Bash, Dodd, Rich, and Kennedy. Senator Washburn came to China at the instance of Li Hung Chang and so wired Li asking his assistance, and Li answered that he could do nothing, as the matter was left to Sheng. I made Li understand that I knew of this incident and he felt his responsibility and was comparatively quiet.

I believe that the interview herein reported will exercise a beneficial influence on American interests in China, and venture to hope that you will not conceive that I have exceeded my instructions.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2688.] LEGATION OF THE UNITED STATES,
Pekin, February 15, 1897. (Received April 6.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 1376, of December 19 last, wherein you set forth certain instructions relative to the promotion of American enterprises in China. In this connection I beg to refer to my dispatch No. 2671, of January 10 last, wherein I report an account of an interview with the Tsung-li Yamên. It will appear therefrom, I think, that I correctly apprehended your previous instructions.

Divers Americans have visited China with the purpose of constructing railroads, establishing banks, and developing mines. None have made any long stay, nor any persistent effort, except the American-China Development Company, which was represented by Mr. A. W. Bash. This gentleman remained here more than a year and energetically labored to secure contracts for building railroads, and he was rendered all possible assistance by this legation. Recently his attention was more particularly directed to securing the contract to construct the line from Hankow to Pekin. On the 1st of November last he made a preliminary contract with Sheng Taotai, who is director-general of railroads. Mr. Bash was not authorized by his company to conclude a contract, so the final making thereof was laid over until the arrival at Shanghai of a committee of the American-China Development Company. Messrs. W. D. Washburn, Clarence Cary, and others constituted such committee. They arrived at Shanghai on December 28 last, and proceeded to negotiate with Sheng Taotai.

At the time I wrote the dispatch No. 2632, of November 5, to which your dispatch No. 1376 is an answer, I had strong grounds to hope—having seen the preliminary contract—that the American syndicate would succeed in making a contract with Sheng which would give complete control over national progress in China. The latest advices that I have received leave the question of securing a contract to build the Pekin-Hankow line in doubt, but it appears that several American engineers have been employed, and there is no doubt that considerable material will be furnished by American manufacturers.

I have, etc.,

CHARLES DENBY.

Mr. Sherman to Mr. Denby.

No. 1404.] DEPARTMENT OF STATE,
Washington, March 8, 1897.

SIR: I have to acknowledge the receipt of your 2671, of January 10 last, reporting an interview had by you with the Yamên on the subject of railroads in China, whereat you urged upon them the making of contracts with Americans to build the Hankow-Pekin line of road.

The Department commends the interest you take in the advancement of American enterprises in China and the efforts made by you in their behalf with the Chinese foreign office, but you should be cautious in giving what might be understood as this Government's indorsement of the financial standing of the persons seeking contracts with that of China. In the present case it appears from your dispatch that you

told the Tsung-li Yamên that the American-China Development Company "was composed of men who were worth several hundred millions of taels." The Department understands that the said company is a limited liability company, with a very small capital. The individual financial standing of the various persons composing the company has, consequently, little to do with the matter.

I am, etc.,

JOHN SHERMAN.

PREVENTION OF ANTIFOREIGN RIOTS.

Mr. Denby to Mr. Olney.

No. 2696.] LEGATION OF THE UNITED STATES,
Pekin, February 25, 1897. (Received April 19.)

SIR: In your dispatch No. 1368,[1] of November 25 last, you inclose a draft of a communication relating to antiforeign riots, and embodying suggestions as to steps to be taken for the prevention of their recurrence.

This paper was duly presented to the Yamên, and I have now the honor to inclose a translation of the Yamên's answer thereto.

As the inauguration of this discussion originated with the Department, I deem it proper to submit the answer to the draft above mentioned to you before replying thereto. I beg to observe, however, that the inclosure bears signs of having been hastily prepared, perhaps owing to the fact that it was written during the vacation incidental to the Chinese New Year, when business is mostly suspended.

I observe, also, that the gravity of the subject-matter may be more strongly enforced by a personal interview than in written correspondence, and that I contemplate having an oral discussion with the Yamên before a final result is reached. In the Department's draft the first demand is: "Recognition by the issuance of a formal declaration in an Imperial decree that American missionaries have the right to reside in the interior of China."

The Yamên answers that this right is provided for by treaty, and mentions that various decrees recognizing it have been issued. This is a valuable admission, as treaties, except the Berthemy convention, are silent on the question of residence in the interior.

A direct and positive recognition of this right, however, made in connection with a statement as to the measure to be taken to prevent riots, would be valuable, and, indeed, necessary for the complete apprehension of any decree relating to the subject. As to the second point, the right of American missionaries to buy land in the interior, the Yamên simply states that "American missionaries should be treated in this matter the same as the French missionaries."

Here again the desired purpose is not accomplished. What is wanted is not a recognition of this right by the Tsung-li Yamên in a communication addressed to this legation, but an open and notorious publication in an Imperial decree that the right exists, and the communication thereof authoritatively to all the local officials all over China.

Such action would probable prevent the ever-recurring troubles which confront our missionaries in their efforts to secure land for stations in the interior.

The third suggestion of the Department goes to the responsibility of

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[1] See Foreign Relations, 1896, p. 67.

the higher officials in the localities in which riots occur for the acts or omissions of their subordinates. The Yamên does not seem to have apprehended the point of this specification.

The Yamên concedes that if the local officials "do not take precautionary measures to prevent trouble * * *" they should be punished; but it does reply to the suggestion, which is the gist of the paragraph, that "the viceroy or governor of the province in which it (a riot) has occurred, who is directly responsible to the Throne for the acts and omissions of every one of his subordinates, although his only fault may be ignorance," should be held responsible for the acts or omissions of his subordinates.

This paragraph embodies the most important suggestion in the Department's paper.

The whole discussion leads up to the idea expressed specifically on page 4 of that paper, to the effect that "the main remedy for existing evils and the surest prevention of riots will be holding of the local officials to a personal accountability for every outrage against foreigners that may occur in their jurisdiction."

What is wanted is an Imperial decree embodying this idea. Paragraph 4 of the Department's specifications goes to the proposition that officials found guilty of negligence or connivance with rioters should be punished, in addition to suffering degradation or deprivation of office.

The Yamên does not see its way clear to carry out the Department's suggestions. It is conceded that the question of the punishment of officials, who are practically supreme in their provinces, for negligence is difficult of solution, but no difficulty is found in awarding suitable punishment for crimes committed against the Throne, and, if possible, China must be made to learn that the murder of foreigners and the destruction of their property are "offenses of a very grave nature."

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2696.]

The Tsung-li Yamên to Mr. Denby.

No. 5.] PEKIN, *February 19, 1897.*

YOUR EXCELLENCY: On the 11th of February instant the princes and ministers had the honor to receive a communication from the United States minister, wherein he states that on the 21st day of September last he had the honor, by direction of his Government, to address the Yamên a communication to the effect that his Government was carefully considering the subject of antiforeign riots in China, with the view to present to the Yamên thereafter another communication embodying its views on the measures that it is desired to see adopted in order to prevent the recurrence of these lamentable outrages on foreign residents in China. Your excellency further states that the best means to prevent the recurrence of antiforeign riots in China would be to adopt certain measures, so that the good relations existing between the two countries may be confirmed and strengthened.

On receiving your excellency's communication of the 21st of September the Yamên replied that it is only necessary that both Chinese and foreigners should be commanded to observe the treaties, and if the plan decided upon is not in contravention to treaty stipulations, China will certainly come to a suitable decision.

From the tenor of your excellency's communication the local officials should be held responsible when outrages against foreigners occur in their jurisdiction.

Your excellency proposes the following measures:

First. Recognition by the issuance of a formal declaration in an Imperial decree that American missionaries have the right to reside in the interior of China. It may be observed that this right is provided for by treaty. Imperial decrees have already been issued commanding that due protection should be given to United States citizens residing in China.

It is the duty of China to adopt every means to give proper protection to Americans living in China, as pointed out by your excellency. It is therefore not necessary to dwell at length on that point.

Second. Your excellency states that the declaration in such decree should be "that American missionaries have the right to buy land in the interior of China; that they have all the privileges of the Berthemy convention, and that deeds taken by them shall be in the name of the missionary society or church which buys the land, as that convention provides."

The princes and ministers beg to state that while the treaties between the United States and China do not provide for this, still the American missionaries should be treated in this matter the same as the French missionaries.

Third. The determination of and formal declaration by China by Imperial decree to hold responsible and properly punish not only all individuals or minor officials directly or remotely involved upon the occurrence of any riot whereby peaceable American citizens have been affected in person or property or injured in their established rights, but also the viceroy or governor of the province in which it has occurred, etc.

It may be observed that all cases of outrages against missionaries and their property are the acts of bad characters. Take, for instance, the riots in Szechuan and Kutien. These were caused by outlaws, a fact duly supported by evidence. The local authorities are charged with the duties of looking after the people and seeing that tranquillity prevails within their jurisdiction. If they do not take precautionary measures to prevent trouble, or after trouble has arisen if they fail to act properly, they are guilty of an offense and should be punished.

The viceroys and governors are responsible for the provinces, and if the local authorities fail to do their duty they can not repudiate the charge intrusted to them.

Fourth. That the punishment of officials found guilty of negligence in case of a riot, or of connivance with rioters, shall not simply be degradation from or deprivation of office, but that they shall be, in addition, rendered forever incapable of holding office, and shall also be punished by death, imprisonment, confiscation of property, banishment, or in some other manner under the laws of China in proportion to the enormity of their offense.

To this the princes and ministers would observe that as to the punishment inflicted on delinquent officials—those who fail to meet their liabilities to the Government—have their property confiscated by order of the Emperor. Other offenses, such as officials taking bribes or violating the statutes, are merely punished by deprivation of office.

The punishment of "forever holding office again" is inflicted only for offenses of a very grave nature. The punishment by death, banishment, or imprisonment for the above offenses is not provided for by the penal code. If such severe punishment were to be inflicted on officials

who have failed to deal properly with missionary cases, it is feared that the people would treat them with contempt; besides, outlaws who entertain a grudge against local officials might some day say that the officials who have punished us are now in turn being punished themselves. Should this feeling of contempt increase serious complications might arise. The princes and ministers, therefore, do not see their way clear to carry out the above suggestions.

Fifth. Your excellency suggests that the Imperial decree embodying the above provision shall be prominently put up and displayed in every Yamên in China.

To this the princes and ministers would state that during the past few years the Yamên has frequently instructed the high officials in the provinces to act as already decreed by the Emperor, and it does not seem necessary to discuss this point.

In a word: Whenever missionary cases have occurred of recent years the Yamên has always taken action in good earnest. Everything has been done in cases that have not interfered with the internal administration of China, or have not been in violation of treaty stipulations.

The friendly relations existing between the United States and China have always been staunch and firm. The princes and ministers believe that the minister of the United States will be considerate in this matter, and hope he will send a copy of this communication for the information of the honorable Secretary of State.

Mr. Denby to Mr. Sherman.

No. 2722.] LEGATION OF THE UNITED STATES,
Pekin, March 24, 1897. (Received May 6.)

SIR: In my dispatch No. 2707,[1] of the 11th instant, I inclosed a copy of a paper sent by me to the Tsung-li Yamên, embodying the renewal of the demand heretofore made, that cognizance should be taken of the conduct of certain officials relative to the antiforeign riots which occurred at Kutien in August, 1895. I have now the honor to inclose a translation of a communication from the Yamên of the 26th instant in reply to the above-mentioned paper.

As is usual in Chinese state papers, the Yamên recapitulates the substance of my communication. It then proceeds to observe that the questions at issue concern both the British Government and our own; that on the 22d of November, 1895, the viceroy at Foochow reported to the Throne that the case had been settled on terms stated, involving the decapitation of twenty and more persons, the punishment in other modes of twenty and more others, and the degradation of three officials.

The Yamên proceeds to observe that the calamity which befell the English missionaries was severe, and that we suffered very little, but, nevertheless, the British representative made no objection to the settlement of the case. It claims that justice has been administered.

The action of the United States in the Rockspring case is adverted to by way of comparison.

It is objected to holding the local officials responsible; that in all cases it is first necessary to ascertain who is guilty, and that unless officers have failed to do their duty they should not be punished when a riot occurs.

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[1] Not printed.

The Yamên observes that offenders against foreigners are more severely punished than in purely Chinese cases.

The Yamên repeats that it is difficult now to punish the officials mentioned.

From this summary of the Yamên's communication it is apparent that considerable stress is placed on the fact that the British Government has contented itself with the action taken by the Chinese Government, although its subjects were almost the only sufferers. From reports that have reached me, it appears that in the locality in which the massacre occurred there has been a great Christian revival, which is ascribed to the forbearance of Great Britain in not insisting on severer treatment of the case, and in not demanding damages. This circumstance, taken in connection with the length of time that has elapsed since the riot occurred, and the great difficulty under the Chinese system of government of opening up a matter which has been reported to the Throne as settled, induces me to suggest that you reconsider the original purpose to press for specific action against the accused officials as a separate and distinct contention.

It is more important for us now to devise and put in force safe and efficient means to prevent future riots than it is to secure the punishment of officials who may have been negligent in the past.

We have pending a discussion with the Yamên on the means to be adopted by China to prevent antiforeign riots. (See Department's dispatch No. 1368, of November 25, 1898, for the draft of our demands.)

I most respectfully submit for your consideration that the proposition to secure the adoption of general preventive measures applicable to the future, and the proposition to punish the Kutien officials might be blended together in a discussion with the Yamên, and that I might be authorized to accept as a final settlement the putting in execution of the measures set out in the dispatch cited, or other measures analogous thereto.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2722.]

The Tsung-li Yamên to Mr. Denby.

No. 8.] PEKIN, *March 20, 1897.*

YOUR EXCELLENCY: On the 11th instant the princes and ministers had the honor to receive a communication from the minister of the United States stating that on the 23d of November last he brought to the attention of the Yamên a demand on the part of his Government that cognizance should be taken of the conduct of certain officials, relating to the antiforeign riots which occurred at Kutien, and that proper and suitable punishment be decreed against them; that the princes and ministers sent an answer to the above communication, wherein they stated that the viceroy at Foochow had reported that twenty and more of the offenders had suffered the death penalty by decapitation, and twenty and more other offenders, whose offenses were not of so grave a character, had also been punished; some to banishment to the frontier military posts and others to imprisonment for life in the jails of various magistrates; that Tang Yao-te, Wang Yu-lin, Wang Yu-yung, mentioned in Commander Newell's report, had been degraded; that a year had elapsed since the case was settled and that "it is not convenient now to pursue the matter any further;" that in regard to

the claim of Miss Hartford he had received information that it had been paid, and for the promptness in discharging this liability he returned thanks.

The minister of the United States further stated that he transmitted to the honorable Secretary of State a translation of the Yamên's previous communication and had received from him instructions to insist by all proper methods on the punishment of the officials mentioned in Commander Newell's report; that it is not too late to investigate the conduct of the delinquent officials and to punish them for their connivance or negligence; that he could not too often repeat that the only way to prevent the recurrence of antiforeign riots in China is to hold the officials responsible for acts of violence perpetrated in their respective jurisdictions, and what he asks is simply to treat with the same rigor crimes against foreigners as crimes against Chinese subjects are treated—a question under the treaties foreigners have the right to demand it, etc.

In reply, the princes and ministers beg to observe that the case in question concerns both the American and British Governments. On the 22d of November, 1895, a memorial from the viceroy at Fuchau was received and presented to His Majesty the Emperor, stating that the Kutien case had been settled, that twenty and more of the chief offenders had suffered the death penalty by decapitation, and twenty and more other offenders had been banished to the frontier military posts and imprisoned for life in the jails of various magistrates, and that Tang Yao-te, Wang Yu-lin, and Wang Yu-yung, mentioned in Commander Newell's report as being guilty of culpable neglect in the discharge of their duty as local officials, have been denounced to the Throne and degraded.

In viewing the circumstances connected with this case it may be observed that the calamity which had befallen the English missionaries was of a most violent nature. The Americans suffered a very little.

After the memorial had been presented to the Throne announcing that the case had been settled, the British chargé d'affaires had no objection to make. The case had been decided justly, and based upon the true facts a proper punishment has been inflicted upon the guilty. It is apparent throughout the whole case that no injustice has been done or leniency shown. The honorable Secretary of State insists that other officials mentioned by Commander Newell should be punished for their neglect of duty. To this the princes and ministers would beg to observe that as China has dealt fairly and justly with the case in question she can not take further severe action as requested.

It may be further observed that China has dealt with this case in a more severe manner than the United States did in Rockspring and Huai Hua-yuan cases. When these cases were settled there is ample evidence to show that no local officer was punished. There is decidedly a great difference in the manner in which these cases were dealt with.

As to the remark that in order to prevent riots against foreigners the only way is to hold the local authorities responsible, to this remark it may be stated that it is necessary to first ascertain who is guilty of neglect of duty. If the local officer is found to have been negligent in the discharge of his duty he should be punished, but in the case of an officer who has not failed to do his duty, and if he is to be punished, when a riot occurs who is to suppress the people and offer protection to the missionaries?

If severe punishment is to be inflicted on worthy officers who perform their duties properly, then, in that case, loafers and bad characters would

cause more trouble and defy the local authorities. This is very much to be feared.

As to the question that under the treaties foreigners have the right to demand the same treatment as Chinese, it may be observed that it is well known among the officials and people of the provinces that when crimes are committed against foreigners by Chinese the offenders are more severely dealt with than in purely Chinese cases.

In this case the Chinese offenders have been dealt with in this way; no favor has been shown.

The request made that punishment should be inflicted on the other officials mentioned is one which the princes and ministers find difficult to comply with. They beg that the minister of the United States will transmit this communication for the information of the honorable Secretary of State.

Mr. Sherman to Mr. Denby.

No. 1429.] DEPARTMENT OF STATE,
Washington, April 30, 1897.

SIR: I have to acknowledge the receipt of your No. 2696, of February 25 last, transmitting the reply of the Tsung-li Yamên to the measures suggested by this Department in its No. 1368 of November 25 last, for the prevention of antiforeign riots.

Before giving its views on the position taken by the Chinese Government on this important subject, the Department will await your report of the conference which your dispatch states it is your intention to have with the Yamên.

Respectfully, etc., JOHN SHERMAN.

Mr. Sherman to Mr. Denby.

No. 1443.] DEPARTMENT OF STATE,
Washington, May 15, 1897.

SIR: I have to acknowledge the receipt of your No. 2722, of March 24 last, with which you inclose the reply made by the Tsung-li Yamên refusing to comply with your renewed demand for the punishment of the delinquent officials concerned in the Kutien riots in August, 1895, and in which you suggest that the matter, as a separate and distinct contention, be dropped, and that it be blended together with the proposition to secure the adoption of general preventive measures applicable to the future.

In furtherance of the policy outlined in the Department's No. 1312 of July 28, 1896, concerning the prevention of antiforeign riots, it was the duty of this Government to insist, in every case, on the punishment of all officials found guilty in any degree in connection with such occurrences. The failure of Great Britain to act on the same lines in the Kutien case, to which the Yamên refers, made it only the more necessary for the United States, even though their people and interests had suffered but little in that riot, to clearly indicate that this policy was to be urged on China whenever a riot happened. This was done not only in the Kutien, but in the Kiang Yin case as well. However, in view of your suggestion and the arguments in support thereof, and

considering that the discussion with the Yamên of the general question of antiforeign riots is now open, you are instructed not to press, for the present, for the punishment of the Fukien officials implicated in the Kutien affair unless you fail to obtain the Chinese Government's approval of the propositions embodied in your note to the Yamên (a draft of which was inclosed in the Department's No. 1368 of November 25, 1896), and the promulgation by official decrees of the measures therein proposed, or analogous ones, by which the same end may be obtained.

Respectfully, etc., JOHN SHERMAN.

Mr. Denby to Mr. Sherman.

No. 2774.] LEGATION OF THE UNITED STATES,
Pekin, July 10, 1897. (Received Aug. 16.)

SIR: I have the honor to inclose a copy of a dispatch which was sent by me to the Tsung-li Yamên the 10th instant, on the subject of the prevention of antiforeign riots.

I have, etc., CHARLES DENBY.

Mr. Denby to the Tsung-li Yamên.

No. 19.] PEKIN, *July 10, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: On the 21st September, 1896, I had the honor to address to you a communication, wherein I informed you that my Government proposed to make to you certain representations touching the prevention of the recurrence of antiforeign riots in China.

On the 24th of September, 1896, you answered as follows:

> The Yamên appreciates very much indeed the idea of the honorable Secretary of State devising a plan which may prove beneficial to both countries, and if the plan decided upon is not in contravention to treaty stipulations China will certainly in a spirit of friendliness come to a suitable decision.

Continuing this correspondence, I sent to you on the 11th February, 1897, an elaborate paper, which had been prepared by the honorable Secretary of State and approved by him, wherein the question of the plan for preventing antiforeign riots was discussed. In that paper five prominent points were enumerated as demanding action at your hands, which may be briefly summarized as follows:

(1) Formal recognition of the fact that American missionaries have the right to reside in the interior.

(2) A specific statement of their right to buy land.

(3) The determination of China to hold her officials, including viceroys and governors, responsible for outrages on foreigners.

(4) Suitable punishment for guilty or negligent officials.

(5) The posting of an Imperial decree embodying these provisions in every Yamên in China.

On the 19th February, 1897, you answered the above mentioned paper substantially as follows:

As to the first point you admitted that the right to reside in the interior existed by treaty, and you deemed it useless to issue any formal decree.

As to the second point, you conceded that the American missionaries should be treated like the French missionaries.

As to the third point, you conceded that the local authorities should be punished for not taking precautionary measures to prevent riots, but you did not concede in treating this and the next point that governors and viceroys should be punished when antiforeign riots occur in their jurisdictions.

You argue that if "severe punishment were to be inflicted on officials who have failed to deal properly with missionary cases, it is feared that the people would treat them with contempt," and you declined to carry out the suggestions presented to you.

In this connection it is proper to refer to the demand made by me November 23, 1896, that certain delinquent officials who failed to do their duty in the matter of the Kutien riots, which took place August 1, 1895, should be punished.

Acting under the instructions of my Government, I demanded that suitable punishment should be awarded to those officials.

On the 29th November, 1896, you replied that "it is not convenient now to pursue the matter any further."

Thus curtly and cavalierly you disposed of the demand made by my Government. In spite of this inconsiderate treatment, I am disposed to consider the question of foreign riots as one chiefly relating to the future, and if I can secure at your hands a proper treatment of the matter of prevention of antiforeign riots, I might consent to drop the consideration of the punishment of officials who have been heretofore delinquent, else I shall be compelled to keep the question open, subject to such action as international occurrences may require.

What I desire China to do is to make antiforeign riots impossible. Her character, credit, and standing before the world greatly depends on her action in this regard. She no longer occupies a position of seclusion. She has gone into the markets of the world as a borrower. She has undertaken great works of internal improvement. It is a new China which is appearing to the gaze of mankind, and she is to all intents and purposes a member of the family of nations. Yet day by day riots occur. Every newspaper contains an account of outrages perpetrated on foreigners.

On the silliest of pretexts whole communities are thrown into terror, and ships of war are summoned to be ready to protect the foreigners against rioters.

As a friend of China, as well as a representative of some of these foreigners, I am looking around for remedial and preventive action that may secure peace and tranquillity. It is worth your while to join seriously in this discussion, because ultimately your Government suffers in loss of character, influence, public respect, as well pecuniarily, by riots. You can no longer, as in the past, regard the opinion of the world as valueless. Your financial credit is at stake. Why, then, will you not do the simple things I ask you to do? Why will you not hold your viceroys and governors responsible for outrages on foreigners as you hold them responsible for outrages on Chinese subjects? Why will you not procure an Imperial decree to be issued stating the simple determination to hold viceroys, governors, and all officials responsible for riots and denouncing suitable punishment against all officials in whose jurisdiction riots occur?

Such a decree would put an end to the occurrence of antiforeign riots in China. It would show that you are in earnest in your desire to prevent riots. You have tried for many years the old policy of pay-

ing damages and cutting off the heads of a few coolies. Riots have increased instead of diminishing. The people care nothing for the payment of damages, and little for the executions of the coolies. The people do not believe that the local officials are in earnest in reprobating riots, and many foreigners are of the same opinion.

The season of riots, the summer time, is on us. The time to act is now.

A ringing, earnest proclamation sent to every Yamên in China that not only degradation from office, but condign punishment will be awarded to every official, high and low, in whose jurisdiction an anti-foreign riot shall occur, would be hailed by the world with joy, and would insure peace, and would save you in future annoyances and loss.

Not neglecting the other points made, this is the chief of all. You have your opportunity and your warning. I have had long experience in China. I have seen the terrible evils of riots. I have seen murders, arsons, and the driving of scores of innocent people from their homes while infuriated men chased them like rats. I have seen men lose their health and women made crazy by the perils and sufferings put upon them by mobs. For China and for humanity I am anxious to do something to stop these ever-recurring outrages. The stroke of a pen can accomplish it to the honor and glory of China, and to the injury of no human being. Your viceroys and your governors have the undoubted power to prevent riots, if only His Majesty the Emporer will make them understand that their lives will pay the forfeit of their negligence.

Mr. Sherman to Mr. Denby.

No. 1484.] DEPARTMENT OF STATE,
Washington, August 18, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 2774, of the 10th ultimo, inclosing a copy of a note addressed by you to the Tsung-li Yamên on that date, demanding that viceroys, governors, and all other officials be held responsible by the Chinese Government for antiforeign riots occurring within their jurisdiction, and punished accordingly.

The Department approves generally the ground taken in your note to the Tsung-li Yamên.

Respectfully, etc., JOHN SHERMAN.

RIGHT OF AMERICANS TO RESIDE AND ENGAGE IN BUSINESS IN THE RESTRICTED PARTS OF SOOCHOW AND HANGCHOW.

Mr. Denby to Mr. Sherman.

No. 2785.] LEGATION OF THE UNITED STATES,
Pekin, July 28, 1897. (Received Sept. 17.)

SIR: I have the honor to inclose a copy of a dispatch from the consul-general wherein he brings to my attention a proclamation issued at Soochow forbidding Chinese to sell land to foreigners outside of the concession; also, the fact that the Chinese authorities at the open port of Hangchow oppose foreigners residing in the native city of Hangchow for purposes of trade.

I inclose also a copy of my answer to the consul-general, which will inform you of my action in the premises up to this time. In this connection I call attention to my dispatch No. 2776, of July 14, wherein the area of likin exemption as affecting Fuchau is discussed. As no specific case affecting Americans has arisen at Soochow, I have deemed it best to direct the consul-general to send a protest to the Chinese authorities at that port against the proclamation mentioned. The whole question will have to be taken up at Peking by the diplomatic body, or as many of the members thereof as will act in concert, but as nearly all the ministers are now residing at the hills near Peking it will be difficult to procure any action until the autumn.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2785.]

Mr. Jernigan to Mr. Denby.

CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, July, 17, 1897.

SIR: I have the honor to inform you that the Chinese authorities at the port of Soochow have issued a proclamation forbidding Chinese to sell land to foreigners outside of the concession, and that the Chinese authorities at the open port of Hangchow oppose foreigners residing in the native city of Hangchow for purposes of trade. The positions taken by the Chinese authorities at Soochow and Hangchow are thought to be untenable by many of the consuls-general here, and when approached by the Chinese on the subject I have answered that I would refer the matter to you. I understand that the other consuls-general have submitted, or will submit, the question to their respective ministers. It occurs to me that if the port is an open port a foreigner ought to reside and trade anywhere he wishes within the boundary of the port, as well as have the right to own property within such limits.

I am, sir, etc.,

T. R. JERNIGAN, *Consul-General.*

[Inclosure 2 in No. 2785.]

Mr. Denby to Mr. Jernigan.

LEGATION OF THE UNITED STATES,
Pekin, July 26, 1897.

SIR: I am in receipt of your dispatch No. 357, of the 17th instant, wherein you inform me that the Chinese authorities at the open port of Soochow have issued a proclamation forbidding Chinese to sell land to foreigners outside of the concession, and that the Chinese authorities at the open port of Hangchow oppose foreigners residing in the native city of Hangchow for purposes of trade. This latter question was brought to your attention in my dispatch No. 556, of July 12.

The question of port area and of exemption from likin dues has already arisen at Foochow, as you are aware, and I have addressed the yamên in the sense that the city of Foochow is within the area of likin exemption.

The questions submitted by you are analogous to the Fuchau question, and they will all have to be taken up and settled by the diplomatic body at Peking.

The contention that these questions are settled by the Chefoo convention is untenable.

Clauses 1 and 2 of section 3 of that convention are not in force.

There is no specific case affecting Americans, except the one at Hangchow, on which I await your report now pending.

You can not well take up the discussion of the right of an American to buy land in the city of Soochow, but outside of the concession, until an actual case shall arise, but you are instructed as a matter of precaution to protest against the proclamation mentioned, and to claim in general that the city of Soochow and the settlements are all in the area of the port and are all opened to foreign trade, and that land can be bought by foreigners in the city under the treaties.

As this question affects all nationalities alike, it would be well to consult with your colleagues and secure, if possible, unanimous action.

I understand from the British minister that the English consul at Soochow has already referred the question to Sir N. J. Hannen. You will please send to me a copy of the proclamation mentioned and a copy of your protest against it.

I am, sir, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2787.] LEGATION OF THE UNITED STATES,
Pekin, July 31, 1897. (Received Sept. 17.)

SIR: I have the honor to inclose a copy of a dispatch recently sent by me to the consul-general on the subject of the rights of foreigners in the newly opened ports of Soochow and Hangchow. A review of the Japanese treaties induces me to conclude that foreigners have the right to reside in these cities, and to buy land therein.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2787.]

Mr. Denby to Mr. Jernigan.

LEGATION OF THE UNITED STATES,
Pekin, July 30, 1897.

SIR: I am in receipt of your dispatch No. 358, of the 19th instant, wherein you make some observations touching the rights of foreigners at Hangchow and Soochow.

As to the ports mentioned, we derive our rights under the favored-nation clause from the recent Japanese treaties by virtue of which they were opened.

If the settlement of our rights depended on the original Shimonoseki treaty there would be little doubt as to the proper solution of the questions involved.

Article VI, subclause 1, of that treaty provides:

1. The following cities, towns, and ports, in addition to those already opened, shall be opened to the trade, residence, industries, and manufactures of Japanese subjects

under the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China:

(1) Shashih, in the province of Hupeh.
(2) Chungking, in the province of Szechuan.
(3) Soochow, in the province of Kiang-su.
(4) Hangchow, in the province of Chekiang.

The contention of the foreigner has always been that under analogous treaty stipulations the towns and cities named, respectively, were opened to trade and residence, although this result has not always happened, owing to the establishment of settlements near certain cities and the gradual abandonment of the cities as places of residence. This has occurred at Fuchau, and practically wherever there is a concession. For this treaty see Chronicle and Directory, 1897, page 105.

We will now look at the treaty of commerce and navigation made with Japan July 21, 1896, page 359, same book.

Article IV of that treaty reads as follows:

Japanese subjects may, with their families, employés, and servants, frequent, reside, and carry on trade, industries, and manufactures, or pursue any other lawful avocations in all the ports, cities, and towns of China which are now or may hereafter be opened to foreign residence and trade. They are at liberty to proceed to or from any of the open ports with their merchandise and effects and within the localities at those places which have already or may hereafter be set apart for the use and occupation of foreigners. They are allowed to rent or purchase houses, rent or lease lands, and to build churches, cemeteries, and hospitals, enjoying in all respects the same privileges and immunities as are now or may hereafter be granted to the subjects or citizens of the most-favored nation.

I understand that it is under this last clause that China claims that the right to buy land is restricted "within the localities at those places which have already or may hereafter be set apart for the use and occupation of foreigners," and the right to rent and build, etc., is also confined to such localities.

The first and last clauses of the Article IV cited are not inconsistent or repugnant. The former grants the rights of residence in all the towns and cities that are opened, with the broadest right of trade, etc., and the latter grants the same rights to the localities especially set apart to foreigners.

There is no language in the last clause qualifying the former clause.

How can a person reside and carry on business in a place in China unless he can either buy or rent a house? All the treaties granted the right of residence and of renting and buying land in the ports opened to foreign commerce. (See Art. XII, treaty of 1858, United States with China.)

It seems to me, therefore, that we must take the ground that the second paragraph of Article IV is simply cumulative.

As the rights accruing from what is called a "concession" had not been specifically stated, the last clause, defining such rights, was added.

On the general question of foreign right of residence in cities opened to trade, it may be said that to-day foreigners reside and do business in the native cities of Chungking, Ichang, Chinkiang, Wuhu, Kiukiang, and Peking, though it is not technically open to foreign trade.

For various reasons it will take some time to settle these questions. In order that we might not appear to waive any right, I deem it best to instruct you to protest against the Soochow proclamation.

In the matter of the residence of the insurance agent at Hangchow, I must insist that he has the right to reside in the city. I hope, however, that he will be prudent and that he will avoid any occasion for a riot.

I have informed the Yamên that I will not consent to the expulsion of the American from Hangchow, and that the question will be submitted to my Government as soon as I can learn the grounds on which it claims the right to exclude foreigners from Hangchow.

I am, sir, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2789.] LEGATION OF THE UNITED STATES,
Pekin, August 5, 1897. (Received September 17.)

SIR: I have the honor to inclose a translation of a dispatch received from the Tsung-li Yamên on the question of the right of an American citizen to reside at the city of Hangchow. I inclose also a copy of my dispatch in answer thereto.

I have treated this question in several dispatches to you, being Nos. 2785, of the 28th of July, and 2787, of the 31st of July, to which reference is made.

Extended argument on this question is not necessary. The treaty of Shimonoseki, which will be found in the Chronicle and Directory of 1897 at page 107, confers the right of residence in the city of Hangchow. The commercial treaty between Japan and China, which will be found at page 359 of the same book, confers the same right. Article IV of that treaty distinctly confers that right, and the latter clause thereof grants the same right in the localities which may be set apart for the use and occupation of foreigners. I regard this latter clause as simply cumulative. All the old treaties contained the same right.

I refer to Article XIV of the treaty of 1858 with the United States, which is in accord with the treaties made with all the other powers. I do not feel authorized to consent that American citizens shall be denied the right of residence in the cities which were opened to trade and residence by the Shimonoseki treaty. A question of this importance should, it seems to me, be presented to you for determination.

I accordingly request that you will instruct me as to the line of action to be adopted. As the Chinese Government is strongly urging the subject upon me, instruction by telegraph might be sent to me if, in your opinion, it is feasible and desirable to do so.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2789.]

The Tsung-li Yamên to Mr. Denby.

PEKIN, *July 28, 1897.*

YOUR EXCELLENCY: In the matter of an American life insurance company establishing an office in the city of Hangchow, the Yamên, in accordance with the telegraphic request of the governor of Chekiang addressed the minister of the United States asking that instructions be issued to have the office of said company removed from the city.

The minister of the United States replied that he had referred the matter to the consul-general of the United States, which is on record.

On the 19th of July the Yamên received a further communication from the governor of Chekiang, embodying a report from the taotais of the board of foreign affairs as under:

In regard to the American merchant opening a life insurance office at a place called Yu Sheng Kuan Chiang, the office of foreign affairs addressed a communication to the United States consul requesting that instructions be issued to have the said office removed from the city, but no reply has been received to said communication.

It appears that at Hangchow, in addition to the Japanese settlement, a large tract of land has been set apart at the Hung Chien Bridge as a trading place for foreigners. The land has been filled in, roads made, and the banks of the river repaired. Police have been employed, and the outlay of money has been heavy. This has been done for the purpose of treating foreigners kindly and giving them due protection in carrying on their business. It can not be said that they have not been treated in a generous and liberal manner.

The said American has established, in violation of treaty, an office in the city of Hangchow.

Of the foreign trading ports in China, Shanghai dates the very earliest. It is situated on the Yang King Pan, and has been opened for over fifty years. It has never been heard of foreign merchants establishing hongs in the city of Shanghai. There is ample proof that foreign hongs have not been established at the treaty ports of Chinkiang, Tientsin, and Foochow.

In the first year of the reign of Tung Chih, the English firm styled Li Cha Su Yo(?) established an office at Kalgan. The Tsung-li Yamên addressed the British minister in regard to the matter, and received a reply that British merchants must confine themselves to the treaty ports; they are not permitted to open mercantile houses in the interior. There is no rule against their doing business at the open ports. The said American, in opening a life insurance office in the city of Hangchow, is in violation of treaty.

The gentry of the city of Hangchow have also petitioned as follows:

The trading port has been fixed and decided on. It is situated at Hung Chien Bridge. Foreign merchants have stated that when their hongs have been built in the settlement they will at once move from the city; still mercantile signboards have been put out and it would seem that they are not merely doing business temporarily in the city.

The people have their suspicions. Besides, the autumn examinations for the second degree will take place, at which a large concourse of students will appear, and it is to be greatly feared that some unexpected misfortune may occur.

It would seem that the treaty is violated by establishing foreign firms in the city of Hangchow, as there is no boundary or fixed limit there. In the first place, foreign business should not be conducted there, and in the second place, it is to be feared that the people would not be orderly and quiet, and trouble would ensue, involving foreigners, and it is to be apprehended that it would be no easy matter to give adequate protection to them.

The governor would observe that a settlement has been marked off at Hangchow, at a place called Hung Chien Bridge, where foreigners can carry on trade, purchase land, and erect mercantile establishments. Hangchow is a city divided into sections. There are a great many Chinese doing business there. If foreign merchants are also to do business there, they will be right among the Chinese.

The governor further states that it is his duty to keep order in Hangchow, and nothing has been said about the city being opened as a trading place for foreigners. Further, the benefits that would accrue to foreign trade in the settlement would be best.

The request is made that the minister of the United States be communicated with, asking him to issue instructions to have the said life insurance office removed from the city of Hangchow, and that no passports be issued to American merchants to establish business offices in the city of Hangchow.

The Yamên would observe that the foreign settlements are not a dwelling place for both Chinese and foreign merchants. They are separated, and hence peace and quiet prevail among them. This is in

accordance with treaty as well as precedent, and both foreigners and natives should conform thereto. A foreign settlement has been marked off and limits defined at a place called Hung Chien Bridge at Hangchow, and it is right that the said life insurance company should open its office within the limits of said settlement.

The representations of the governor of Chekiang are in conformity to treaty stipulations, and his object is that foreigners and natives should live in peace and quiet, and trouble thus be avoided.

The Yamên, in presenting the governor's report, would again ask the minister of the United States to issue instructions to the consul concerned for the immediate removal of the office of said life insurance company from the city of Hangchow; and the request is also made that no passport issue to American merchants who wish to establish their business places in said city, in order to have a clearly defined limit where foreign merchants may do business, and thus give due observance to treaty stipulations.

[Enclosure 2 in No. 2789.]

Mr. Denby to the Tsung-li Yamên.

AUGUST 4, 1897.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your dispatch of the 28th ultimo, relating to the residence of an American citizen in the city of Hangchow. You therein set forth a communication from the governor of Chekiang embodying a report from the taotais of the board of foreign affairs, from which it appears that, in addition to the Japanese settlement, a large tract of land has been set apart at the Hung Chien Bridge as a trading place for foreigners. You further state that an American has established, in violation of treaty, an office in the city of Hangchow, and you ask that I direct him to remove from said city. I am unable to see any reason why, under the treaties, the said American, or any other foreigner, has not the right to reside in Hangchow. This right of residence is secured by the sixth article of the Shimoneseki Treaty as to the four towns which were opened by that treaty. The right of residence is guaranteed in cities which are opened to trade in all treaties made between China and foreign powers.

The right of residence is allowed in many cities of China, among which are Chinkiang, Kiukiang, Wuhu, Ichang, Chungking, and Swatow. It existed also as to Canton and Foochow.

The question involved touches the interest of all nationalities having treaties with China. It does not come within the purview of my duty to arbitrarily settle this question. I have referred it to my Government, and I request you to avoid taking any action thereon until I shall have received instructions on the subject. I suggest also that this question is a suitable one to be brought before the diplomatic body for its action thereon. At this season the members of the diplomatic corps are scattered in the country, at some distance from Peking, and one is in Japan. The weather and the condition of the roads make it difficult to secure a meeting of the foreign representatives immediately. I will take measures to secure such a meeting as soon as I can. I respectfully request that you suspend all action until such meeting can be had.

Mr. Denby to Mr. Sherman.

No. 2794.] LEGATION OF THE UNITED STATES,
Pekin, August 30, 1897. (Received Oct. 6.)

SIR: In my dispatch No. 2789, of the 5th instant I submitted to the Department a dispatch from the Chinese Government concerning the right of an American citizen to establish business quarters in the city of Hangchow, out of the limits of the foreign concessions, and a copy of my reply thereto. In this reply I expressed the opinion that foreigners had the right to reside in Hangchow under Article VI of the Shimonoseki treaty, but I stated that the question as regards Americans had been referred to you, and I requested that pending your instructions no action be taken.

I am now informed that the Japanese Government does not regard the Shimonoseki treaty as conferring on Japanese the right of residence at Hangchow and Soochow beyond the limits of the Japanese concessions. I learn also that England and other powers will acquiesce in the contention of China that foreigners shall establish their business premises within the concessions designated for them at these cities. In my dispatch to you above referred to I stated that I did not feel authorized to consent that Americans should be denied the right of residence in the cities open to trade. It is evident, however, that it is inadvisable for this legation to insist on privileges under Japanese treaties which the Japanese themselves waive and which are not asserted in behalf of the citizens of the other powers. Unless, therefore, the diplomatic body unites in a demand for unrestricted residence at the above cities, or unless the right of residence should be exercised by citizens of other powers, I shall, with your approval, refrain from further insistence thereon on behalf of citizens of the United States.

I have, etc.,

CHARLES DENBY.

Mr. Sherman to Mr. Denby.

No. 1514.] DEPARTMENT OF STATE,
Washington, November 30, 1897.

SIR: The Department's instruction to you (No. 1502, of the 16th ultimo) acknowledged the receipt of your dispatch No. 2794, of the 30th of August last, concerning the right of an American citizen to establish business quarters in the city of Hangchow outside of the limits of foreign concessions, and acquiesced in your conclusion, that in view of the attitude of the other powers on the question you would refrain from further insistence upon such rights in behalf of American citizens, unless the diplomatic body should unite in a demand for unrestricted residence in cities open to trade, or unless the right of residence should be exercised by citizens of other powers.

The circumstances of the question which had regard to the right of residence at Soochow and Hangchow, two of the cities recently opened to foreign residence under the treaty of Shimonoseki, of April, 17, 1895 (printed in Foreign Relations, 1895, pp 200–203), had been presented in your previous dispatches, Nos. 2785, 2787, and 2789, and were made the occasion of an exhaustive examination by the Solicitor of this Department, with the conclusion that the circumstances would not warrant insistence by this Government upon a contention for the unrestricted residence of American citizens outside of those foreign

concessions, unless the privilege claimed by them be claimed for and conceded to the subjects of Japan or of other nations, in which event this Government would be in a position to claim it under the operation of the most favored nation clause. This conclusion is reached by the necessary correlation of the relevant article of the treaty of peace of April 17, 1895, with article 4 of the later China-Japan treaty of commerce and navigation, signed at Pekin, July 21, 1896 (a copy of which was transmitted to the Department with Minister Dun's dispatch No. 430, dated Tokyo, December 2, 1896). The comprehensive views expressed by you in your letter to Consul-General Jernigan of July 30, 1897 (of which copy accompanied your No. 2787), appear to have rested upon your cumulative interpretation of the latter fourth article of 1896.

It now, however, appears from your No. 2794, of August 30, 1897, that you have independently reached the views here entertained as to the doubtfulness of the construction which you had theretofore placed on the Shimonoseki treaty. A copy of the opinion of the Solicitor is, therefore, inclosed for your information.

It is presumed that, in view of Japan's action in not claiming for Japanese subjects privileges of residence outside of foreign concessions in the recently opened treaty ports, and of the reported disinclination of Great Britain and other powers to raise such issue in regard to their subjects, you will have appropriately modified your instruction to the consul-general, reported in your No. 2785 of July 28 last, whereby you directed him to enter protest with the Chinese authorities at Soochow against their proclamation forbidding Chinese to sell land to foreigners outside of the foreign concession at Soochow, where the case is the same as at Hangchow.

Respectfully, etc., JOHN SHERMAN.

[Inclosure in No. 1514.]

The Solicitor of the Department of State to the Assistant Secretary.

DEPARTMENT OF STATE, SOLICITOR'S OFFICE,
Washington, November 23, 1897.

In re the question whether Americans are entitled to reside at large in the city of Hangchow, China, or whether said right of residence and doing business is restricted to a certain district of said city, the following view of the law is respectfully submitted:

Article 14 of the treaty of 1858 between the United States and China provides that the citizens of the "United States are permitted to frequent the ports and cities of Canton [and others named] and any other port or place hereafter by treaty with other powers or with the United States opened to commerce, and to reside with their families and trade there."

Article 6, clause 1, of the treaty of peace between China and Japan, concluded at Shimonoseki, April 17, 1895, provides:

China makes in addition the following concessions:

The following cities, towns, and ports, in addition to those already opened to the trade, residence, industries, and manufactures of Japanese subjects, under the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China:

1. Shashih, in the province of Hupeh.
2. Chungking, in the province of Szechuan.
3. Soochow, in the province of Kiang-su.
4. Hang chow, in the province of Chekiang.

Article 4 of the treaty of commerce concluded between China and Japan July 21, 1896, provides:

> Japanese subjects may with their families, employees, and servants frequent, reside, and carry on trade, industries, and manufactures, or pursue any other lawful vocations in all the ports, cities, and towns of China which are now or may hereafter be opened to foreign residence and trade. They are at liberty to proceed to and from any of the open ports with their merchandise and effects and within the localities at those places which have already or may hereafter be set apart for the use and occupation of foreigners; they are allowed to rent or purchase houses, rent or lease land and to build churches, cemeteries, and hospitals, enjoying in all respects the same privileges and immunities as are now or may hereafter be granted to the subjects or citizens of the most favored nation.

In a note dated July 28, 1897, addressed to Minister Denby, the Tsung-li Yamên asked that instructions be issued to have the office of the American Life Insurance Company removed from the city of Hang Chow, stating that "at Hang Chow, in addition to the Japanese settlement, a large tract of land has been set apart at the Hung Chien Bridge as a trading place for foreigners; that the said American has established in violation of treaty an office in said city; that the trading port has been fixed and decided on; it is situated at Hung Chien Bridge. * * * The land has been filled in, roads made, police have been employed, and the banks of the river repaired;" that this has been done for the purpose of treating foreigners kindly, and giving them due protection in their business; that foreign settlements are not a dwelling place for both Chinese and foreign merchants; that they are separated, and hence peace and quiet prevail among them; that a foreign settlement has been marked off and limits defined at said bridge, and that said life insurance company should open its office within the limits of said settlement; that of foreign trading ports Shanghai is the oldest, over 50 years old; that foreign merchants have never established hongs in the city of Shanghai; that under the last clause of article 4 of the treaty of commerce the right of American citizens is restricted within the localities at those places which have already or may hereafter be set apart for the use and occupation of foreigners.

Minister Denby's contention is, first, that the said Shimoneseki treaty confers upon American citizens the right to reside and trade in cities opened by the Shimoneseki treaty pursuant to article 14 of the said treaty of 1858; second, that the said commercial treaty between China and Japan confers the same right; that article 4 distinctly confers that right, and the latter clause thereof grants the same right in the localities which may be set apart for the use and occupation of foreigners, and the latter clause is simply cumulative, as all the old treaties contain the same right; that by said article 6 the right of residence is guaranteed in cities which are opened to trade in all treaties made between China and foreign powers; that the right of residence is allowed in many cities of China, among which several are specified by name by Mr. Denby.

The only issue of fact made between Minister Denby and the Tsung-li Yamên is the assertion of the Yamên that in the foreign trading ports foreign merchants have never established hongs in the city of Shanghai, which is cited as an example, and the contrary assertion by Mr. Denby that this right of residence is allowed in many cities of China, among which he names Ching Hiang, Kiukiang, and several others.

For the purpose of considering this question the statement of fact made by Minister Denby is accepted as the correct one.

CONSIDERATIONS.

Under the most-favored-nation clause of the treaty of 1858 citizens of the United States are entitled to frequent and reside at any port open to commerce by treaty with any power. The solution of the question, therefore, depends on the construction—on the extent and limitation—of the concession made in the two treaties between Japan and China. By the treaty of peace the concession is limited to "the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China." Mr. Denby says that "the right of residence is allowed in many cities of China." But whether such residence arises by bare license, or as a mere matter of grace, or by strict treaty right, is not shown, and in the absence of such specific information it does not seem prudent to predicate the construction of the treaty by reference to such fact.

The question seems to be complicated by further provisions in article 6 of the treaty of peace, not mentioned in the package of correspondence of Mr. Denby. It provides:

> All treaties between Japan and China having come to an end, in consequence of war, China engages, immediately upon the exchange of the ratifications of this act, to appoint plenipotentiaries to conclude, with the Japanese plenipotentiaries, a treaty of commerce and navigation and a convention to regulate frontier intercourse and trade. The treaties, conventions, and regulations now existing between China and European powers shall serve as a basis for the said treaty and convention between Japan and China. From the date of the exchange of the ratifications of this act until the said treaty and convention are brought into actual operation the Japanese Government, its officials, commerce, navigation, frontier intercourse and trade, industries, ships, and subjects shall in every respect be accorded by China most-favored-nation treatment.

Then follows the above-quoted provision, beginning: "China makes, in addition, the following concessions," etc. The article concludes as follows:

> In the event additional rules and regulations are necessary in connection with these concessions, they shall be embodied in the treaty of commerce and navigation provided for by this article.

It would seem that article 6 of the treaty of peace, by which the concessions are granted, in effect provides for the making of further rules and regulations in that behalf; and therefore article 6 is to be construed in connection with article 4 of the subsequent treaty of commerce. The first clause of this article grants to Japanese subjects the right to reside and carry on trade in the said city. But the last clause of that article restricts the right to and "within the localities at those places which have already or may hereafter be set apart for the use and occupation of foreigners." Considering together the two treaties between Japan and China, it would seem that the Japanese subjects were clearly intended to be so restricted, since any other construction would make the last clause meaningless. But it may be said that while this restriction might operate against the subjects of Japan, it would not operate against the citizens of the United States, inasmuch as the treaty of 1858 contains no such restriction, and therefore, whenever such ports are opened by treaty between China and any other nation, the concession takes place under the treaty of 1858 in an unrestricted form.

But is that a fair and reasonable construction?

Clause 1 of article 6 of the treaty of peace grants to Japanese subjects the treatment of the most favored nation. And this article stip-

ulates expressly for the future conclusion between the contracting parties of a treaty of commerce and navigation, the basis of which should be the treaties, conventions, and regulations now subsisting between China and European powers, and stipulates ad interim for the most-favored-nation treatment of Japanese subjects. Did Japan, therefore, in the final treaty—in the treaty of commerce and navigation—surrender the most-favored-nation treatment which she obtained by the treaty of peace? If she did not (and it is presumed that she did not), then other nations, under the most-favored-nation clause, take the concessions subject to the same restrictions as Japan. If, on the other hand, they take without restrictions, then Japan also enjoys without restrictions; which would render meaningless the last clause of article 4 of the treaty of commerce. If, however, Japan is bound by the restriction made in said article, it would seem that the delimitation of the concession to Japan measures and delimits it to other nations.

The contention that the said last clause is merely cumulative would seem inadmissible, since it violates a leading canon of construction, that the instrument be so construed as that all parts of it shall have a meaning; which would be the case if the last clause simply qualifies and restricts the generality of the preceding grant.

The motive for the provision exists in reasons of domestic policy, thus making the Chinese contention an apparently reasonable one.

* * * * * * *

Respectfully submitted.

W. L. PENFIELD,
Solicitor.

CONSULAR JURISDICTION IN CHINA.

Mr. Olney to Mr. Denby.

No. 1397.] DEPARTMENT OF STATE,
Washington, February 2, 1897.

SIR: I have to acknowledge the receipt of your No. 2629, of November 3 last. It presents a case which has arisen where a citizen of the United States charged with the commission of a crime in one consular district in China has gone to another district. It is essential that he should be arrested and brought to trial in the consular district in which the crime is alleged to have been committed. There seeming to exist at present no authority under which this can be done, you propose to make a decree or regulation providing that when a criminal action is pending in any consular district in China against an American citizen who may be found in any other consular district in China, it may be lawful for the consul before whom the action is pending to issue his warrant for the arrest of such person wherever he may be found in China, and that such warrant shall be viséed by the consul in whose district the accused may be found, and thereupon the accused may be arrested and transported to the consular district in which the case is pending, for trial before the consular court thereof.

For this proposal you ask the Department's approval.

Our treaty with China granting extraterritoriality to citizens of the United States provides that—

citizens of the United States who may commit any crime in China be subject to be tried and punished only by the consul or other public functionary of the United States thereto authorized according to the laws of the United States. (Treaty of 1844, article 21.)

To carry the provisions of the treaty into effect the act of June 22, 1860, was passed, investing with judicial authority the minister and consuls duly appointed to reside in China. (Sec. 4083, Rev. Stat.) Each of the consuls at the port for which he is appointed is authorized to issue his warrant for the arrest of any citizen of the United States charged with committing in the country an offense against law, and to arraign, try, and sentence such offender. (Rev. Stat., 4087.)

There is no express provision in the law which declares that warrants issued by consuls shall or shall not have effect beyond the limits of their consular districts. The President is authorized to appoint marshals for consular courts. (Rev. Stat., 4111.) It is declared to be the duty of the marshal to execute all process issued by the minister or by the consul at the port at which they reside, and to conform in all respects to the regulations prescribed by the ministers, respectively, in regard to their duties.

The Secretary of State in 1892 requested the opinion of the Attorney-General on the question of the extent of the jurisdiction of consular courts. Attorney-General Miller declined to express an opinion, on the ground that the question was a judicial one, subject to review by regular appeal provided by statute, and that any opinion thereon would be beyond the power conferred upon him. He added that as no case appeared to have arisen requiring a decision of the question, it seemed to be purely hypothetical. He held, however, that a sentence of imprisonment imposed in any of the regular courts of China may be served out in any portion of China, and not necessarily within the limits of the consul's ordinary jurisdiction. (20 Opinions, 391.)

It seems to be well understood that a consul can not take jurisdiction of general consular business beyond the limits of his district (par. 30, Consular Regulations), and it is apprehended that the same rule applies to the exercise of judicial functions in the present state of the law. Assuming, then, that there is at present no provision for the apprehension and bringing to trial of persons charged with committing crime in one consular district who are found in another district, the question arises, Can this defect be supplied in the manner proposed by you?

Section 4086, Revised Statutes, provides that—

> Jurisdiction in both criminal and civil matters shall, in all cases, be exercised and enforced in conformity with the laws of the United States, which are hereby, so far as it is necessary to execute such treaties, respectively, and so far as they are suitable to carry the same into effect, extended over all citizens of the United States in those countries, and over all others to the extent that the terms of the treaties, respectively, justify or require. But in all cases where such laws are adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies, the common law and the law of equity and admiralty shall be extended in like manner over such citizens and others in those countries; and if neither the common law, nor the law of equity or admiralty, nor the statutes of the United States, furnish appropriate and sufficient remedies, the ministers in those countries, respectively, shall, by decrees and regulations which shall have the force of law, supply such defects and deficiencies.

And section 4117 provides that—

> In order to organize and carry into effect the system of jurisprudence demanded by such treaties [with China, etc.], respectively, the ministers, with the advice of the several consuls in each of the countries, respectively, * * * shall prescribe the forms of all processes to be issued by any of the consuls; the mode of executing and the time of returning the same; * * * and shall make such further decrees from time to time, under the provisions of this title, as the exigency may demand.

It would seem that these provisions of law were intended to meet just such a contingency as that which has arisen. The right to try and punish all citizens of the United States for crimes committed in China is clearly given by treaty to our ministers and consuls. Our

statute passed to carry the treaty provisions into effect prescribes how the jurisdiction conferred by the treaty shall be exercised. It is to be exercised in conformity with (1) the laws of the United States and (2) the common law.

It being seen that deficiencies might be found to exist in the laws of the United States and in the common law, it was wisely provided (3) that if these laws do not furnish appropriate and sufficient remedies, the ministers shall, by decrees and regulations having the force of law, supply such defects and deficiencies.

The power of the minister to make such decrees and regulations is limited to furnishing "sufficient and appropriate remedies." The regulation proposed clearly relates to the furnishing of a remedy which is now lacking, and it would seem that the authority of the minister to supply this defect is ample. The form of the regulation as suggested by you seems well adapted to meet the purpose, and your proposal is approved.

I am, etc., RICHARD OLNEY.

Mr. Sherman to Mr. Denby.

No. 1503.] DEPARTMENT OF STATE,
Washington, October 28, 1897.

SIR: I have to acknowledge the receipt of your No. 2800, of the 15th ultimo, inclosing a copy of a decree you propose to enact under section 4086 of the Revised Statutes, authorizing the arrest by consuls of Americans charged with offenses within consulates other than their own, with which is attached the written consent of the consuls thereto, in accordance with section 4118 of the Revised Statutes.

The decree and papers connected therewith will be submitted to Congress at its forthcoming session for revision as required by section 4119 of the Revised Statutes.

Respectfully, etc., JOHN SHERMAN.

CLOSING OF GOVERNMENT EXAMINATIONS TO CONVERTS TO CHRISTIANITY.

Mr. Denby to Mr. Sherman.

No. 2731.] LEGATION OF THE UNITED STATES,
Pekin, April 9, 1897. (Received May 17.)

SIR: I have the honor to inclose a copy of a letter from the Rev. W. H. Lingle, a member of the American Presbyterian Mission at Lien Chou in Kwangtung, China, wherein he represents that in the prefecture in which the mission is located, Christian converts are prevented from entering the Government examinations and competing for honors.

There can be no question that an attempt to place Chinese converts to Christianity under civil disabilities, because of their faith, is a violation of the treaty obligations of China.

I have, accordingly, sent to the Tsung-li Yamên a paper on this subject of which a copy is inclosed.

I have, etc., CHARLES DENBY.

[Inclosure 1, in No. 2731.]

Mr. Lingle to Mr. Denby.

CANTON, CHINA, *March 15, 1897.*

DEAR SIR: I had the honor of addressing your excellency last year in regard to our trouble in the Southern part of the province of Hunan, which was most satisfactorily settled.

I now take the liberty of addressing you again, upon a subject which has troubled and hindered us in our work here for years; namely, Christians being prevented from entering the Government examinations. They have gone up year after year, but have never been allowed to enter the examinations and compete for honors. I have gone in person and seen the magistrate of this prefecture in regard to the matter. I stated to him that these Christians were being deprived of their rights as citizens of China, and were branded as outcasts; that we were hindered in our work by being accused of teaching a religion which was so bad that whoever became a convert to it lost his rights as a citizen. I have seen the magistrate repeatedly about this. He always acknowledges to me the rights of the Christians to enter the examinations, but said he could do nothing to compel the Ling Pao, or examiners, to admit them.

We have petitioned the viceroy of Kwangtung, through our American consul in Canton, year after year, but have secured nothing, excepting replies that Christians could compete in the examinations.

We know they have the right, but in this prefecture they have never been permitted to enjoy that right.

The magistrate acknowledges their rights, and so has the viceroy, in every reply to our petitions, and still all Christians are debarred from entering the examination halls. We as American citizens are accused of teaching a religion which is so vile that the Chinese Government will not permit anyone who becomes a Christian to compete for honors. We are thus greatly hindered in our work.

Every scholar in China aspires to honors and a government position. The scholars are kept from uniting with the church and entering our schools on account of this barrier.

I appeal to your excellency to help us in this matter. There is no need of my appealing to the magistrate and petitioning the viceroy any longer. Can we not have some stringent order from higher authority that Christians are not to be hindered from entering the examinations at the prefecture of Lien Chou and have the order executed?

I have, etc.,

W. H. LINGLE.

[Inclosure 2 in No. 2731.]

Mr. Denby to the Tsung-li Yamên.

PEKIN, *April 9, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that I have received a letter from an American missionary at Lien Chou, in Kwangtung, in which he states that Chinese converts to the Christian religion in that prefecture are not allowed to compete at the Government examinations. The matter has been frequently reported to the magistrate of the prefecture by the mission-

aries, but, while admitting that Christians have the right to enter the examinations, he states that he can do nothing to compel the examiners (Ling Pao) to admit them. The viceroy has year after year been appealed to, through the American consul at Canton, in behalf of the converts. His reply has uniformly been that Christians may compete, but this has had no effect in removing the prohibitions under which they suffer at Lien Chou.

The principle of religious toleration has been accepted by the Chinese Government in treaties with many, if not all, western powers. It is expressly declared in Article XXIX of the treaty made with the United States in 1858 that those who quietly profess Christian doctrines shall in no case be molested. In Article XII of the treaty with France of the same year the Chinese Government formally abrogates all that has heretofore been officially proclaimed or published against the Christian religion, and this abrogation was reaffirmed less than two years ago in an arrangement entered into by your highnesses and your excellencies with the French minister at Peking. The principle of religious toleration has been repeatedly proclaimed by the Emperor and there is no question that an attempt to place Chinese converts to Christianity under civil disabilities, because of their faith, is a violation of the laws of China as well as of the treaties with foreign powers. So freely is this principle accepted by the Government and high officials of China that the defiance of it by obscure local officials in Kwangtung is presumption meriting the most severe punishment.

I request you to issue stringent orders to the authorities at Lien Chou that no Christian qualified to present himself at any examination shall be hindered or discriminated against because of his religious belief.

Mr. Sherman to Mr. Denby.

No. 1444.] DEPARTMENT OF STATE,
Washington, May 18, 1897.

SIR: I have to acknowledge the receipt of your No. 2731, of the 9th ultimo, and to approve your note to the Tsung-li Yamên, of the same date, protesting against the exclusion of Chinese converts to Christianity from entering Chinese Government examinations.

Respectfully, etc., JOHN SHERMAN.

KUTIEN RIOTS—PUNISHMENT OF OFFICIALS AND INDEMNITY TO ISS HARTFORD.[1]

Mr. Denby to Mr. Sherman.

No. 2701.] LEGATION OF THE UNITED STATES,
Pekin, March 9, 1897. (Received April 19.)

SIR: I have the honor to inform you that Mr. William C. Hixson, United States marshal in charge of our consulate at Foochow, has transmitted to me the duplicate receipt of Miss Mabel C. Hartford for the sum of $1,880 (Mexicans), damages paid by the Government of China for injuries suffered by her in the Huashan riot of August 1, 1895.

A receipt signed by Miss Hartford is inclosed herewith.

I have, etc.,

CHARLES DENBY.

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[1] See Foreign Relations, 1896, page 64.

Mr. Denby to Mr. Sherman.

No. 2707.] LEGATION OF THE UNITED STATES,
Pekin, March 11, 1897. (Received April 26.)

SIR: In Department's dispatch No. 1395, of 19th January, I was directed to insist on the demand that the officials who did not do their duty in preventing the Kutien riots should be punished.

I have accordingly addressed to the Tsung-li Yamên a communication on the subject, of which a copy is inclosed.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2707.]

No. 4.] PEKIN, *March 11, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: The 23d of November last I brought to your attention a demand on the part of my Government that you should take cognizance of the conduct of certain officials, who were named by me, relating to the antiforeign riots which occurred at Kutien the 1st day of August, 1895, and that proper and suitable punishment be decreed against them.

The 28th day of November last I had the honor to receive from your highnesses and your excellencies an answer to the above-mentioned communication. You therein state that on the 22d day of November, 1895, the viceroy at Foochow reported that twenty and more of the offenders had suffered the death penalty, and twenty more had been variously punished; that three officials mentioned in Commander Newell's report had been degraded; that a year had elapsed since the case was settled, and that "it is not convenient now to pursue the matter any further."

You further state that the claim of Miss Hartford for injuries and loss of property should be paid.

It is proper to state that I have received information that this claim has been paid, and in regard to your promptness in discharging this liability I return thanks.

I transmitted to the honorable Secretary of State a translation of the communication of your highnesses and your excellencies, and have received from him instructions to insist by all proper methods on the punishment of the officials mentioned.

The honorable Secretary remarks that the "argument that it is a year since 'the case was settled' is most extraordinary, and thus (your) dismissing the subject because it is not 'convenient to pursue the matter any further' is hardly the way this Government would have expected that of China to endeavor to dispose of such an important matter."

I submit to you that it is not too late to investigate the conduct of the delinquent officials and to punish them for their connivance or negligence.

I can not too often repeat to you that the only way, or at least the most efficacious way, to prevent the recurrence of antiforeign riots in China—which I am sure you desire to prevent—is to hold the officials responsible for acts of violence perpetrated in their respective jurisdictions. As long as nothing is done but to pay damages for injuries done to foreigners, riots will continue. The payment of damages constitutes no penalty against the rioters. They may be said even to be benefited by riots which involve destruction of property, because the repairing of

damages furnishes many of them work. If the officials are not punished, the people conclude that you and the Government of China approve of the riots. This conclusion, indeed, is inevitable, because in all matters affecting the Government of China, or the individual subject thereof, a rigid official accountability is insisted on. What I ask you to do is simply to treat with the same rigor crimes against foreigners as you now treat crimes against Chinese subjects.

There is no question but that under the treaties foreigners have the right to demand such equal treatment, and the sooner China openly admits this principle to be correct and puts it into practice the better it will be both for the Government and the people of China and for the foreigners dwelling in its borders.

ADOPTION OF RULES FOR THE PREVENTION OF COLLISIONS AT SEA.

Mr. Denby to Mr. Olney.

No. 2665.] LEGATION OF THE UNITED STATES,
Pekin, December 23, 1896. (Received Feb. 12.)

SIR: In my dispatch No. 2663, of December 18 last, I informed you that I would transmit the written answer of the Tsung-li Yamên to your request that the Rules for the Prevention of Collisions at Sea should be adopted by China.

I now have the honor to inclose a translation of the Yamên's communication on that subject.

It will be seen that the application of the rules is limited to two classes of vessels—men-of-war and merchant vessels of foreign type. The native junk does not come within the operation of these rules. There are many of these vessels plying between the northern and southern ports. They are not within the jurisdiction of the inspector-general of customs. I beg to be informed if it be your desire to endeavor to extend the operation of the rules to this class of vessels which may be over 20 tons tonnage.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2665.]

The Tsung-li Yamên to Mr. Denby.

No. 53.] PEKIN, *December 22, 1896.*

YOUR EXCELLENCY: In the matter of the rules for the prevention of collisions at sea the princes and ministers have received repeated communications from the minister of the United States inquiring whether China would accept them or not, and asking for an early reply in order that he might telegraph his Government on the subject.

The Yamên communicated with the ministers superintendent of northern and southern trade, as well as instructed the inspector-general of customs to consider the rules and report on them.

Sir Robert Hart, inspector-general of customs, has now reported that the rules for the prevention of collisions at sea were considered and proposed at an international conference. The United States and Great Britain made some slight alterations and amendments in them and they have now been decided upon as the international rules to be carried into effect.

All the great powers have agreed to them, and China should act in concert with them and also agree to them. The inspector-general proposes, however, that China should agree to the rules now as being applicable to two classes of vessels—men-of-war and merchant vessels of foreign type—and they should be adopted at the date fixed. To this end he requests that the Yamên instruct the ministers superintendent of northern and southern trade to issue proclamations so that due preparation may be made for giving effect to the rules at the time named.

The inspector-general submits the above for the consideration of the Yamên as to whether the rules should be adopted by China or not.

The princes and ministers would observe that the suggestions of the inpector-general of customs are opportune, and as the rules have been satisfactorily modified by the United States and Great Britain and agreed to by those powers they will certainly prove advantageous and beneficial to commerce. China is also willing and agrees to adopt them.

The princes and ministers would further state that they have addressed the ministers superintendent of northern and southern trade to have the rules carried into effect at the date fixed and instructed them to issue proclamations ordering Chinese war vessels and merchant vessels of foreign type to comply with them.

In sending this reply the princes and ministers beg that the minister of the United States will communicate the above for the information of the honorable Secretary of State.

Mr. Olney to Mr. Denby.

No. 1399.] DEPARTMENT OF STATE,
Washington, February 20, 1897.

SIR: Acknowledging the receipt of your No. 2665, of December 23, 1896, concerning the amended rules for preventing collisions at sea, in which you ask to be informed whether it is the desire of this Government to extend the operation of these rules to include native junks of over 20 tons, they having been excluded by the Chinese Government, I have to say that, although the matter appears to be one within the jurisdiction of that Government, this Department, in view of a letter from the Acting Secretary of the Treasury of the 18th instant upon the subject, thinks it advisable to suggest that the safety of navigation in waters adjacent to the Chinese coast would be promoted if the masters and officers of Chinese junks were familiar with the revised international rules and were instructed to obey them as far as practicable.

You may present this feature of the case to the Chinese Government.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Sherman.

No. 2739.] LEGATION OF THE UNITED STATES,
Pekin, April 19, 1897. (Received May 28.)

SIR: I have the honor to acknowledge the receipt of Department's dispatch No. 1399, of February 20 last, relating to the extension of the rules relating to collisions at sea to Chinese junks.

By reference to my dispatch No. 2733, of the 10th instant, it will be seen that the inspector-general of Imperial maritime customs has reported to the Tsung-li Yamên that "it can not be said for certain that junks and fishing boats will carry out the international rules," but "if later on, the rules can be applied to these craft due information will be given to the Yamên."

I have, etc., CHARLES DENBY.

TAXATION OF FOREIGN TRADE IN CHINA.

Mr. Denby to Mr. Olney.

No. 2670.] LEGATION OF THE UNITED STATES,
Pekin, February 4, 1897. (Received Feb. 20.)

SIR: In my dispatch No. 2614, of October 18 last, I inclosed a copy of a communication sent by me, as dean of the corps diplomatique, to the Shanghai General Chamber of Commerce, wherein it was stated that the foreign representatives acquiesced in the suggestion for the appointment of a committee of merchants to inquire into and report on the taxation of foreign trade in China.

This suggestion was adopted by the chamber of commerce. A committee was formed, including representatives of every branch of commerce, and was divided into subcommittees. These subcommittees are now engaged in compiling materials for sectional reports. To these reports will be added such further information as may be obtained from the chambers of commerce at the treaty ports.

The chamber has adopted the plan of forwarding to the foreign representatives copies of each sectional report as soon as it is prepared. I have received the report of the sectional committee on cotton mills, and I inclose a copy thereof herewith. This report sets forth the reasons and arguments on which foreign cotton-mill owners in Shanghai base their claim to moderate taxation of their manufactures. The question of raising the tariff rate is left out of consideration. This question can not be entirely eliminated from a discussion on taxation. The sole purpose of China is to raise more revenue, of which it stands in great need. Whether such revenue shall be raised by increasing the tariff only, or by local taxation, or by both means, must be discussed and decided.

The report under consideration assumes that, under the fourth clause of the second section of Article VI of the Shimoneseki treaty, articles manufactured in China were to stand on the same footing as imported articles. It concedes that this provision has been surrendered by Japan (see 2616 of October 20, 1896), but it claims that the cotton mills, which were organized before the annulment of this clause, and on the assumption that they would be exempt from taxation, are entitled to exemption. How this contention might affect claims for damages need not now be discussed, but that it would legally bar the levy of any tax can not be admitted, more especially as China always disputed the Japanese construction of the clause as to taxation.

This portion of the report is, therefore, not entitled to any consideration.

The first principle enunciated is that the cotton industry should be fostered by freedom from taxation, but if that be impossible, "the duty or excise should never exceed the duty levied upon imported yarn

less the transit duty paid upon the raw cotton which enters into its manufacture."

For the argument on this subject I refer to the report itself.

The second suggestion is that raw cotton purchased in the interior for treatment in the mills shall pay transit duty as if destined for export, and no other duty.

The third suggestion is that all imported cotton should be free from duty.

The fourth suggestion is that foreign-owned mills shall enjoy the same privileges as native mills.

The committee proceeds to state that any higher taxation than that suggested will result in the loss of China's advantageous position as a manufacturing country. The committee enlarges on the advantages of cheap labor and raw material, the value of the trade to China, the absence of taxation on cotton in India and America, the injustice of a 10 per cent tax, and other matters going to support the argument in favor of a low taxation.

It is apparent from this report that the committee looks chiefly to securing benefits for the foreign mill owner operating in China. Incidentally the benefits to accrue to China are considered. Nowhere, however, is any question raised as to the interests of the manufacturers in the United States and in Europe. As I have repeatedly stated in former dispatches, I am unable to see how the interests of my own country are to be forwarded by fostering cotton manufacturing in China. I believe, also, that all questions affecting taxation of foreign goods should be treated together.

I await your instructions on the questions involved.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2670.]

Report of the sectional committee on cotton mills, in which are set forth the reasons and arguments on which foreign cotton-mill owners in Shanghai base their claim to moderate and equitable taxation of their manufactures.

In the commuuication addressed to the doyen of the corps diplomatique, at Pekin, by the chamber of commerce on 17th September were contained certain suggestions as to the taxation of locally spun yarns, together with an outline of the procedure which, in the chamber's opinion, would best serve to foster a new industry and, at the same time, benefit the Imperial revenue. Those suggestions were put forward, however, upon the supposition that a revision of the treaty tariff was under contemplation, and the chamber of commerce was, at that date, unacquainted with the since-published text of the treaty of commerce and navigation between China and Japan. But since, by Article XXVI of that treaty, the question of tariff revision appears to be removed from the necessity of immediate consideration, the suggestions submitted by the chamber, so far as they are based on that expectation, are no longer pertinent. This committee begs, therefore, to reopen the subject and, putting aside all question of increased import duties, to deal with the position of Shanghai foreign-owned cotton mills.

And first this committee would point out that, though the importation of industrial machinery was not excluded under treaty rights, all doubt on the subject was removed on the concession by China of manufacturing rights under the Shimonoseki treaty, and the commencement of foreign-owned mills was the result. The terms of that concession have, it is true, been materially affected since then by the protocol of 19th October (Article III), but it was owing to the nature of the terms set forth in the Shimonoseki treaty that capital was forthcoming to establish these enterprises, and this committee ventures to submit that, howsoever those terms may have been modified by subsequent negotiations between China and Japan, all mills built before the publication of the protocol are morally entitled to such advantages as they would have enjoyed under the terms of the treaty itself. The existing mills

were established and much capital invested therein on the assumption that they would be exempt from taxation; and to impose a high rate of duty now would, in this committee's opinion, be an act not only highly prejudicial, but one from which the Government would derive no lasting benefit.

After mature deliberation on the subject, the committee urges as conditions essential to the prosperity of the cotton industry in China:

1. That the industry should be fostered by freedom from taxation, but if this be impossible and the Chinese Government determined to tax it, the duty, or excise, should never exceed the duty levied upon imported yarn less the transit duty paid upon the raw cotton which enters into its manufacture.

Cotton in imported yarn does not yield revenue to the Chinese Government as cotton, and were locally spun yarn to be taxed at the same rate as imported yarn the cotton in it would be twice taxed, first as cotton and secondly in yarn. Upon the scale of duty the excise upon locally spun yarn would therefore be:

	Hk. tls.
Import duty on 3 piculs yarn	2.10
Less transit duty on 3 piculs 40 catties cotton used to produce it	.60
Leaving	1.50

or 5 mace per picul as the duty or excise upon locally spun yarn.

Upon payment of this excise a certificate should be issued entitling the yarn to all the privileges and exemptions enjoyed by imported yarn.

That upon payment of a further half duty, i. e., 3 mace 5 candareens per picul, or, say, 1.05 taels per bale, transit certificate should be issued which shall afford the yarn, whether sent inland or shipped to other treaty ports for transmission to the interior, freedom from likin, inland transit, internal taxes, duties, charges, and exactions of all kinds.

2. That raw cotton purchased in the interior and brought to Shanghai, or any other treaty port, for treatment in the mills, shall pay transit duty as upon cotton destined for export, this payment freeing it absolutely from all likin and other exactions en route, and it is suggested that the amount collected in this way might be devoted to the use of the provincial authorities concerned in its levy.

3. That foreign-owned mills shall enjoy the same privileges as native mills, i. e., that there shall be no differential taxation of any sort. (N. B.—Article III of the Tokyo protocol provides for condition.)

This committee is firmly convinced, by careful study of facts and figures, that any attempt on the part of the Chinese Government to provide a large immediate revenue by higher taxation of yarn than that suggested above can have but one result, viz, the loss of China's advantageous position as a manufacturing country. Cheap labor and raw material can enable her to compete with foreign countries in the cotton manufacturing industry only so long as she does not hamper that industry by impolitic and excessive taxation. This committee would therefore urge the vital necessity which exists for the Peking Government to restrain the provincial authorities from imposing levies on the raw material which would check production.

There can be little doubt that the manufacture of yarn in China, if wisely safeguarded and developed, must rapidly produce a volume of trade that will greatly contribute to the prosperity of the country, compared to which the amount that might be levied by impolitic taxation is a matter of insignificance; a trade which would not only enrich the Imperial treasury, but which would give employment to large and increasing numbers of the laboring classes. An unwise fiscal policy at this juncture on the part of China will simply result in benefiting other manufacturing countries at her expense, and a new industry of great promise will be destroyed at its very outset.

In foreign countries, such as India and America, which compete with China as producers of the raw material, no taxes are imposed on cotton. Similarly, in India and Japan (China's competitors in the yarn manufacture) no taxes are levied on the product of the mills. The only charges, therefore, which Indian or Japanese yarns incur are freight, insurance, and import duty.

Freight is a variable charge. From India it has been as low as 7 mace per bale, and is at present the equivalent of 1.05 haikwan taels per bale. Insurance is about 25 candareens per bale. Import duty is 2.10 haikwan taels per bale.

The total charge on Indian yarn varies, therefore, between 3.05 and 3.40 haikwan taels per bale, and on Japanese yarn, spun from Indian and American cotton, it may be set down as being very little higher.

In a recent proclamation, issued by the governor of Chekiang, new cotton likin regulations are published. Amongst them is set forth that the tax (likin) on seed cotton sent to Shanghai from that province will be 40 cents a bale, which amounts to a tax of 2.65 haikwan taels on the quantity of cleaned cotton required to make a bale of yarn; and the average charges on Indian yarn, exclusive of duty, being, say,

1.12 haikwan taels per bale, it is evident that under these regulations the Shanghai spinner would be placed at considerable disadvantage. If, in addition to this, the Tsung-li Yamên's proposed 10 per cent tax be imposed, the total taxation on locally made yarn would amount to 8.85 haikwan taels per bale, as against 2.10 haikwan taels, the duty on imported yarn. In other words, foreign industry would be protected against native to the extent of 6.75 haikwan taels per bale. Such a policy could have but one result—native spinning being rendered unprofitable, the industry would soon cease to exist.

It is the desire of this committee, and one for which they venture to ask the earnest cooperation and support of the diplomatic body in Pekin, that the tax on raw cotton in transit from the interior be met by one payment of transit pass duty, such payment freeing the cotton from likin and all other exactions, and that the central Government be strongly urged to make and enforce a regulation to this effect. Such transit duty, together with the proposed excise of 1.50 haikwan taels, as shown in paragraph 1, would amount to a total payment of 2.10 haikwan taels per bale, against 2.10 haikwan taels levied on foreign yarn, a tax which the mill-owners have some hope that the industry could pay without endangering the financial success of their enterprise.

At present Shanghai native-spun yarns pay no duty, so that by the imposition of a reasonable tax on all mills, native and foreign, a large and immediate increase will accrue to the Imperial revenue without injury to manufacturing and commercial interests.

In conclusion, the committee feels that it can not do better than quote the following just and reasonable words from the Tsung-li Yamên's memorial to the Throne (August, 1895):

"It is very necessary to settle uniform tariff regulations without making distinctions by virtue of which some pay heavier and others lighter duties, so that it may be easy for all to conform therewith."

It is the committee's earnest hope that only such moderate and equitable taxation may be imposed as shall tend to the mutual benefit of the Imperial treasury and of the commercial enterprises whose interests the committee represents.

E. A. ALFORD,
E. A. PROBTS,
F. ANDERSON,
Members Sectional Committee on Cotton Mill Taxation.

SHANGHAI, *December 7, 1896.*

Mr. Olney to Mr. Denby.

No. 1402.] DEPARTMENT OF STATE,
Washington, February 27, 1897.

SIR: I have to acknowledge the receipt of your No. 2670, of the 4th ultimo. It incloses a copy of the report of the sectional committee on cotton mills of the Shanghai Chamber of Commerce, and asks instruction as to whether you shall advocate the views therein set out.

The report makes four suggestions:

1. That the cotton industry should be fostered by freedom from taxation; but if this be impossible, that "the duty or excise should never exceed the duty levied upon imported yarn, less the transit duty paid upon raw cotton which enters into its manufacture."

2. That raw cotton purchased in the interior for treatment in the mills shall pay transit duty as if destined for export, and no other duty.

3. That imported cotton should be free from duty.

4. That foreign-owned mills shall enjoy the same privileges as native mills.

You state that it is apparent from the report that the committee looks chiefly to secure benefits for the foreign mill owner operating in China; that you are unable to see how the interests of the United States are to be forwarded by fostering cotton industry in China, and that, in your opinion, all questions affecting taxation of foreign goods should be treated together.

In these remarks the Department concurs.

Our treaty right is to introduce into China, for sale to Chinese, American manufactures at as low a duty and likin as the most favored nation, and to export Chinese productions with as little export taxation as possible. In order to export Chinese staples we should be allowed to conduct all necessary processes to that end—that is, set up silk-throwing mills, tea-packing hongs, etc.

It is not seen that the treaties give us a just claim to embark in competition with native factories to supply the native markets. Neither is it seen how we could claim the right to set up cotton mills in China in order to make Indian cotton into cheap cloths for Chinese consumption.

The report of the committee is in favor of local manufactories (it matters not whether set up by Chinese or foreign capital) for the purpose of competing on the cheap-labor basis with foreign importations. Our interest is to keep foreign markets open for our manufactures.

There is, therefore, no occasion for you to advocate the views set out by the chamber of commerce, but you will continue to keep the Department advised of the views of your colleagues and the mercantile communities on this and kindred subjects touching the taxation of foreign trade in China.

I am, etc., RICHARD OLNEY.

Mr. Denby to Mr. Sherman.

No. 2784.] LEGATION OF THE UNITED STATES,
Pekin, July 26, 1897. (Received Sept. 17.)

SIR: I have the honor to inclose copies of the following sectional reports compiled by the special committee on taxation at Shanghai: (1) Report on the piece-goods trade; (2) Sundry imports; (3) General exports. I inclose a copy of a letter from the chairman, C. J. Dudgeon, esq., covering these reports.

In the present condition of the questions involved it is not necessary to make a minute comment on these reports.

I concur with the chairman in the statement that "so long as the present system of arbitrary and unlimited provincial taxation continues, the satisfactory development of the resources of the China trade must be a matter of impossibility."

The true theory is the substitution of one fixed duty payment for the irregular and vexatious levies in force in China. It is plain that if as soon as goods are landed and pass into the hands of a native consignee they can be taxed illimitably, the trade in such goods is as injuriously affected as if the tariff were increased to the amount of the local tax. I have had several occasions to present this question to the Tsung-li Yamên, and have succeeded twice in procuring a reduction of local taxation, but such concessions were matters of grace. China still asserts that she has the right to control at her own will her internal taxation. Within certain limits she has this right, but the local tax should not be prohibitory, and, of course, should affect all nationalities alike.

Whether she has this right or not is not now the question. It is understood that she desires to increase the existing tariff so as to put duties on a gold basis.

The reports now submitted and others heretofore transmitted grew out of the idea that when China makes application to the treaty pow-

ers for a revision or an increase of the tariff the powers might well demand, in consideration of their consenting to an increase, the inauguration of certain reforms in the treatment of foreign trade. These reforms are fully set forth in the reports made by the committee on taxation, and will be minutely discussed by me should there be occasion to do so.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2784.]

Mr. Dudgeon to Mr. Denby.

SHANGHAI, *July 10, 1897.*

SIR: I have the honor, as chairman of the special committee on taxation, to forward herewith inclosed copies (in duplicate) of the following sectional reports compiled by this committee: (1) Report on the piece-goods trade; (2) Report on sundry imports; and (3) Report on general exports.

With these reports the work of the committee ends, in so far as it bears upon the general subject of taxation and possible tariff revision; in forwarding these documents I would therefore venture, on behalf of my colleagues and myself, to express the hope that the result of the committee's labors may serve to throw some light upon the obstacles which chiefly stand in the way of commercial progress in China, and to point out those measures which seem best calculated to remove the disadvantages now affecting the Empire's foreign trade.

Putting aside for the moment the subject of tariff revision as a matter upon the initiative of the Chinese Government, this committee would point out that the general question of internal taxation is one which per se calls urgently for reform. While it is fully realized that, in the interest of the Chinese producer, certain remedial measures—notably as regards the preparation of tea and silk—are highly necessary for the stimulation of exports, the keynote of each sectional report will be found in the conclusion that so long as the present system of arbitrary and unlimited taxation continues the satisfactory development of the resources of the China trade must be a matter of impossibility.

Without going into the history of a question which has occupied the attention of diplomatists at Pekin for forty years, there can be no doubt that the object held in view by the framers of the Tientsin Treaty was the substitution of one fixed duty payment for the irregular and vexatious levies even then in force. This is sufficiently proved by the correspondence which took place between Lord Elgin and the foreign office in November, 1858, wherein this object was unmistakably set forth. From the date of the Tientsin treaty, however, until the present day, this important point has been but imperfectly upheld in the face of the continual evasions and complications wherewith the Chinese Government has surrounded both the spirit and the letter of the treaty itself. Many years have elapsed in the fruitless discussion of points which are undoubtedly beside the main and vital principle; and the original intention of Article XXVIII of the treaty, which was evidently to protect foreign *goods*, irrespective of ownership, has been too frequently lost sight of.

At the present time, although the protection afforded by the transit pass system has been extended, such levies as grower's taxes, loti-shui,

and other forms of local and terminal taxation show a distinct tendency to increase. The right claimed by the Chinese provincial authorities to impose such charges as they may think fit, both upon native produce before it reaches the foreigner's hands and upon foreign goods when they have passed into possession of the native purchaser, must result in restricting, if not frustrating, the objects for which the treaties were made. To the foreign merchant it is a matter of indifference from what class of natives—i. e., whether traders or consumers—illegal levies are exacted. For him the essential point is that they shall not be levied at all, and that his goods, having paid the treaty duties leviable thereon, shall thereafter be free to circulate throughout the length and breadth of China.

Around this question, therefore, center the grievances and difficulties under which the foreign mercantile community labors to-day, and upon its solution are founded this committee's hopes of a development of the China trade commensurate with the resources of the Empire. It is the opinion of this committee that if any local, terminal, or other taxation is recognizedly leviable by the provincial authorities, such levies should be commuted once and for all by a clearly defined increase in the existing tariff duties, and that, this addition having been made, foreign trade should henceforward be exempt from all further taxation whatsoever. The question of assessing the proportion of the increased tariff duties to be put aside for the compensation of provincial exchequers is one with which the Chinese Government should be fully able to deal. Vide the successful working of the opium Lekin collection by the I. M. customs.

Hopefully commending to your consideration the work and aims of this committee, I have, etc.,

C. J. DUDGEON, *Chairman.*

PROTECTION OF CHINESE IN NICARAGUA AND SALVADOR.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, July 1, 1896.

SIR: I have the honor to state that upon my receipt, in June, 1894, of a petition from the Chinese residents in Bluefields, Nicaragua, proposing the appointment of Mr. Ferdinand Beer, an American citizen, as a consular representative of China there, I addressed a note to your Department, asking its good offices in obtaining information regarding the character and standing of the said Mr. Beer, which it did in due course by transmitting me copy of a note from the United States minister to Nicaragua, speaking favorably of that gentleman. It would have been a matter of gratification to me to bring about the appointment of Mr. Beer as a consular agent of China, but the nonexistence of treaty relations between China and Nicaragua precluded the possibility of taking such a step. As there are diplomatic and consular representatives of the United States in Nicaragua—and taking for a precedent the case of Guatemala, where the United States minister, by courtesy of his Government toward that of China, is permitted to exercise his good offices on behalf of Chinese residing in that Republic—I am led again to invoke the friendly offices of the United States Gov-

ernment, by which the minister and consuls of the United States may be invested with the proper authority to afford protection to those Chinese who may reside in that country, and to ask that you will kindly direct the honorable minister to obtain the assent of the Nicaraguan Government to the proposed arrangement.

I further have the honor to state that I am in receipt of another petition, received in March last from Chinese subjects residing in San Salvador, requesting that the friendly offices of a representative of the United States be obtained, by which the interests of Chinese in that Republic may be cared for. As I find that your diplomatic representative to Nicaragua is accredited in a like capacity to San Salvador, I beg to invoke the same friendly offices of your Government as accorded in the case of Guatemala and as above requested in the case of Nicaragua, asking at the same time that your minister be directed to obtain the assent of the Government of San Salvador to the arrangement above proposed.

In conclusion, permit me to say that the above proposals are made after due advisement with my home Government, and that your favorable consideration of the same would place me under deeper obligations to your many kindnesses, and would be further evidence of the very friendly relations existing between the Government of China and that of the United States.

Be pleased to accept, etc.,

YANG YÜ.

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION,
Washington, February 1, 1897.

SIR: Referring to a note received from your Department, dated 24th September last, inclosing me copy of a note from the minister of foreign affairs of Salvador tothe chargé d'affaires of the United States, to the effect that the Government of Salvador will allow the diplomatic and consular officers of the United States to exercise their good offices, unofficially, in behalf of Chinese subjects, when necessary to protect their persons or property, I have the honor to state that the Chinese residents of Salvador were duly notified of the completion of the arrangement above referred to; and in pursuance of my instructions a delegation was sent to call on your Government's representatives in Salvador to express the grateful thanks of the Chinese community for their extreme courtesy and great kindness in consenting to exercise their good offices in their behalf when necessary.

In the course of the interview the delegation was informed that your representatives deem it necessary to receive explicit instructions from this Government before they would feel authorized to exercise their good offices when desired. As the Chinese residents have intimated their urgent need of the protection sought for, and inasmuch as your legation has obtained the courteous acquiescence of the Government of Salvador to the said arrangement, for which I feel profound gratitude, I beg to request that you will be so good as to issue such instructions as you may deem necessary to your representatives in Salvador upon the subject, so that they may begin at once to exercise their friendly offices in behalf of the Chinese residing in that Republic.

Not only will my countrymen feel unbounded joy and gratitude, but my Government will be extremely gratified by this manifestation of sincere friendship on the part of the United States Government.

Accept, sir, etc.

YANG YÜ.

Mr. Olney to Mr. Yang Yü.

No. 50.] DEPARTMENT OF STATE,
Washington, February 6, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, in which, referring to previous correspondence on the subject of the exercise of the good offices of the United States for the protection of Chinese subjects in Salvador, you state that a delegation of Chinese who called upon the consul of the United States at San Salvador was informed by him that he deemed it necessary to receive explicit instruction from this Government before he would feel authorized to exercise his good offices in their behalf when desired.

In compliance with the request which your note makes, I have to-day addressed instructions to the minister of the United States on the subject.

Accept, sir, etc., RICHARD OLNEY.

[Inclosure.]

Mr. Olney to Mr. Baker.

No. 535.] DEPARTMENT OF STATE,
Washington, February 6, 1897.

SIR: Referring to the Department's No. 470, of July 3 last, respecting the exercise of the good offices of our diplomatic and consular officers to Chinese subjects residing in Nicaragua and Salvador, and to your No. 693, of September 4 last, reporting that Salvador will allow the representatives of the United States to exercise their good offices unofficially in behalf of Chinese subjects, I inclose herewith copy of a note from the Chinese minister at this capital, stating that a delegation of Chinese who called upon the consul at San Salvador was informed by him that he deemed it necessary to receive explicit instructions from this Government before he would feel authorized to exercise his good offices.

The terms upon which protection is granted, at the request of the Chinese Government, and with the acquiescence of that of Salvador, are stated in the correspondence had with your legation, and the Government of Salvador has been informed of the scope of such protection, good offices being extended in behalf of Chinese persons by you and the consular officers without assumption of any representative functions as agents of China. It of course follows that our officers so acting can not originally certify to the fact of Chinese citizenship for a passport or other documentary attestation to that end, which could only be issued by a responsible agent of the Chinese Government.

This being so, a form of certificate to be used by you and the consul at San Salvador should be prepared in consultation with the Salvador minister of foreign affairs, in order that it may correctly express the character of the protection afforded and the degree to which it is recognized by Salvador. Something like this would probably suffice: "I * * * , of the United States of America, certify that * * * claims to be a subject of the Emperor of China, resident in Salvador, and that upon proving his status as such Chinese subject he is under the protection of the Government of the United States and entitled to the good offices of the diplomatic and consular officers thereof in case of need, in pursuance of an understanding between the Governments of Salvador and China to that end."

Similar action should be taken as regards Nicaragua, who your No. 687, of August 21 last, reported had likewise conceded the exercise of your good offices.

You will inform the consul at San Salvador of the situation and send him a copy of this instruction.

I am, etc.,

RICHARD OLNEY.

Mr. Sherman to Mr. Wu Ting-fang.

No. 26.] DEPARTMENT OF STATE,
Washington, November 19, 1897.

SIR: I have the honor to inclose herewith for your information a copy of dispatch No. 78, of the 25th ultimo, from the consul of the United States of Managua, Nicaragua, inclosing a copy and translation of a law prohibiting the immigration of Chinese into that country.

Accept, sir, etc.,

JOHN SHERMAN.

Mr. Wu Ting-fang to Mr. Sherman.

No. 39.] CHINESE LEGATION,
Washington, November 22, 1897.

SIR: Referring to the correspondence between my predecessor and your Department in 1896, and more particularly to your Department's notes of July 3 and September 24, respectively, resulting in an arrangement by which the diplomatic and consular officers of the United States in Salvador, with the acquiescence of the Government of that Republic, were kindly allowed by your Department to exercise their good offices in behalf of Chinese subjects residing in that country, I have the honor to state that the Chinese residents of Salvador, through our consul in New York, have asked me to request that, as the United States Government has appointed a new minister to Salvador, instructions may be sent to him by your Government, in order that in case of need they may still be able to invoke the friendly offices of the representatives of the United States in the protection of their persons and property.

I beg, therefore, that you will be so good as to write to him to that effect.

Be pleased to accept, sir, etc.,

WU TING-FANG.

Mr. Sherman to Mr. Wu Ting-fang.

No. 27.] DEPARTMENT OF STATE,
Washington November 26, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, and to inform you that in compliance with its request the new minister of the United States to Salvador has been directed to instruct the newly appointed consul at San Salvador to continue, in case of need, the exercise of his friendly offices to Chinese subjects in Salvador under the instructions sent to his predecessor.

Accept, sir, etc.,

JOHN SHERMAN.

TRAVELING IN CHINA.

Mr. Denby to Mr. Sherman.

No. 2717.] LEGATION OF THE UNITED STATES,
Pekin, March 19, 1897. (Received April 26.)

SIR: I have the honor to inclose for your consideration a copy of a dispatch sent by me to our consul at Chungking.

The subject-matter is of growing importance. American travelers, and especially missionaries, are traversing China in every direction. There can not be the least objection on our part to their doing so provided that in their journeying they exercise common prudence, and do not recklessly or ostentatiously rush into localities such as the Mantsz country, which are almost savage, and are scarcely under the firm control of the Chinese Government.

I have deemed it to be my duty to issue a word of warning on this subject, and submit what I have written for your approval.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2717.]

Mr. Denby to Mr. Smithers.

No. 12.] LEGATION OF THE UNITED STATES,
Pekin, March 19, 1897.

SIR: I have received your dispatch No. 4, of February 11 wherein, you bring to my attention a letter sent by the foreign office at Chengtu to Rev. Mr. Cady.

This letter states that "there is at hand from the Kien Chang taotai an official letter saying that Ta Shu Pao is on the great road and missionaries of every country constantly pass along that way. At present in going to Yueh She they will not go by Chin Che, but go around by Whang Muh Chang, all the way a by-road. This is under the O Pien official and is full of Mantsz, a wild, mountainous road distant from Pao five or six day's journey, and it is not convenient to send an escort and there is no place to change the escort. Also from Chin Che to Kien Chang they will not go by the great road, but according to their own will go by Ta Tien Pah, which is a nest of Mantsz and there is no one to receive and relieve the escort."

It is further stated that "Yueh Shi Ting is all Mantsz land and has not intercourse with Kien Chang, and all the small roads are through Mantsz country, and for the most part destitute of constables to control the people."

The purport of the whole letter is that missionaries traveling in Kien Chang should go by the great road and should show their passports to the local officials, and then an escort will be sent, and they are on no account "to go by the small roads or enter the Mantsz country or disturbed districts and bring upon themselves trouble."

In commenting on this letter Mr. Cady in a letter to you says:

> First, let me say that I know of no American who has been traveling in the district of Kien Chang. The letter assumes that the treaty obliges travelers to go by the main roads and inform the officials of the proposed journey and obtain from them an escort. Of course you know that the treaties contain no such provision. * * *

As to the exhibition of passports Mr. Cady is correct. This question is governed by Article IX of the British (Tientsin) treaty of 1858, which provides:

The passports must be produced for examination in the localities passed through.

The foreign representatives have construed that clause to mean that on proper demand by a proper official passports must be exhibited, but the traveler need not voluntarily show his passport, nor go out of the way to hunt up an official for the purpose of showing his passport.

As to the routes to be followed in traversing districts occupied by the Mantsz, or any other disturbed districts, much must be left to your discretion. If you consider any district to be dangerous, you should inform the American citizen who proposes to travel therein of his danger, and you should advise him not to venture in such locality, and you should at all times furnish whatever information you possess as to the safety of roads or routes.

It is not within your power to control the movements of your fellow-citizens, but I am sure that our Government will not sanction the needless incurring of risk of great danger by its citizens, and there can be no doubt that in consideration of the protection afforded by the Government it has the right to demand and will demand the exercise of prudence and discretion from its beneficiaries.

I am, sir, etc.,

CHARLES DENBY.

Mr. Sherman to Mr. Denby.

No. 1438.] DEPARTMENT OF STATE,
Washington, May 3, 1897.

SIR: I have to acknowledge the receipt of your No. 2717, of March 19 last, and to approve the instructions of the same date which you issued to Consul Smithers, at Chungking, in regard to the exhibition of passports and the traveling of roads by missionaries.

Respectfully, etc.,

JOHN SHERMAN.

KIANG-YIN RIOTS—DISMISSAL OF MAGISTRATE LIU YAO-KUANG.

Mr. Denby to Mr. Sherman.

No. 2705.] LEGATION OF THE UNITED STATES,
Pekin, March 11, 1897. (Received April 26.)

SIR: By the instructions of the Department, Consul Jones was directed to refer the question of dismissing the Kiang Yin magistrate, Lin Yan Kwang, from office to me if he failed in securing his dismissal by the local authorities. Consul has now transmitted the case to this legation.

It will be remembered that after the riot at Kiang Yin, which occurred during my absence in Japan, the magistrate, Lin, was ordered to be dismissed from office. At the urgent request of the taotai, Consul Jones consented that Lin should be put back in his place temporarily, to give him a chance to pay the indemnity which had been advanced for him by the taotai. As sufficient time has elapsed for that purpose to be accomplished, I instructed the consul to demand that the original sentence be put in force. He made this demand of the governor of Kiang-su, who resides at Soochow, and compliance was refused.

I have, therefore, in accordance with Department's instructions, taken up the case, and I inclose a copy of a paper to the Yamên on the subject.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2705.]

Mr. Denby to the Tsung-li Yamên.

PEKIN, *March 10, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that immediately after the investigation of the Kiang Yin riot, which occurred last summer, the Kiang Yin magistrate, Liu Yan Kwang, was dismissed from office. At the urgent request of the taotai the consul of the United States consented that he should be put back temporarily in his place to give him a chance to pay the indemnity which had been advanced for him by the taotai.

Eight months have elapsed. Ample time has intervened to enable him to pay the indemnity. By the instructions of his Government the consul of the United States recently demanded of the governor of Kiang-su that the original sentence be carried out; that is to say, that the magistrate be dismissed from office. The governor refused to accede to this demand.

I now bring the matter to your attention, and I request you to issue orders to the governor of Kiang-su that the magistrate Liu be immediately dismissed from office.

If you desire to prevent riots in China, you must see to it that delinquent officials are punished. Especially, it will not do to retain an official in office after he has been ordered to be dismissed. Such treatment offers a premium for connivance at lawlessness.

Mr. Denby to Mr. Sherman.

No. 2713.] LEGATION OF THE UNITED STATES,
Pekin, March 16, 1897. (Received April 26.)

SIR: In my dispatch No. 2705, of the 11th instant, I transmitted a copy of a communication which was sent by me to the Tsung-li Yamên, demanding the dismissal from office of the magistrate, Liu Yan Kwang, whom the governor of Kiangsu had promised should be dismissed on account of his neglect of duty at the time of the occurrence of the riot at Kiang Yin.

I have the honor to inclose a translation of the Yamên's answer, from which it will be seen that the matter has been referred to the governor for his report thereon.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2713.]

The Tsung-li Yamên to Mr. Denby.

PEKIN, *March 14, 1897.*

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note in regard to the investigation of the Kiang-yin riot last year, and the dismissal from office of the magistrate, Liu

Yan-Kwang; that eight months have elapsed, and the consul addressed the governor of Kiangsu, asking that he be dismissed at once, but the governor refused to accede to the demand.

Your excellency requests the Yamên to issue orders to the governor of Kiangsu that the magistrate, Liu, be immediately dismissed from office, etc.

We have the honor to state that, in regard to this case, last year perpetrators of the crime were punished, and indemnity for losses sustained was paid and the matter settled—the money being paid to the United States consul, who, at the time of receiving it, made not the slightest objection.

We transmitted to your excellency on the 9th September, 1896, a report on this case from the minister superintendent of southern trades, stating that it had been closed. This is on record.

Now, having received your excellency's note under acknowledgment, we have the honor to state that we have looked through the records of this case in the Yamên, but can not find any reference to the question of the dismissal from office of Magistrate Liu.

We find it, therefore, difficult from our archives to guess or form an opinion as to how the question arose, whether or not it was talked of between the taotai and consul, or whether or not it was presented clearly before the governor. The Yamên has written to the governor of Kiangsu, presenting your excellency's statements, and requested an investigation to be made.

In the meantime, we send this note for your excellency's information.

Cards of ministers, with compliments.

Mr. Denby to Mr. Sherman.

No. 2734.] LEGATION OF THE UNITED STATES,
Pekin, April 12, 1897. (Received May 28.)

SIR: In my dispatch No. 2705, of March 11 last, I informed you that I had applied to the Tsung-li Yamên to order the dismissal of the magistrate, Liu Yan Kwang, from office on account of neglect of duty during the riot at Kiang Yin, which occurred last summer during my absence in Japan.

I have the honor to inclose a translation of a communication from the Yamên, from which it appears that this magistrate has been dismissed from his office.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2734.—Informal.]

The Tsung-li Yamên to Mr. Denby.

PEKIN, *April 9, 1897.*

YOUR EXCELLENCY: On the 10th of March last we had the honor to receive your excellency's note, wherein you state that immediately after the Kiang Yin riot, which occurred last summer, it was decided to dismiss the magistrate, Liu Yan-Kwang, from office; that the United States consul recently demanded of the governor of Kiangsu that the magistrate be dismissed from office, but the governor refused to accede to this demand.

Your excellency requested that orders be issued to the governor of Kiangsu that the magistrate be dismissed from office.

In reply we beg to inform your excellency that the Yamên addressed the viceroy at Nankin, requesting him to hold an investigation into the case, and he has now telegraphed stating that the magistrate of Kiang Yin, Mr. Liu, on account of being delinquent in the discharge of his duty, was in the 1st moon dismissed from office and ordered to Nankin.

We send this note to your excellency and beg that you will instruct the United States consul at Chinkiang that he need not trouble any further in the matter.

Cards of ministers, with compliments.

Mr. Sherman to Mr. Denby.

No. 1437.] DEPARTMENT OF STATE,
Washington, May 3, 1897.

SIR: I have to acknowledge the receipt of your No. 2713, of March 16 last, with further reference to your demand for the dismissal of the delinquent magistrate, Liu Yao-kuang.

The Department's No. 1248, of the 28th ultimo, in reply to your No. 2705, of March 11, instructs you to insist upon your demand. Great importance is attached to this case.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Denby.

No. 1451.] DEPARTMENT OF STATE,
Washington, May 29, 1897.

SIR: I have to acknowledge the receipt of your No. 2734, of the 13th ultimo, advising the Department, with reference to your No. 2705, of March 11 last, that the magistrate Liu Yan Kwang has been dismissed from office on account of neglect of duty during the riot of Kiang-Yin, which occurred last summer.

The Department has received this announcement with satisfaction. The action of the Chinese Government in the matter is a move in the right direction, which will tend to secure rights of foreigners by example as well as precept.

Respectfully, etc.,

JOHN SHERMAN.

EXHIBITION OF PASSPORTS BY TRAVELERS IN CHINA.

Mr. Denby to Mr. Sherman.

No. 2775.] LEGATION OF THE UNITED STATES,
Pekin, July 12, 1897. (Received Aug. 16.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên relating to the exhibition of passports by travelers in China and matters connected therewith, also a copy of my answer thereto.

The questions discussed come up periodically after every fresh outrage in the interior. The provocation in this case was probably the recent killing of a French priest in the south.

It will be seen that I do not concede that Americans should hunt up the local authorities in every town they pass through in order to exhibit their passports. They are required by the British treaty of 1858, which we have adopted as the rule on this subject, to exhibit them only when their exhibition is demanded.

The demand of the Yamên that passports should be countersigned by the local authorities applies to passports issued by consuls. As our consuls do not issue passports there can be no application to us in the statement made as to this matter.

It is reasonable, I think, to warn Americans not to travel in remote localities infested by banditti.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2775.]

The Tsung-li Yamên to Mr. Denby.

PEKIN, *July 2, 1897.*

YOUR EXCELLENCY: The princes and ministers have the honor to inform the minister of the United States that on the 8th of June last they received a communication from the governor of Kwangsi stating that under the provisions of treaty when foreigners travel in the interior of China they should have passports issued either by their ministers or consuls, the passports stating where they propose to travel and to be countersigned by the local authorities.

The passports, if demanded by the local authorities, must be produced for examination in the localities passed through.

Missionaries traveling in the provinces for the purpose of preaching should conform to the rule laid down.

Recently cases have transpired of foreigners visiting Kwangsi who have failed to exhibit their passports to the local authorities for examination, and hence no trace of their movements could be ascertained and due protection afforded them. This is in violation of treaty, which requires that due protection be accorded them.

The Government requests that the foreign representatives at Pekin be asked to instruct their consuls in the matter and that the viceroys and governors of the various provinces should communicate with the foreign consuls, asking them to instruct their missionaries to present their passports for examination in the localities through which they pass, to the end that due protection may be accorded them as provided by treaty.

By the French treaty Frenchmen may reside permanently or move about at their pleasure at the treaty ports or in places adjacent thereto without passports, the same as natives residing in the interior. Although the interior of Kwangsi can not be regarded in the same light as a treaty port, still French missionaries have established chapels and mission stations there, and some have permanently resided there, while others have traveled at their pleasure, the same as natives, in the interior.

It can not be said for certain when bad characters in the interior and wandering banditti may appear, and when missionaries travel from one place to another, and they do not inform the local authori-

ties of their whereabouts, so that men may be deputed to protect, perhaps they might suddenly find themselves confronted with banditti, and the officials in that case would be put off their guard.

The governor requests that in accordance with the provisions of the French treaty French officials will not deliver passports to their nationals when they are applied for, except for places not infested by banditti. He asks that in future all foreign missionaries be instructed when traveling in the interior to avoid visiting places inhabited by banditti, and also the impoverished and remote places on the frontier.

In their travels they should also be instructed to present their passports to the local authorities for examination, so that men may be deputed to protect them and proper care be taken to avoid any mishap to them.

The Yamên would observe that the representations made by the governor of Kwangsi are based upon the treaties and for due protection to the missionaries and foreign travelers.

Communications have been sent to the various viceroys and governors on the subject, and as in duty bound, the princes and ministers send this communication to the minister of the United States for his action in the premises.

[Inclosure 2 in No. 2775.]

Mr. Denby to the Tsung-li Yamên.

PEKIN, *July 12, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your communication of the 2d instant, relating to the exhibition of passports by travelers in China and matters connected therewith.

This matter was elaborately discussed about three years ago. I concede that Americans traveling in the interior should have passports. I think they always have. I concede also that "these passports if demanded must be produced for examination in the localities passed through."

This is the language of Article IX of the British treaty of 1858. I do not concede that the traveler must exhibit his passport unless it is demanded.

The passports should state the names of the provinces in which the bearer thereof proposes to travel. It is impracticable to state the route that he will follow. He secures the right to travel in four provinces, and it is scarcely possible to state in advance what routes he will take.

Different systems prevail in the various countries as to issuing passports. Under our system the passports are issued by the minister only. They are sent to you and are countersigned by the governor of the city of Pekin. It is not necessary or practicable that any other authority should countersign them.

It is true that Article IX, above cited, states that "passports will be issued by their consuls (meaning British consuls) and countersigned by the local authorities."

As our consuls do not issue passports, this phrase has no application to us. As nobody can countersign passports issued by this legation except the governor of the city of Pekin, it is presumed that you had no intention to refer to the United States in this matter.

You further state that all foreign missionaries should be instructed not to visit places infested by banditti. I see no objection to this sug-

gestion. I have warned our consuls to represent to American travelers that there was danger in traveling routes infested by banditti, and that such routes should be avoided.

It will always afford me pleasure to cooperate with you in any practicable suggestions as to rules governing passports, but it must be borne in mind that in this matter the treaties control. They do not require travelers to exhibit their passports unless they are demanded, and I can not change the treaties. It is presumed that they would be exhibited readily in case protection were needed.

Mr. Sherman to Mr. Denby.

DEPARTMENT OF STATE,
Washington, August 17, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 2775, of the 12th ultimo, inclosing a copy of the correspondence between yourself and the Chinese Government in relation to the exhibition of passports by travelers in China, and matters connected therewith.

Your reply to the Tsung-li Yamên is approved by the Department.

Respectfully, yours,

JOHN SHERMAN.

RIGHT OF MISSIONARIES TO ENGAGE IN SECULAR WORK IN INTERIOR.

Mr. Denby to Mr. Olney.

No. 2678.] LEGATION OF THE UNITED STATES,
Pekin, February 3, 1897. (Received March 27.)

SIR: I have the honor to inclose herewith a copy of a letter which I have received from a missionary residing at Tao Cheo, Kansuh, on the borders of Thibet. He therein asks for information on the question whether he can lawfully engage in "agriculture, stock raising, or trading, in order to self-support while laboring as a missionary among the Thibetan border tribes."

This question is one of first impression in China. To my knowledge it has not been raised by the Chinese Government. The treaties originally permitted foreigners to reside at the open ports. They provided that the professors of the Christian religion should not be harassed or persecuted on account of their faith. Under the Berthemy convention the right to reside in the interior and to buy land for residential purposes was secured to missionaries. In no convention or treaty is anything said about the right to carry on by foreigners residing there any regular employment in the interior. In practice, however, it is a common thing for missionaries all over China to engage in many species of employments which are considered as aids or adjuncts to their religious and charitable work. They have printing establishments, bookbinderies, industrial schools, workshops, stores, dispensaries. They are doctors, colporteurs, newspaper correspondents; one of them living here lodges and boards strangers. All kinds of furniture is manufactured here and publicly sold by missionaries. Washing and sewing are done by the Catholic missionaries. In fact, there is complete tolerance of all

kinds of work. It is understood, of course, that the profits of these various enterprises go to the general fund of the mission, and are used to promote religious purposes.

In answering Mr. Simpson, I have not been able to draw the line between pursuits thus permitted and agriculture, stock raising, or trading. Of course much would depend on the manner that such pursuits were carried on. The question of the right to engage in trade or commerce seems to depend entirely on tolerance. If the particular enterprise engaged in in any locality is not prohibited by the officials and is allowed to be prosecuted without objection, it would finally be sanctioned by usage, and might be entitled to protection of the treaty powers.

I have sent to Mr. Simpson an unofficial answer embodying the views above stated.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2678.]

Mr. Simpson to Mr. Denby.

TAO CHEO KANSUH, CHINA,
November 18, 1896.

HONORED SIR: Having a desire to engage in some kind of industrial enterprise, such as agriculture, stock raising, or trading, in order to self-support while laboring as a missionary among the Thibetan border tribes, I write asking if there is anything in the treaties and relations between China and the United States to prevent such pursuits. The people and officials here are very friendly and would not interpose any obstacle.

Any information on these matters would be gratefully received.

Hoping you may be continued at Pekin another term, I remain, yours, respectfully,

W. W. SIMPSON.

Mr. Rockhill to Mr. Denby.

No. 1407.] DEPARTMENT OF STATE,
Washington, March 29, 1897.

SIR: Your dispatch No. 2678, of February 3 last, relative to an inquiry addressed to you by a missionary residing at Tao Cheo, Kansuh, as to whether he can, as a landowner, lawfully engage in "agriculture, stock raising, or trading in order to self-support while laboring as a missionary among the Thibetan border tribes," has been received.

Your views on the general question appear to be discreet. The secular operations which you report as having been engaged in by various foreign missionary establishments in China appear to be partly direct or analogous adjuncts of their beneficent work and partly contributory to its support. Some of them, as the manufacture of furniture, laundry work, and sewing, are not, obviously, part of the privilege of residence, and even if they were for any reason opposed, that circumstance would not impair the argument which it is conceived might be validly advanced, the case arising that the residential privilege embraces all normal uses to which the ground and its belongings can be

applied. Residence upon a tract of agricultural land presupposes the devotion of the soil to its natural use. The permitted purchase of such land carries with it the right to till it for the owner's support and advantage. Viewed in this light, the rights accompanying the ownership of a farm seem to be more unquestionably evident than the rights pertaining to the possession of a dwelling house, since the use of the latter as a factory or shop is not a positive necessity, such as is the raising of produce where farm lands are held.

The matter is, however, as you intimate, one of tolerant custom, and if attempt be at any time made to restrict the existing usage, the propositions herein outlined would afford ground upon which to base remonstrance and conduct suitable argument.

Respectfully, yours,

W. W. ROCKHILL,
Acting Secretary.

IMPORTATION INTO CHINA OF MACHINERY USED FOR MAKING COUNTERFEIT MONEY.

Mr. Denby to Mr. Sherman.

No. 2765.] LEGATION OF THE UNITED STATES,
Pekin, June 19, 1897. (Received July 30.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên relating to the prevention of counterfeiting and the importation of machinery to be used for making counterfeit money.

To this paper I have sent an answer of which a copy is inclosed.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2765.]

The Tsung-li Yamên to Mr. Denby.

PEKIN, *June 10, 1897.*

YOUR EXCELLENCY: The princes and ministers have the honor to inform the minister of the United States that on the 28th of May, 1897, they received a communication from the Tartar-General of Foochow, embodying a report from the officials of the board of foreign affairs in the matter of the casting of silver coins. The board observes that recently there have been several cases of arrests of persons in Amoy and in the Min district who have counterfeited coins; that these dishonest persons have circulated false reports that the silver dollars coined by the Provincial Government of Foochow are not fit for circulation, and if prompt measures are not taken to arrest this evil the present good method in force of coining will come to a stop, as the people in general will entertain suspicions.

It is only requisite that severe punishment be inflicted on the offenders; then the legitimate coins will be in circulation to advantage and the populace will be satisfied.

In the coining of counterfeit money it is necessary that machinery be used. It is right that instructions be issued that coining machinery made in China should not be sold to the people. As to machinery

made in foreign countries, it seems proper that the Tsung-li Yamên should address the foreign ministers at Pekin, requesting them to inform their secretaries of state, or foreign offices, that in future it will be necessary that all coining machinery imported into China must be accompanied by a permit issued either by a commissioner of customs or a customs' taotai. Further, the machinery must not be sold privately to Chinese. A fine will be inflicted for violating this rule. It is further suggested that instructions be issued to the ministers superintendent of trade for the north and south, as well as to all the commissioners of customs and the naval authorities at the various ports, to take action in good earnest in searching all vessels entering the ports, and if coining machinery is found on board without a proper permit the importer will be arrested and punished and the machinery confiscated.

The Yamên would observe that the counterfeiting of silver dollars is detrimental to foreigners and Chinese alike.

Last year some of the foreign ministers were most concerned in regard to the exportation from China of counterfeit coins, as the traffic was very injurious to trade, and the Yamên was requested to take active steps in the matter and to arrest and punish the offenders.

The request made by the Tartar-General of Foochow in regard to prohibiting the importation of coining machinery is to preserve the purity of coins, which your excellency will quite understand and agree to.

Instructions have been issued to the ministers superintendent of trade for the north and south, as well as to the inspector-general of customs, to take action accordingly, and in addressing the minister of the United States the princes and ministers express the hope that he will take action in like manner.

[Inclosure 2 in No. 2765.]

Mr. Denby to the Tsung-li Yamên.

PEKIN, *June 19, 1897.*

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your communication of the 10th instant, relating to the prevention of the importation of machinery to be used for counterfeiting.

I have sent a translation thereof to the Department of State. At your instance I issued last year stringent instructions to the consuls of the United States to take all possible steps to prevent counterfeiting or the importation of machinery intended to be used for that purpose, and their cooperation in the matter is now assured.

Mr. Adee to Mr. Denby.

No. 1474.] DEPARTMENT OF STATE,
Washington, July 31, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 2765, of the 19th ultimo, inclosing a request from the Tsung-li Yamên asking your cooperation to prevent the importation into China of machinery to be used for counterfeiting.

In reply I have to say that your instructions to our consuls will apparently meet the requirements of the case in Chinese ports.

As to precautions against the exportation of counterfeiting machiney from American ports, it is questionable if our laws permit such surveillance over exported goods as would detect machinery of this character. The act approved February 10, 1891, by its second section punishes the possession with fraudulent intent of any die, hub, or mold of a foreign coin. I inclose a copy of that act. Its enforcement lies with the Secretary of the Treasury, to whom a copy of your dispatch will be sent.

Respectfully, yours, ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Denby.

No. 1476.] DEPARTMENT OF STATE,
Washington, August 6, 1897.

SIR: Referring to your dispatch No. 2765, of the 19th ultimo, and to instruction No. 1474, of the 31st ultimo, in reply—in relation to the request of the Chinese Government for your cooperation to prevent the importation into China of machinery to be used for counterfeiting—I have to inform you that in a letter dated the 4th instant the Secretary of the Treasury says that the matter has been referred to the Secret-Service Division of the Treasury Department, with instructions to make thorough investigation of any information on the subject that may be obtained.

Respectfully, yours, ALVEY A. ADEE,
Acting Secretary.

Mr. Denby to Mr. Sherman.

No. 2799.] LEGATION OF THE UNITED STATES,
Pekin, September 14, 1897. (Received Oct. 25.)

SIR: Referring to the Department's dispatches Nos. 1474 and 1476, of July 31 and August 6, respectively, I have the honor to report that I have communicated to the Chinese Government the law of the United States as to the making or the possession of machinery for the manufacture of foreign coins, and I have stated that the subject has been referred for investigation to the Secret-Service Division of the Treasury Department.

I have, etc., CHARLES DENBY.

SUPERSTITION IN REGARD TO THE ECLIPSE OF THE SUN.

Mr. Denby to Mr. Sherman.

No. 2829.] LEGATION OF THE UNITED STATES,
Pekin, November 23, 1897. (Received December 29.)

SIR: I have the honor to inclose a newspaper clipping, setting forth an ancient superstition existing in China that an eclipse of the sun portends disaster.

Such an eclipse will occur the first day of the twenty-fourth year of the reign of Kuang Hsu, and the Emperor is filled with forebodings as to its effects.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2829.—Abstract of Peking Gazette.—Specially translated for the North China Daily News, 3d September.]

IMPERIAL DECREES.

(1) According to the Ch'unch'iu (or Spring and Autumn Annals—Translator) it has been stated that an eclipse of the sun on the first day of the year betokens an impending calamity, hence the sovereigns of every dynasty which has preceded us have always made it a point, whenever an eclipse of the sun is prognosticated, to undergo self-abasement and humble themselves before heaven in order to avert the wrath from above. In the case of our own imperial dynasty, for instance, during the reigns of Their Majesties K'ang Hsi and Ch'ien Lung (1662–1794) there were observed two eclipses of the sun which fell on a New Year's Day; and now, according to the board of astronomy, the first day of the twenty-fourth year of our reign (22d January, 1898) there will be yet another eclipse of the sun. We are filled with forebodings at this news and hasten to seek within ourselves for sins which may have thus brought the wrath of high heaven upon the land. We further command that the ceremonies of congratulation usually held on New Year's Day in the Taiho throne hall be curtailed and only ordinary obeisances be made, the place being changed to the Ch'ientsing throne hall. The banquet usually given to imperial clansmen on New Year's Day must also be stopped, and when the eclipse occurs let all the members of the court wear sober garments and assemble in the inner palace before the altar set up to heaven, to pray for forbearance and mercy to the country at large. This is so far as shall concern ourselves, to show our desire to propitiate high heaven; but, as Her Majesty the Empress Dowager is an elder and senior, it is but right that the full ceremonies be observed in paying the court's obeisances to her majesty on New Year's Day. Let all the yamêns concerned take note.

COSTA RICA.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN COSTA RICA AND NICARAGUA.

Mr. Calvo to Mr. Olney.

LEGATION OF COSTA RICA,
Washington, February 6, 1897.

SIR: In a communication dated May 1[1] of the past year, 1896, I had the honor to inform your excellency of there having been signed on March 27 of that year, at the capital of Salvador, with the honorable and fraternal mediation of His Excellency the President of that State, a convention for the survey and marking of the divisional line between Costa Rica and Nicaragua, pursuant to the provisions of the boundary treaty of April 15, 1858, and the arbitral award made on March 22, 1888, by His Excellency Grover Cleveland, President of the United States of America, and to bring to the high knowledge of your excellency that, pursuant to one of the stipulations of that convention, the two contracting Governments would proceed, jointly, in due time to request His Excellency the President of the United States of America to consent to name an engineer who, completing the respective commissions of the two countries, and with ample authority conferred upon him by the convention, shall decide any kind of difficulties that may arise in the operation mentioned of establishing the divisional line in accordance with the said treaty and award.

I now have the honor to communicate to your excellency that the convention of Salvador has been ratified by both parties and that the ratifications were duly exchanged in San José de Costa Rica on the 17th of December last, as is evidenced by the certified copy and translation of the said document hereto annexed.

Your excellency was pleased, in a note dated May 5 last, addressed to this legation, to express the favorable disposition of His Excellency the President of the Republic, to the effect that he would grant the request mentioned.

In this understanding, complying with the stipulations of the convention to which I have referred, in the name of the Government of the Republic of Costa Rica, on its part, and through the honorable medium of your excellency, I now formally request His Excellency the President of the United States of America to be pleased to accede to the wishes of the two Governments, as they have been solemnly expressed in the said convention, thus again meriting their gratitude.

With assurances, etc., J. B. CALVO.

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[1] See Foreign Relations, 1896, p. 100.

Mr. Olney to Mr. Calvo.

No. 30.] DEPARTMENT OF STATE,
Washington, February 19, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, with its accompaniments, asking the appointment by the President of the United States, under the provisions of the convention between Costa Rica and Nicaragua concluded at San Salvador March 27, 1896, for the purpose of tracing and making the boundary line between those Republics, of an engineer, whose duty, in conjunction with the commission to be appointed by the Governments of Costa Rica and Nicaragua, as defined by Article II of the convention aforesaid, is to be as follows:

Whenever, in the execution of their duty, the two commissioners of Costa Rica and Nicaragua shall disagree, the point or points of difference shall be submitted to the decision of the engineer appointed by the President of the United States of America. Said engineer shall have ample authority to decide any kind of difference that may arise, and his decision shall be final as to the disputed point.

Pursuant to the treaty stipulations aforesaid and to the request of the two Governments concerned, as expressed by their diplomatic representatives, respectively, it has afforded the President pleasure to appoint as such engineer Mr. E. P. Alexander, of Georgetown, S. C.

I inclose a duly authenticated copy of Mr. Alexander's appointment.

Accept, Mr. Minister, etc.,

RICHARD OLNEY.

Mr. Calvo to Mr. Olney.

LEGATION OF COSTA RICA,
Washington, February 20, 1897.

SIR: I have the honor to acknowledge the receipt of your excellency's note, bearing yesterday's date, in which your excellency is pleased to inform me that in accordance with the stipulations of the convention between Costa Rica and Nicaragua, concluded in San Salvador on the 27th of March, 1896, for the purpose of tracing and marking the boundary line between the two Republics, and pursuant to the request of the two Governments concerned, His Excellency the President of the United States has had the pleasure of naming Mr. E. P. Alexander, of Georgetown, S. C., as the engineer who, completing the commissions to be appointed by the Governments of Costa Rica and Nicaragua, is to decide the points of disagreement that may arise between such commissions, pursuant to the stipulations of said Convention and the authority on him conferred by the second article thereof.

Your Excellency is pleased to annex a duly authenticated copy of the appointment of Mr. Alexander, which I have also received.

In reply, I have the honor to express to Your Excellency, begging at the same time that you communicate it to His Excellency the President, that the Government of Costa Rica deeply appreciates the important act by which he has once again been pleased to contribute to the solution of questions which Costa Rica has constantly and unremittingly endeavored to settle through just and honorable means; this act being all the more appreciated by my country since thereby the step proposed by my Government to that of Nicaragua ever since November 20, 1892, has been achieved.

Upon conveying thanks to His Excellency the President, through the worthy medium of your excellency, for the appointment of the engineer, Mr. Alexander, and upon expressing them to your excellency for the attention you have been pleased to give this matter, I am gratified to manifest the assurance I entertain that the distinguished engineer appointed will do honor to the worthy name to which the lofty ideas of justice of the eminent Magistrate impart luster, and to that of Your Excellency, which the world to-day utters with respect.

Be pleased, sir, to accept, etc.,

J. B. CALVO.

Mr. Calvo to Mr. Sherman.

LEGATION OF COSTA RICA,
Washington, October 29, 1897.

SIR: Referring to previous correspondence between the department under your excellency's able direction, and this legation, in regard to the appointment by His Excellency the President of the United States, of an engineer who, completing the boundary commissions of Costa Rica and Nicaragua, is to decide the points of disagreement that may arise between such commissions; and in consideration of the attention kindly given by the Government of the United States to the request to appoint such an engineer, I have the honor to inform your excellency that the work of tracing and marking the boundary line between the two countries was commenced, and after some discussion about the exact point where the said line enters from the Caribbean Sea, the engineer arbiter decided this first point of contention.

It gives me pleasure to send to your excellency, herewith inclosed, copies of the arguments and replies of both parties, printed by order of the Government of Costa Rica, and copy and translation into Spanish of the award of Gen. E. P. Alexander, dated the 30th of September, 1897, as published in La Gaceta, the official daily paper of San José, Costa Rica.

At the same time I have the honor to inform your excellency that the Government of Costa Rica has accepted said award, as I am officially notified.

Be pleased, sir, etc., J. B. CALVO.

[Inclosure.]

Mr. Alexander to the Commissions of Limits of Costa Rica and Nicaragua.

SAN JUAN DEL NORTE, NICARAGUA,
September 30, 1897.

GENTLEMEN: In pursuance of the duties assigned me by my commission as engineer arbitor to your two bodies, with the power to decide finally any points of difference that may arise in tracing and marking out the boundary line between the two Republics, I have given careful study and consideration to all arguments, counter-arguments, maps, and documents submitted to me in the matter of the proper location of the initial point of the said boundary line upon the Caribbean coast.

The conclusion at which I have arrived and the award I am about to make do not accord with the views of either commission.

So, in deference to the very excellent and earnest arguments, so faithfully and loyally urged by each commission for its respective side, I will indicate briefly my line of thought and the considerations which have seemed to me to be paramount in determining the question.

And of these considerations the principal, and the controlling one, is that we are to interpret and give effect to the treaty of April 15, 1858, in the way in which it was mutually understood at the time by its makers.

Each commission has presented an elaborate and well-argued contention that the language of that treaty is consistent with its claim for a location of the initial point of the boundary line at a place which would give to its country great advantages. These points are over 6 miles apart, and are indicated on the map accompanying this award.

The Costa Rican claim is located on the left-hand shore or west headland of the harbor; the Nicaraguan on the east headland of the mouth of the Taura branch.

Without attempting to reply in detail to every argument advanced by either side in support of its respective claim, all will be met, and sufficiently answered by showing that those who made the treaty mutually understood and had in view another point, to wit, the eastern headland at the mouth of the harbor.

It is the meaning of the men who framed the treaty which we are to seek, rather than some possible meaning which can be forced upon isolated words or sentences. And this meaning of the men seems to me abundantly plain and obvious.

The treaty was not made hastily or carelessly. Each State had been wrought up, by years of fruitless negotiations, to a state of readiness for war in defense of what it considered its rights, as is set forth in Article I.

In fact, war had actually been declared by Nicaragua, on November 25, 1857, when through the mediation of the Republic of Salvador a final effort to avert it was made, another convention was held, and this treaty resulted.

Now, we may arrive at the mutual understanding finally reached by its framers, by first seeking in the treaty as a whole for the general idea, or scheme of compromise, upon which they were able to agree.

Next, we must see that this general idea of the treaty as a whole harmonizes fully with any description of the line given in detail, and the proper names of all the localities used, or not used, in connection therewith; for the nonuse of some names may be as significant as the use of others.

Now, from the general consideration of the treaty as a whole, the scheme of compromise stands out clear and simple.

Costa Rica was to have as a boundary line the right or southwest bank of the river, considered as an outlet for commerce, from a point 3 miles below Castillo to the sea.

Nicaragua was to have her prized "sumo imperio" of all the waters of this same outlet for commerce, also unbroken to the sea.

It is to be noted that this division implied also, of course, the ownership of all islands in the river and of the left or northwest bank and headland by Nicaragua.

This division brings the boundary line (supposing it to be traced downward along the right bank, from the point near Castillo) across both the Colorado and the Taura branches.

It can not follow either of them, for neither is an outlet for commerce, as neither has a harbor at its mouth.

It must follow the remaining branch, the one called the Lower San Juan, through its harbor and into the sea.

The natural terminus of that line is the right-hand headland of the Harbor Mouth.

Next, let us note the language of description used in the treaty, telling whence the line is to start and how it is to run, leaving out for the moment the proper name applied to the initial point. It is to start "at the mouth of the river San Juan de Nicaragua, and shall continue following the right bank of the said river to a point 3 English miles from Castillo Viejo."

This language is carefully considered and precise, and there is but one starting point possible for such a line and that is at the right headland of the bay.

Lastly, we come to the proper name applied to the starting point, "the extremity of Punta de Castilla."

This name, Punta Castilla, does not appear upon a single one of all the original maps of the Bay of San Juan which have been presented by either side, and which seem to include all that were ever published before the treaty or since.

This is a significant fact, and its meaning is obvious. Punta de Castilla must have been, and must have remained, a point of no importance, political or commercial.

Otherwise it could not possibly have so utterly escaped note or mention upon the maps. This agrees entirely with the characteristics of the mainland and the headland on the right of the bay.

It remains until to-day obscure and unoccupied, except by the hut of a fisherman.

But the identification of the locality is still further put beyond all question by incidental mention, in another article of the treaty itself, of the name Punta de Castilla.

In Article V Costa Rica agrees temporarily to permit Nicaragua to use Costa Rica's side of the harbor without payment of port dues, and the name Punta de Castilla is plainly applied to it.

Thus we have, concurring, the general idea of compromise in the treaty as a whole, the literal description of the line in detail, and the verification of the name applied to the initial point by its incidental mention in another portion of the treaty, and by the concurrent testimony of every map maker of every nation, both before the treaty and since, in excluding this name from all other portions of the harbor.

This might seem to be sufficient argument upon the subject, but it will present the whole situation in a still clearer light to give a brief explanation of the local geography and of one special peculiarity of this Bay of San Juan.

The great feature in the local geography of this bay, since our earliest accounts of it, has been the existence of an island in its outlet, called on some early maps the Island of San Juan. It was an island of such importance as to have been mentioned in 1820 by two distinguished authors, quoted in the Costa Rican reply to Nicaragua's argument (p. 12), and it is an island to-day, and so appears in the map accompanying this award.

The peculiarity of this bay to be noted is that the river brings down very little water during the annual dry season.

When that happens, particularly of late years, sand bars, dry at all ordinary tides, but submerged, more or less, and broken over by the waves at all high ones, are formed, frequently reaching the adjacent headlands, so that a man might cross dry-shod.

Now, the whole claim of Costa Rica is based upon the assumption that on April 15, 1858, the date of the treaty, a connection existed between the island and the eastern headland, and that this converted the island into mainland and carried the initial point of the boundary over to the western extremity of the island.

To this claim there are at least two replies, either one seeming to me conclusive.

First, the exact state of the bar on that day can not be definitely proven, which would seem to be necessary before drawing important conclusions.

However, as the date was near the end of the dry season, it is most probable that there was such a connection between the island and the eastern or Costa Rican shore as has been described.

But even if that be true, it would be unreasonable to suppose that such temporary connection could operate to change permanently the geographical character and political ownership of the island.

The same principle, if allowed, would give to Costa Rica every island in the river to which sand bars from her shore had made out during that dry season.

But throughout the treaty, the river is treated and regarded as an outlet of commerce. This implies that it is to be considered as in average condition of water, in which condition alone is it navigable.

But the overwhelming consideration in the matter is that by the use of the name Punta de Castilla for the starting point, instead of the name Punta Arenas, the makers of the treaty intended to designate the mainland on the east of the harbor.

This has already been discussed, but no direct reply was made to the argument of Costa Rica quoting three authors as applying the name Punta de Castilla to the western extremity of the before-mentioned island, the point invariably called Point Arenas by all naval and other officers, surveyors, and engineers whoever mapped it.

These authors are L. Montufar, a Guatemalan, in 1887; J. D. Gamez, a Nicaraguan, in 1889; and E. G. Squier, an American, date not given exactly, but subsequent to the treaty. Even of these, the last two merely used, once each, the name Punta de Castilla as an alternate for Punta Arenas.

Against this array of authenticity we have, first, an innumerable number of other writers clearly far more entitled to confidence; second, the original makers of all the maps, as before pointed out; and third, the framers of the treaty itself, by their use of Punta de Castilla in Article V.

It must be borne in mind that, for some years before the making of this treaty, Punta Arenas had been by far the most important and conspicuous point in the bay. On it were located the wharves, workshops, offices, etc., of Vanderbilt's great transit company, conducting the through line from New York to San Francisco during the gold excitement of the early fifties. Here ocean and river steamers met and exchanged passengers and cargo.

This was the point sought to be controlled by Walker and the filibusters.

The village of San Juan cut no figure at all in comparison, and it would doubtless be easy to produce by hundreds references to this point as Punta Arenas by naval and diplomatic officers of all prominent nations, by prominent residents and officials, and by engineers and surveyors constantly investigating the canal problem, and all having personal knowledge of the locality.

In view of all these circumstances—the jealousy with which each party to the treaty defined what it gave up and what it kept, the prominence and importance of the locality, the concurrence of all the original maps in the name, and its universal notoriety—I find it impossible to conceive that Nicaragua had conceded this extensive

and important territory to Costa Rica, and that the latter's representative had failed to have the name Punta Arenas appear anywhere in the treaty.

And for reasons so similar that it is unnecessary to repeat them, it is also impossible to conceive that Costa Rica should have accepted the Taura as her boundary, and that Nicaragua's representative should have entirely failed to have the name appear anywhere in the treaty.

Having, then, designated generally the mainland east of Harbor Head as the location of the initial point of the boundary line, it now becomes necessary to specify more minutely, in order that the said line may be exactly located and permanently marked.

The exact location of the initial point is given in President Cleveland's award as the "extremity of Punta de Castilla, at the mouth of the San Juan de Nicaragua River, as they both existed on the 15th of April, 1858."

A careful study of all available maps, and comparisons between those made before the treaty and those of recent date made by boards of engineers and officers of the canal company, and one of to-day made by yourselves to accompany this award, makes very clear the fact.

The exact spot which was the extremity of the headland of Punta de Castilla, April 15, 1858, has long been swept over by the Caribbean Sea, and there is too little concurrence in the shore outline of the old maps to permit any certainty of statement of distance or exact direction to it from the present headland. It was somewhere to the northeastward, and probably between 600 and 1,600 feet distant, but it can not now be certainly located.

Under these circumstances, it best fulfills the demands of the treaty and of President Cleveland's award to adopt what is, practically, the headland of to-day; or the northwestern extremity of what seems to be the solid land, on the east side of the Harbor Head Lagoon.

I have accordingly made a personal inspection of this ground, and declare the initial line of the boundary to run as follows, to wit:

Its direction shall be due northeast and southwest, across the bank of sand, from the Caribbean Sea into the waters of Harbor Head Lagoon.

It shall pass, at its nearest point, 300 feet on the northwest side from the small hut now standing in that vicinity.

On reaching the waters of Harbor Head Lagoon the boundary line shall turn to the left, or southwestward, and shall follow the water's edge around the harbor until it reaches the river proper by the first channel met.

Up this channel and up the river proper the line shall continue to ascend as directed in the treaty.

I am, gentlemen, very respectfully, your obedient servant,

E. P. ALEXANDER.

DENMARK.

NATURALIZATION OF JENS A. E. SORENSEN.

Mr. Brun to Mr. Olney.

[Translation.]

DANISH LEGATION,
Washington, November 18, 1896.

MR. SECRETARY OF STATE: Jens Anton Edvard Sorensen, born at Varde, Denmark, in 1865, having returned to Denmark after a stay of eight years in the United States (from 1886 to 1894), has been prosecuted in the police court for violation of the military-service law.

He has pleaded his character of American citizen in producing the annexed certificate, in virtue of which he became a naturalized citizen of the United States, in the State of New York, on the 20th October, 1891.

By order of my Government, I have the honor to request your excellency to be kind enough to let me know if the said certificate is authentic, and if it has been issued and signed by the competent authority.

Accept, etc.,

C. BRUN.

Mr. Olney to Mr. Brun.

No. 54.] DEPARTMENT OF STATE,
Washington, November 28, 1896.

SIR: Acknowledging the receipt of your note of the 18th instant, I have the honor to return, duly authenticated by the secretary of state of the State of New York, the certificate you sent me of the naturalization of Jens A. E. Sorensen by the county court of Kings County on the 20th day of October, 1891.

It would appear from your note that the purpose of your inquiry touching the authenticity and competent issuance of the certificate in question is to ascertain the truth of Mr. Sorensen's allegation of United States citizenship, in view of the charge of violation of the military-service law of Denmark which has been laid against him. While the naturalization of aliens in this country is by the laws here of a function of any State court of record having a seal, a passport issued by or by authority of the Secretary of State is by statute the only certification of citizenship that may be granted by the Federal branch for use abroad in attestation of the party's rights to protection as a citizen.

It does not appear that Mr. Sorenson has applied to the United States legation at Copenhagen for protection, or that the representative of the United States has been notified of the charge against this man. A copy of your note and of the reply will be sent to the legation in order that it may, upon Mr. Sorenson's application, issue to him a pass-

port, should the facts establish his right to protection as a citizen of the United States while he continues to reside abroad.

I beg to suggest that in the present instance the proceeding would have been greatly simplified and shortened had the legation been promptly advised of Mr. Sorensen's allegation of United States citizenship, so that the accused could have duly established without delay his right to protection.

Accept, sir, etc., RICHARD OLNEY.

Mr. Olney to Mr. Risley.

No. 153.] DEPARTMENT OF STATE,
Washington, November 28, 1896.

SIR: I inclose for your information copy of a note from the Danish minister at this capital, under date of the 18th instant, inquiring as to the authenticity and competent issuance of a certificate of naturalization by the county court of Kings County, N. Y., to one Jens Anton Edvard Sorensen, who, having been arrested on charge of violating the military-service law of Denmark, has alleged his American citizenship. I also inclose a copy of my reply to Mr. Brun.

The Danish minister's request implies a purpose to regard this certificate not only as the evidence of acquisition of United States citizenship, which is in fact, but also as the evidence of the holder's right to protection as a citizen while residing abroad. A passport is, however, the proper prima facie evidence to that end, and I have so intimated to the minister, adding that you would be instructed as to issuing a passport, should the facts warrant it, upon Mr. Sorensen's application. This course is necessary because, while the fact that Mr. Sorensen acquired American citizenship five years ago appears to be completely established, it is not equally established whether the circumstances of his departure from this country, return, as would appear, to the country of his original allegiance, and residence therein are compatible with his claim to continued protection as a citizen while so residing abroad. These are the facts and circumstances to be ascertained by the legation, taking into account our existing treaty with Denmark.

It is much to be regretted that the inquiry has taken this indirect course, as the determination of Mr. Sorensen's case has thereby probably been needlessly prolonged.

I am, etc., RICHARD OLNEY.

Mr. Risley to Mr. Olney.

No. 153.] LEGATION OF THE UNITED STATES,
Copenhagen, February 15, 1897. (Received March 1.)

SIR: Referring to your dispatch No. 153, dated November 28, 1896, relating to the case of Jens Anton Edvard Sorensen, a naturalized citizen of the United States of America, I have the honor to report that I have had a correspondence with him, and subsequently he has called at this legation and presented the usual application for a passport, supported by affidavit, identification, oral examination, court records, and other documentary proofs (which will be forwarded with the regular quarterly report of passports); by all of which I am satisfied that he was born in Varde, Denmark, in 1865, immigrated to New York in

March, 1886, and was duly naturalized as a citizen of the United States on the 20th of October, 1891. He returned to Denmark in August, 1894, bringing with him his wife, whom he had married in America, and two children, both born in that country, for the purpose of making a visit to his family and to aid his mother in settling the estate of his father, who had died the previous year; that while so engaged an aunt of his died in 1895 at Varde, leaving by will the whole of her small estate to him, and he has since been employed in settling the same. I am entirely satisfied from his statement and proofs that he came back to Denmark with the intention of returning to the United States and residing and performing the duties of a citizen therein, and that he would have returned before this but for the circumstances above referred to. The business which has detained him here is now nearly settled, and he states that it is his intention to return to America between this date and the 1st of April next.

In August last, when he had been back in Denmark barely two years, the authorities of the town or district of Varde summoned him to appear for examination for military duty. He appeared and claimed exemption on the ground that he was a citizen of the United States and intended to return to America, and also made some claim of physical disability, and at an adjourned meeting produced his certificate of naturalization (the same referred to in your dispatch No. 153) and demanded that he be released. It appears that the hearing was adjourned and the certificate sent to the ministry of justice in Copenhagen, with an inquiry as to its authenticity, and subsequently, through the ministry of foreign affairs, to the Danish ministry, who referred the inquiry to the Department of State. Sorensen has not since been called before the authorities, but has been informed that he will be held to the performance of military service, and will be called upon for such duty in April next. It is said he is also liable to fine and imprisonment for not having presented himself for such duty at the proper time, though no judgment has yet been pronounced against him to that effect, so far as he knows. It is inferred that the board or tribunal held that the certificate of naturalization was not sufficient evidence of his United States citizenship (as in fact it was not the proper evidence), or that by having returned to and resided in Denmark more than two years he is concluded from asserting his intention to return to the United States, and his citizenship in the latter country is thereby renounced. I have a certified copy of the record of the proceedings of that board, and it states no ground for its conclusion. He is clearly entitled to a passport, unless it be held that the point of renunciation is well taken.

The language of the treaty of naturalization of 1872, Article III, last sentence, is far from clear, and so far as I can learn here has never been judicially or officially construed in any case. It seems to me that the reasonable construction is that "more than two years' residence" may be held presumptive evidence of the nonintention to return, but that presumption may be overcome by proof to the contrary.

As above stated, I am entirely satisfied by the evidence that it has constantly been and still is Sorensen's intention to return to the United States, and that he has been kept here so long only by business which, under the treaty of 1826, a citizen of the United States has a lawful right to carry on, and to reside in this country while transacting it.

As it seemed important to Sorensen to have immediate protection, I have, without delaying for reference of the question to the department, issued a passport to him.

I have, etc., JOHN E. RISLEY.

Mr. Olney to Mr. Risley.

No. 159.] DEPARTMENT OF STATE,
Washington, March 2, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 153, of the 15th ultimo, relative to your action in issuing a passport to Mr. Jens Anton Edward Sorensen.

Your course in regard to the matter is fully approved by the Department.

I am, etc., RICHARD OLNEY.

LIABILITY OF FRED. A. NIELSEN TO MILITARY DUTY.

Mr. Risley to Mr. Sherman.

No. 179.] LEGATION OF THE UNITED STATES,
Copenhagen, October 14, 1897. (Received Oct. 30, 1897.)

SIR: I have the honor to inclose herein a letter to Mr. Fred. A. Nielsen, of 669 North Campbell avenue, Chicago, in reply to one from him. As the matter may involve further action, I think it proper to send my reply to the Department, to be forwarded to him only in case of your approval of what has been written.

I have, etc., JOHN E. RISLEY.

[Inclosure in No. 179.]

Mr. Risley to Mr. Nielsen.

COPENHAGEN, *October 14, 1897.*

SIR: Your letter, without date, is received, in which you state you wish to be informed whether you yet owe military service to Denmark. You state that you were born at Hjorning, Denmark, January 21, 1867, and in September, 1886, you appeared before the sessions for examination for military duty, and were assigned to such duty in the infantry, but your brother had just returned from America on a visit, and you considered it better to go with him to America than to serve in the army, and did so. You state, however, that before leaving you wrote to the minister of war, asking leave to go, and have been informed that your family, after your departure, received from the minister such leave. You also state that for the last six years you have been a naturalized citizen of the United States.

Under these circumstances you ask whether you can safely return to Denmark for a visit of one or two months?

I reply that under the laws of Denmark you still owe military duty to the country, and if leave to depart was not actually granted by the minister of war, you would be liable to punishment as a deserter; but in other cases of a similar character, when the returning visitor produced a passport from the United States, showing him to be a citizen of that country, the Danish Government refrained from exacting military duty or inflicting punishment for desertion, and I have little doubt that the same course would be pursued in your case if you should return here on a visit. If you should do so, I advise you by all means to pro-

vide yourself with a passport from the Department of State at Washton before leaving the United States.

I forward this through the Department of State.

Very respectfully, yours, JOHN E. RISLEY.

Mr. Adee to Mr. Risley.

No. 193.] DEPARTMENT OF STATE,
Washington, November 2, 1897.

SIR: In reply to your dispatch No. 179, of the 14th ultimo, I have to inform you that the letter sent therewith, addressed to Mr. Fred. A. Nielsen, on the subject of his liability to military duty in Denmark, is approved by the department and has been forwarded to him.

Respectfully, etc.,

ALVEY A. ADEE,
Acting Secretary.

PROTECTION OF MORMON MISSIONARIES.

Mr. Risley to Mr. Sherman.

No. 161.] LEGATION OF THE UNITED STATES,
Copenhagen, June 4, 1897. (Received June 18.)

SIR: I have the honor to report that I have received a petition from C. N. Lund, who describes himself as president of the Scandinavian Mission of the Mormon Church, accompanied by an affidavit of J. J. Jensen and Joseph Larsen, missionaries, in which are set forth several grievances, and asking my intervention and protection on the ground that they are American citizens.

I have no reasons to doubt the truth of the statements contained in these papers, but, in view of the general instruction No. 181 and of the facts complained of being rather of a general policy than of any particular case of pressing urgency, I am not inclined to investigate or take any action until the matter shall have been submitted for your consideration and instruction.

As original documents are more forceful than any copy, I inclose said originals, with a respectful request that after consideration they be returned to this legation.

I am under the impression that by the vigorous action of the United States Government polygamy has been effectually suppressed; and the provisions of the constitution of Utah and conditions of her admission into the Union as a State, as well as the laws of the United States and, I hope, more enlightened views among the Mormons themselves, render it highly improbable that that system can ever be revived in Utah or elsewhere in the United States, or that even an attempt at such revival is likely to ever be made. Under these circumstances you may think it advisable to reconsider and perhaps modify instruction No. 181.

I beg to submit the whole matter for consideration and instruction.

I have made no answer to the petition. Indeed, I can not answer, as no address is given; but it is probable that the petitioner intends to call at this legation. If he shall do so before your instructions are received I will inform him of the reference to the department.

I have, etc.,

JOHN E. RISLEY.

[Inclosure 1 in No. 161.]

Mr. Lund to Mr. Risley.

COPENHAGEN, *Denmark, May 13, 1897.*

SIR: As citizens of the United States of America temporarily residing in this country, feeling ourselves aggrieved on account of the treatment received from the officers of the Danish Government, we most respectfully petition your excellency to use your influence in our behalf, that we may be accorded the same protection and privileges under the laws of this country as are given to other foreigners.

Representing as we do the Church of Jesus Christ of Latter-day Saints, we desire to state that for the past few years our missionaries have from time to time been subject to arrests and banishment, and that through a procedure which we do not think is warranted under the constitution of this country—that is, they have been summoned to appear before the officers of the law simply to hear the decree of banishment read to them, with a demand for them to leave the country at once, and as a rule they have been escorted out by the police officials, having had no specific charges preferred against them or been given any chance of a defense.

If we break any law, we shall not complain if we have to suffer the consequences, but as American citizens who are quietly and peaceably pursuing our labors as missionaries, preaching nothing but the doctrines of Christ and offending no one, we protest against the treatment herein referred to, and we object to being dealt with like criminals and felons without knowing wherein we have offended.

We have at present from forty to fifty missionaries laboring in this country, not in a corner, but openly and publicly all over the land, and we are glad to say that in the great majority of cases we have been able to pursue our labors unhindered. Only now and then from some obscure corner of the land we hear of arrests and banishment. We can scarcely believe that it is the intention of the Government in this, our native land, where religious toleration is so well established, to thus deal with us, but are inclined to the belief, as we are also informed, that the complaints against us come from ministers of the gospel in the Church of the State, who may have unkind feelings toward us on account of our different views in regard to religion or the interpretation of the Word of God.

We have submitted, by affidavit hereunto attached, the facts as they have come to us in the recent case, and earnestly hope that you will give it your kind attention and afford us such aid as it shall be within your power to do.

We ask for no favors that can not legitimately be accorded to others under similar conditions, but we do desire, and shall insist, that we be permitted to stand on common ground with other foreigners who are sojourning here for similar purposes, and that we shall not, because we happen to represent an unpopular church, be singled out and discriminated against.

We fully believe that your excellency, as an honored representative of a great and free Government, will do all in your power to secure its citizens here in the enjoyment of all the privileges that they can lawfully claim, and your humble petitioners and fellow-citizens will be ever grateful.

C. N. LUND,
President for the Skandinavask Mission.

[Inclosure 2 in No. 161.]

On this 15th day of March, A. D. 1897, before me, Peter M. Flensburg, personally appeared Jens Jorgen Jensen and Joseph Larsen, who, after being duly sworn, severally depose and say:

That they are citizens of the United States of America, members and missionaries of the church known as "The Church of Jesus Christ of Latter-day Saints," and have as such been laboring in Bornholn, Denmark, for more than six months past.

That they have not during said period of time solicited pecuniary aid from anyone, but have preached the Word free of charge and made gratuitous distributions of their church literature; that the public gatherings held by them have been conducted in a peaceful and orderly manner; that in conformity with their church rules the doctrine of polygamy has in no instance been advocated by them, and that they have not, so far as their knowledge extends, at any time or in any manner violated the laws of the land.

That notwithstanding these facts they were, on the 16th day of February, A. D. 1897, summoned and appeared before the mayor of the city of Bonne, who questioned them regarding their birth, occupations at home and here, citizenship, future intentions, etc., and thereupon dismissed them.

That again, March 1, 1897, they were summoned before the same official, who read to them a decree of banishment issued by the minister of justice, and when asked the cause he stated, "You are Mormon missionaries working for the Mormon Church."

That thereupon they were ordered to take steamer next day for Copenhagen, where upon their arrival they were met by police officials and escorted to the court-house, when after a few hours' detention they were released and commanded to leave the country.

That this command was complied with by Jens Jorgen Jensen on March 4, A. D. 1897, and by Joseph Larsen March 10, A. D. 1897.

That throughout all these proceedings no specific charge or complaint against them has come to their knowledge, and they have been given no opportunity for defense.

J. J. JENSEN,
JOSEPH LARSEN.

Subscribed and sworn to before me at Malmo this 15th day of March, A. D. 1897.

PET. M. FLENSBURG,
United States Consular Agent at Malmo, Sweden.

Mr. Adee to Mr. Risley.

No. 176.] DEPARTMENT OF STATE,
Washington, July 23, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 161, of the 4th ultimo, inclosing a petition from Mr. C. N. Lund, who describes himself as president of the Scandinavian Mission of the Mormon Church, accompanied by an affidavit of J. J. Jensen and Joseph Larsen, in which they set forth several grievances and ask your intervention and protection on the ground that they are American citizens.

In reply I inclose for your information, as indicating the present attitude of this Government toward Mormon missionaries, a copy of the Department's instruction No. 46, of June 25, 1895, to Mr. J. Lamb Doty, United States consul at Tahiti; also copy of a letter of June 24, 1895, from Messrs. Woodruff, Cannon, and Smith, "first presidency of the Mormon Church." The letter in question sets forth the assurance on which the Department based its views that Mormon agents, as the church is now constituted, have the same right of governmental protection as any other law-observing sect of American citizens. If they preach immoral doctrines contrary to the law of the foreign country, intervention on their behalf can not be made; if their teachings and

practices contravene the laws of the United States, the support of our public agencies can not be lent to their foreign propaganda.

Respectfully, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Uhl to Mr. Doty.

DEPARTMENT OF STATE,
Washington, June 25, 1895.

SIR: The Department has received your dispatch, No. 108, May 11, relative to the position of missionaries of the Mormon Church in Tahiti and the refusal of the local authorities to permit them to preach without special license.

In reply you are informed that as long as polygamy was one of the purposes of Mormon teaching, the agents of this Government abroad were instructed to refuse protection to Mormon missionaries. Such repressive action was invited in 1884 especially. (See "Foreign Relations," 1884, pp. 10, 198, etc.) But polygamy is now no longer announced as the chief tenet of Mormonism, and the church has the same civil rights as are enjoyed by other religious bodies in this country. If the Mormon missionaries in Tahiti observe the civil law of marriage, as they profess to do, and preach and practice no doctrine violating law or morality, they should have the same impartial protection as other American citizens enjoy for the defense of their just and lawful rights.

The Department can not complain if, in accordance with local regulations, they are forbidden to preach without a license, but it can not acquiesce in the denial of a license for any trivial cause, or at the arbitrary discretion of the authorities. Assuming that they are law-abiding and moral teachers, they should have equal treatment with other propagandists.

You are instructed to follow the purpose of this instruction in dealing with this question.

I am, sir, your obedient servant,

EDWIN F. UHL,
Assistant Secretary.

DOMINICAN REPUBLIC.

TERMINATION OF TREATY OF FRIENDSHIP, COMMERCE, AND NAVIGATION.

Mr. Wos y Gil to Mr. Olney.

[Translation.(?)]

LEGATION OF THE DOMINICAN REPUBLIC,
New York, January 12, 1897.

SIR: I have the honor to wait upon you with the inclosed note from the minister of foreign relations of my country. It was my intention to deliver it personally to you, but an unexpected circumstance has deprived me of the pleasure, as also the satisfaction of presenting to you my respects.

As I am informed by the minister of foreign relations, the object of said note is to denounce the treaty of 1867, agreed upon between the Dominican Republic and the United States, this action being based upon clause 31 of said convention.

Hoping that the treaty in question may be substituted at an early date by another agreement which may more efficaciously respond to the development of our general relations, I have, etc.,

WOS Y GIL.

[Inclosure.]

Mr. Henriques to Mr. Olney.

DOMINICAN REPUBLIC,
MINISTRY OF FOREIGN AFFAIRS,
Santo Domingo, November 5, 1896.

MR. MINISTER: The Government of the Dominican Republic, of which I am a representative, has authorized me to address that of the United States of America, through the worthy medium of your excellency, in order to notify it of the denunciation of the treaty of friendship, commerce, and navigation entered into between the two Governments the 8th day of February, 1867.

In obeying these instructions, I must tell your excellency that this denunciation is based upon Article XXXI of the treaty, and that its object is, therefore, to terminate its effects.

I consequently take pleasure in informing your excellency that the Dominican Government entertains the hope that the treaty of 1867 will, at no distant day, be replaced by conventions in every respect suited to the present needs of both countries.

With this hope, and cherishing the warmest wishes for the stability and greatness of the United States, I have the honor, Mr. Minister, to subscribe myself, your excellency's most obedient servant,

HENRIQUE HENRIQUES.

Mr. Olney to Mr. Wos y Gil.

No. 5.] DEPARTMENT OF STATE,
Washington, January 16, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, inclosing one from his excellency, the minister of foreign relations of the Dominican Republic, announcing that it is the desire of his Government to terminate, in virtue of article 31, the convention of February 8, 1867, between the United States and the Dominican Republic.

Your note having been received on the 13th instant, this Government accepts the denunciation of the treaty, which will terminate, in virtue of the stipulations of article 31, on January 13, 1898.

As the convention in question comprises provisions relating to extradition and consular officers (subjects not usually embraced in modern commercial treaties), I trust at an early date to be able to transmit to you draft for separate conventions on those subjects, leaving the important questions of commerce and navigation for future consideration.

Accept, etc., RICHARD OLNEY.

ECUADOR.

UNITED STATES CITIZENS IN ECUADOR.

Mr. Tillman to Mr. Sherman.

No. 130.] LEGATION OF THE UNITED STATES,
Quito, December 7, 1897. (Received Jan. 14, 1898.)

SIR: I have the honor to submit to you some suggestions and some facts in reference to the rights of citizens of the United States in Ecuador, native and naturalized, long resident in this Republic, and respectfully express the opinion that it is a subject which ought to have the attention of the legislative branch of our Government. The same conditions which prevail in Ecuador, I am informed, prevail also in other parts of South America and Central America.

There are very few native-born citizens of the United States in Ecuador long resident in this Republic. One has resided in Quito more than twenty years, where all his estate, real and personal, is situated, of which he has a considerable fortune for this country. He is hated by the natives because he is said to be a Jew, and he takes pleasure in calumniating all Americans from the United States, both private citizens and officials, who refuse to accord him social recognition. His commercial connections are almost entirely with European houses. There are a few other citizens of the United States who have resided in Ecuador, where they have lived for periods of ten to thirty years in this Republic, some of them having married here and others raised families without marriage.

The naturalized citizens are mainly Germans by birth and Germans still in their love of Fatherland and in their business connections. There are Poles, Russians, Hungarians, and a few French and Irish long resident here, and perhaps never permanently resident in the United States, who claim to be and are naturalized citizens of the United States.

It would be difficult for many of these residents to show that they ever intended to return to the United States. They pay no taxes and render no service to the Government of the United States, and they claim exemption from all extraordinary duties and taxes to the Government of Ecuador, and even appeal to the officials of the former Government to be shielded from duties and taxes which are common to all residents in all countries.

Only a few months since two sons of a prominent and wealthy citizen of Quito went to New York and filed their declaration to become citizens of the United States. One has already returned to Quito and the other is on his return voyage to Quito at this time.

The treaty of 1872 between Ecuador and the United States attempts to guard Ecuador against persons born in Ecuador and still resident in this Republic fraudulently obtaining and continuing indefinitely rights as citizens of the United States.

Of the latter class there are a few, but of the others, native and naturalized citizens of the United States, there are many, who are permanently located in Ecuador, and certainly never lived in the United States long enough to learn the English language, or have forgotten it.

I am, etc.,

JAMES D. TILLMAN.

FRANCE.

INCREASED IMPORT DUTIES ON PORK AND LARD.

Mr. Vignaud to Mr. Olney.

No. 633.] EMBASSY OF THE UNITED STATES,
Paris, February 12, 1897. (Received Feb. 23.)

SIR: I have to report that there is now pending before the Chamber of Deputies a bill for the increase of import duties on pork products, some articles of which will seriously affect American export to France of these products, if the bill is passed.

It proposes to increase the duty on sausages and all pork butchers' meat from 25 to 70 francs per 100 kilograms; and the duty on lard from 14.50 to 25 francs.

The other articles of the bill refer to live pork, young pigs, and fresh pork.

I have, etc.,

HENRY VIGNAUD.

Mr. Olney to Mr. Vignaud.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 24, 1897.

Your 633 received. Proposed increase of duties on pork products, while not understood to discriminate in terms against the United States, is most onerous and virtually prohibitory, operating to close a most important market of supply and to paralyze a mutually beneficial commerce. Timely and considerate remonstrance in a spirit of perfect amity may avert a measure which could not fail to produce a most painful impression in this country.

OLNEY.

Mr. Vignaud to Mr. Olney.

No. 642.] EMBASSY OF THE UNITED STATES,
Paris, February 26, 1897. (Received March 10.)

SIR: Your telegram in reply to my No. 633, concerning the proposed increase of duty on foreign pork products, was received yesterday morning. A few hours after I met M. Hanotaux and told him of the instructions I had received, and in order to remove from his mind any idea that we were endeavoring to exercise any undue pressure upon him before the French Government had taken a stand in the matter I said that, although your instructions were not intended to be communicated to him, I would send him unofficially a literal translation of the telegram containing them, which would enable him to judge for himself of the considerate and friendly spirit in which they were couched.

The same day I sent the translation of your cable, and as there is an interpellation on the question in the Chamber fixed for to-morrow I added to my note of transmittal a few remarks on the fallacy of the argument made by the advocates of the proposed law that foreign importations of pork products had caused a great decline in the prices of home products of the same sort, whereas it is shown by the recent statistical reports that such importations have declined since 1894, and that the falling off in prices complained of is simply the result of overproduction.

I also called the minister's attention to an intimation that it was intended to propose the organization, in France, of a service of microscopical examination inspection of all imported pork products which, if adopted, would not only add to the already heavy duty levied on these products, but would, as far as the United States are concerned, be contrary to our understanding with the French Government that American pork products which are to be exported to France will not be permitted to be shipped without having been previously microscopically examined and stamped accordingly by Government inspectors.

I shall inform the Department of the result of to-morrow's interpellation, in case it should amount to anything.

I inclose a copy of your telegram mentioned above.

I have, etc.,

HENRY VIGNAUD.

Mr. Vignaud to Mr. Olney.

No. 643.] EMBASSY OF THE UNITED STATES,
Paris, March 1, 1897. (Received March 16.)

SIR: The interpellation on the decrease in the sale of pork products mentioned in my No. 642, of February 26, took place on Saturday last in the Chamber of Deputies.

M. Meline, minister of agriculture and president of the council, replying to those who ascribed the depression of French trade in pork products to the large foreign importation, said this depression was mainly caused by overproduction; but he nevertheless declared that when the bill for increasing the duty on foreign pork products came up the Government would favor it, so far as pork butchers' meat (charcuterie) was concerned.

M. Gruet, a French deputy, from the Gironde department, stated that the proposed increase of duty would not end the crisis and could be attended with disagreeable consequences, as the United States might retaliate by increasing the duties on French woolens and silks.

In the course of the debate the president of the council said that he had in preparation new rules of inspection for pork butchers' meat (charcuterie) imported from abroad.

I have, etc.,

HENRY VIGNAUD.

Mr. Eustis to Mr. Sherman.

No. 649.] EMBASSY OF THE UNITED STATES,
Paris, March 8, 1897. (Received March 23.)

SIR: Referring to Mr. Vignaud's No. 642, informing the Department of the action he had taken upon receiving the telegram of February 24

concerning the bill introduced in the Chamber of Deputies for the increase of the import duties on pork products, I now send a copy and translation of M. Hanotaux's reply to Mr. Vignaud's communication.

It is friendly in tone and gives the assurance that no hasty action will be taken and that the French Government will always be disposed to discuss in the same sentiment expressed by us its commercial interests with the United States.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 649.—Translation.]

Mr. Hanotaux to Mr. Vignaud.

PARIS, *March 6, 1897.*

MR. CHARGÉ D'AFFAIRES: I hastened to communicate to the president of the council and minister of agriculture, as soon as I received it, that is, on the 27th of February last, the letter you addressed to me on the 25th of February.

I thank you for having been kind enough to communicate to me the telegram which Mr. Olney addressed to you, and I have no need to tell you that you will always find the French Government disposed to discuss, in the same sentiments you express, its commercial interests with a friendly nation.

I made good note of the considerations which present as to what concerns the inspection of meats.

If you have taken the trouble to read the account rendered of the debates of the Chamber, you will have remarked the indications given by M. Méline in regard to the great development of production of which you had on your side pointed out the influence in the depreciation of prices.

The solution which was given to the discussion by the adoption of the order of the day pure and simple, accepted by the Government, appears, besides, of a nature to calm the impressions which this debate has inspired. The declarations of the president of the council can not but reassure you against the eventuality of any hasty resolution and which did not take into account the interests of our commerce with the United States.

Please accept, etc., G. HANOTAUX.

Mr. Porter to Mr. Sherman.

No. 26.] EMBASSY OF THE UNITED STATES,
Paris, June 28, 1897. (Received July 12.)

SIR: A few days ago the committee on custom duties of the Chamber of Deputies adopted what is known under the name of "proposition Jonnard," which makes the following changes in the articles of the tariff concerning pork products:

ART. 17. Salted pork, hams, and bacon, 30 francs instead of 25 francs.
ART. 17 bis. Hog products (chacuterie), 70 francs instead of 25 francs.
ART. 30. Lard, 25 francs instead of 14.50 francs.

The committee is composed of members of the majority, which seems to favor any change in the tariff increasing the duty on American meat products. An indication of this feeling is shown in a bill of a rather singular character which was introduced in the House on the 3d instant.

In the argument which precedes this bill it is stated, among other things: That American farmers fatten their hogs on unhealthy detritus and even filth (immondices); that the new tariff scheme of the United States Government ought to attract the attention of the French legislator; that the vote of this scheme is certain and that its effect will be to shut out from the United States nearly all the French goods which are now sold there; and that the only means of preventing the United States from increasing the duty on French goods is to retaliate by imposing higher duties on goods imported from the United States.

To that end the bill proposes the following changes:

Salted pork, etc., 50 francs instead of 25 francs.

Hog products, 80 francs instead of 25 francs.

Canned meats, 40 francs instead of 20 francs under the general tariff, and 60 francs instead of 15 francs under the minimum tariff, the one now applied to us according to the agreement of 1893.

Meat extracts, 80 francs instead of 40 francs.

A separate article provides for doubling the duties on American goods imported into France in case higher duties were charged in the United States on French goods. But it is hardly likely that a bill expressing such extreme views will be taken into serious consideration.

I have talked with the most influential members of the ministry about these measures, and feel assured from what they tell me unofficially that the Government will not support these bills and that they are not likely to pass. The progress of all such measures will be carefully watched and any important progress reported.

I have, etc.

HORACE PORTER.

Mr. Sherman to Mr. Porter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 3, 1897.

Referring to Olney's telegram February 24 and Vignaud's 649, it is learned that proposed doubling of duties on meats and lard is approved by French tariff committee. As this measure means virtual prohibition, it does not stand on the same footing as increased taxation for raising more revenue, which latter is legitimate and imports no national discrimination as the present proposal practically does against a commerce in which the United States is one of the most important sources of supply. You will renew timely and considerate remonstrance against a measure no less onerous to the French consumer than destructive to a large established trade.

SHERMAN.

Mr. Porter to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris. (Received July 5—9 a. m.)

Telegram received. Wrote full particulars in dispatch of 28th. Have talked further with most influential members of Government, and all

feel that Government will not support the bills and they are not likely to pass. Am watching them carefully.

PORTER.

Mr. Sherman to Mr. Porter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 19, 1897.

Am advised that material increase in duty upon lard and sausages will be discussed by Chamber of Deputies to-morrow (Saturday), with possible attempt to make such duties prohibitory. The treatment of pork and pork products is under consideration here in pending reciprocity negotiations, and such action as is apprehended might be a serious embarrassment. You will use good offices as energetically as discretion may allow to prevent proposed increase, bearing in mind previous instructions on same subject.

SHERMAN.

Mr. Day to Mr. Porter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 19, 1897.

Understand Chamber of Deputies will to-morrow discuss increased duties on lard and sausage. Such increase serious blow to American interests. Do all you can to prevent such action. Protest if necessary.

DAY, *Acting.*

Mr. Porter to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATE,
Paris, November 20, 1897.

Mr. Day's cable and yours received. Matter has never ceased to have my attention. Question was to come up to-day, but I had it postponed by making the very point you suggest. I argued it myself with Mr. Hanotaux, whose good will is secured and who will do all he can to have the proposition set aside. It may come up again, however. Pressure on the Government is very great.

PORTER.

Mr. Porter to Mr. Sherman.

No. 125.] EMBASSY OF THE UNITED STATES,
Paris, November 26, 1897. (Received Dec. 6.)

SIR: Since the cable I sent you on the 20th instant in reply to the telegram of the Department concerning the bill introduced in the French Chamber of Deputies for the increase of the import duties on

pork, pork products, cotton oil, etc., I have followed up my previous action with a view to leaving no steps untaken to prevent hostile action here. The bill concerning pork products is the same one mentioned in this embassy's No. 633, of February 12, 1897. It was somewhat amended in the committee room, and, in its present shape, it proposes the following changes to the tariff in force:

Article 12 of the tariff: Pork, 12 francs per 100 kilograms instead of 8 francs.

Article 13: Pigs weighing 35 kilograms or less, 3 francs instead of 1.50 francs.

Article 16, section 2: Pork meat, 18 francs instead of 12 francs.

Article 17 *bis:* Pork butchers' meat, 70 francs instead of 25 francs.

Article 30, section 2: Lard, 25 francs instead of 14.50 francs.

I have seen many times Mr. Hanotaux and other French officials with reference to this matter, and have endeavored to convince them—

(1) That the enactment of a bill introducing such radical changes in the present rates would undoubtedly be fatal to our contemplated reciprocity arrangement, and have urged them to postpone action at least until their new ambassador could reach Washington and take up the subject of reciprocity anew.

(2) That the proposition is, in itself, not only unjust, as leading to the destruction of an important branch of commerce between our two nations, but also unfriendly in its character, as it discriminates against the United States.

I know that these arguments have made a serious impression on Mr. Hanotaux and his associates at the foreign office, and that through him and them they have reached the department of agriculture and determined the action of Mr. Meline, the prime minister, in having the proposition adjourned.

In his conversation with me on this subject Mr. Hanotaux, however, alluded more than once to the great loss suffered by the French trade in consequence of the sudden substitution of the Dingley tariff for the Wilson Act, and intimated that if the reciprocity arrangement now under consideration could not be brought to a successful termination, it would be impossible to prevent the introduction in the Chamber, and perhaps the adoption of measures affecting more or less some of the American products which the French farmers consider as competing advantageously with their own.

On the 19th instant, after the adjournment of the debate on the bill on pork products, four deputies introduced an amendment to that bill providing for an increase of 18 francs per 100 kilograms on cotton-seed oil, which it is proposed to tax 24 francs instead of 6 francs. The amendment was referred to the committee.

The manufacturers of soap in France, who use a great deal of pure cotton oil, are now appearing before the committee and arguing against an increase of tariff on that article, but those engaged in the business of manufacturing oil from seeds are bringing all the pressure they can in favor of the increased tariff on our oil.

Mr. Cambon, the new ambassador to the United States, will not sail until about Christmas.

I have, etc., etc., HORACE PORTER.

SUIT OF SCHNEIDER & CO. VERSUS THE CARNEGIE STEEL COMPANY.

M. Patenôtre to Mr. Sherman.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, June 9, 1897.

MR. SECRETARY OF STATE: The attention of the department of foreign affairs has been called by Mr. Schneider, director of the French Creusot Company, to an action at law brought by him against the American Carnegie Company for the illegal manufacture of iron plates and for the violation of a patent issued to the inventors in 1889 by the Patent Office at Washington. The Federal Navy Department having concluded contracts with the Carnegie Company for the manufacture of these same plates, and having consequently become interested in this case, has, it appears, espoused the cause of said company in a wholly abnormal manner. Mr. Schneider complains of the irregularity of this official intervention in a private suit, and of the injury that it does him by compelling him to seek, before the courts at great expense, the settlement of a matter which might otherwise have been amicably and much more speedily arranged.

Before laying the case before your Department, as my Government has instructed me to do, I thought proper to request Messrs. Pollok & Mauro, counsel at Washington for the Creusot Company, to furnish some information on the subject. You will find inclosed a copy of the letter which I have received from them, and which contains a full statement of the case. It appears from this statement that evidence of the official pressure complained of by the interested parties is furnished by a report recently made to the United States Senate by its Committee on Naval Affairs, in which that committee criticizes such official pressure as improper.

The report in question bears date of February 11, 1897, and its number is 1453. On page xii are the following words:

> Messrs. Schneider & Co. earnestly complain, not merely because the Navy Department does not pay them a royalty on their patents, but because it virtually makes the Government a party to a suit to destroy their patents for all purposes whatever.

The report adds (pp. xxxi and xxxii) that Mr. Herbert, then Secretary of the Navy, having considered the question, decided that it would be proper to compromise, but that no agreement as to the amount to be paid to Messrs. Schneider & Co., as compensation for the use of their invention, was reached during his incumbency of office.

The Senate Committee on Naval Affairs concludes as follows:

> These armor plates were deemed indispensable by Secretary Tracy and continue to be so considered by Secretary Herbert, but the plan adopted by Secretary Whitney of paying for their use was abandoned. A fund of $270,000 was provided by order of Secretary Tracy for contesting the validity of the patents, and the litigation is still pending.
>
> The committee believe that Government officials ought not to promote a monopoly of the business of making armor through patents issued to the use of the combined manufacturers while using the power of the Government to destroy the patents held by foreigners.

These conclusions leave no doubt as to the official intervention placed at the service of the Carnegie Company. My Government would be

glad to receive the assurance that the present Administration is actuated by the same sentiments as the Senate committee, and that it will no longer be a party to the suit brought by Mr. Schneider in order to assert the rights which the Federal Government guaranteed to him in 1889 by granting him a patent.

Be pleased to accept, etc., PATENÔTRE.

[Inclosure.]

Messrs. Pollok & Mauro to M. Patenôtre.

WASHINGTON, D. C., *June 4, 1897.*

SIR: In reply to your communication of the 29th ultimo, requesting further particulars in the matter of the suit brought by Messrs. Schneider & Co., of Creusot, France, against the Carnegie Steel Company, of Pittsburg, for infringement of patents granted by the United States to Mr. Henri Schneider for making nickel-steel armor, we have the honor to call your attention to a report of the Senate Committee on Naval Affairs, dated February 11, 1897 (Report No. 1453), in which the details of this affair are fully set forth.

Inasmuch as the report is a voluminous document, containing many matters foreign to the subject of your inquiry, we will give a brief summary of the pertinent facts.

(1) The Government of the United States, having confidentially obtained the information that a new armor of theretofore unknown resistance had been invented by Messrs. Schneider & Co., obtained a plate from the inventors and had the same tested at Annapolis in September, 1890. These tests produced a revolution in the naval armament of the world.

(2) Mr. Schneider had in the meantime applied for letters patent of the United States for the invention, and the Secretary of the Navy, Mr. Tracy, deemed it of such importance to the public service that he made official request to the Secretary of the Interior to expedite the examination of the application and the issuance of the patent, which was issued November 19, 1889.

(3) Mr. Carnegie, of Carnegie, Phipps & Co. (now the Carnegie Steel Company), who had been negotiating with Mr. Tracy, then the Secretary of the Navy, for a contract for making armor, on learning the result of the Annapolis tests, immediately proceeded to London and negotiated, through correspondence, a license from the owners of the Schneider patents, and agreed to pay a royalty of 2 cents per pound of armor for the right to use the invention. No formal contract was made. With this preliminary arrangement Mr. Carnegie secured a contract from the Navy Department, dated November 20, 1890, for about 6,000 tons of armor. The contract is printed in the said report of the Senate committee, beginning at page 15.

In this contract was a clause for which we believe there is no precedent in this or any other country, and which has had the effect of prejudicing the interests (vested by the grant of letters patent of the United States) of citizens of France. In this clause it is provided that the Government may require the armor to be made of nickel-steel in accordance with the invention patented to Messrs. Schneider & Co., and in order to relieve the Carnegie Company, who had obligated them-

selves to pay 2 cents per pound royalty to the patentees, the Secretary of the Navy, to the injury of the patentees (who were not parties to the contract and knew nothing of these matters), expressed a doubt as to the validity of the patents, and set aside a large sum of money—about $270,000—to be expended by the Carnegie Company, aided by the power and influence of the Government, to contest the patents in the courts. (See page xiii of report.)

We do not refer to other particulars, as they do not affect the present situation.

(4) The Carnegie Company proceeded to execute this contract, and in so doing violated the rights which the Government of the United States had granted to Messrs. Schneider & Co.

Subsequently the Government made other contracts with the Carnegie Company for many thousand tons of armor, but in these new contracts the clause above referred to, and which guaranteed the contractors against the claim for royalties under the Schneider patents, was not included. For the royalties for armor made under these latter contracts the manufacturers were themselves responsible to the patentees, the Government having no liability therefor.

In due course a suit was brought by Schneider & Co. for recovery of the royalties due to the former for the use of their patented invention. It will be understood that the Government, by its contract of November 20, 1890, with the Carnegie Company, rendered itself liable for the royalties upon the armor made under the later contracts.

Notwithstanding that this suit embraces royalties for the greater part of which the Government has no liability, the Navy Department undertook the defense of the suit, and to pay all the expenses thereof out of the funds set aside as above stated. In this proceeding the public funds are used to contest the validity of the grant of the Government, and to destroy, if possible, the rights which it has vested and pledged itself to secure. If it were possible to understand the attitude of the Government with respect to the claim of the patentees, upon armor made under the first contract, it would not be possible to understand its attitude with respect to royalties for armor made under later contracts, for which the Government is not liable.

(5) The Carnegie Company, aware of the danger to which they were exposed, notwithstanding the Government guaranty, in accumulating a large indebtedness to the patentees, were negotiating with Messrs. Schneider & Co. for a settlement, but were constrained by the position taken by the Government averse to the patents, as above stated, and by reason thereof the negotiations have been fruitless. (See testimony of Secretary Herbert, p. 10 of report, first paragraph.) It thus results that up to the present time the patentees have received no compensation whatever for the extensive use of their invention by the Carnegie Company.

(6) On May 12, 1896, we addressed to the Navy Department a communication pointing out the injustice of the attitude toward Messrs. Schneider & Co., as patentees of the United States Government, and the impropriety of the interference of the Government in a civil suit brought under the grant of the Government and to enforce the rights guaranteed by it. We requested that the Government withdraw from said suit and either adjust the matter (so far as it was concerned) amicably with Messrs. Schneider & Co., or refer it to the Court of Claims. For a fuller statement of this matter we refer your excellency to that letter, which is printed in the committee report beginning at page xxix.

The Senate committee, commenting on this subject in their report (p. xii), say:

Messrs. Schneider & Co. earnestly complain, not merely because the Navy Department does not pay them a royalty on their patents, but because it virtually makes the Government a party to a suit to destroy their patent for all purposes whatever.

The then Secretary of the Navy (Mr. Herbert), on consideration of the matter thus brought to his notice, decided that it would be proper to compromise (see pp. xxxi and xxxii), but no agreement as to the amount to be paid to Messrs. Schneider & Co. as compensation for the use of their invention was reached during his incumbency of office.

(7) After full inquiry into these matters the Senate committee, in its report with reference to the "Schneider patent processes for compounding nickel-steel," say (p. xiii):

These were deemed indispensable by Secretary Tracy, and continue to be so considered by Secretary Herbert, but the plan adopted by Secretary Whitney of paying for their use was abandoned. A fund of $270,000 was provided, by order of Secretary Tracy, for contesting the validity of the patents, and the litigation is still pending.

The committee believe that Government officials ought not to promote a monopoly of the business of making armor through patents issued to the use of the combined manufacturers while using the power of the Government to destroy the patents held by the foreigners.

The United States Government has never in its history interfered in a civil suit to defend against a patentee suing under his grant from the Government. The good faith of the Government is pledged to protect its patentees in the enjoyment of the exclusive rights granted by the act of the Government, and under the laws of the land the Federal courts are required to exercise the power of the Government to protect and enforce the rights of its patentees against infringers, and this has uniformly been done throughout the history of the Government until the present case arose. This departure from the uniform and just treatment which the United States Government has accorded to its patentees is made in the case of French citizens who, confiding in the laws of the United States, brought forward their invention and communicated it in confidence to the authorities of the United States at such time as to render this Government a signal service by preventing the adoption of an inferior type of armor which has since been everywhere discarded.

In conclusion, we would say that it would be gratifying to our clients and to ourselves if, through the intervention of your excellency, the Government of the United States should be induced to pay due regard to the rights of Messrs. Schneider & Co. under their patent, and to preserve neutrality in the suit between them and the Carnegie Company.

With the assurances of our highest regard, etc.,

POLLOK & MAURO.

Mr. Adee to M. Patenôtre.

No. 108.] DEPARTMENT OF STATE,
Washington, July 23, 1897.

EXCELLENCY: Referring again to your note of the 9th ultimo, I have the honor to inform you that, as appears from the letter of the Secretary of the Navy, bearing date the 8th instant, his attention had already been called by the counsel of Messrs. Schneider & Co. to the legal pro-

ceedings brought to test the validity of letters patent granted to that firm for the manufacture of nickel-steel armor plate.

Your excellency will be gratified to know that proceeding is an ordinary suit pending in a court of the United States in which the rights of all parties are thoroughly guarded, and in which the interests of the plaintiffs, Messrs. Schneider & Co., who are citizens of the French Republic, will be as fully and impartially protected as would be the case if they were citizens of the United States.

The action of this Government in intervening in order to protect its own interests in the suit of Messrs. Schneider & Co. is precisely what it would be were the plaintiffs citizens of this country.

In November, 1890, a contract was entered into between the Carnegie Company and the United States, represented by Mr. Benjamin F. Tracy, then Secretary of the Navy, for the manufacture of armor plate. This contract provided for the incorporation of nickel in the armor. Messrs. Schneider & Co. had been granted letters patent by the United States for making steel armor, but Mr. Tracy had doubts as to the validity of those letters.

It were needless to say that the grant of letters patent by Government is never a guaranty of their validity, were it not that the attorneys of Messrs. Schneider & Co., in their letter to your excellency of the 14th ultimo, in speaking of the Schneider patent as "a grant of the Government," conveying "the rights which it (the Government) has vested and pledged itself to secure," and also your excellency in speaking at the close of your note of "the rights which the Federal Government guaranteed to him (Schneider) in 1889 by granting to him a patent," seem to imply that the grant of letters patent is a guaranty of their absolute validity. It is, on the contrary, well settled that a patent is not an absolute grant which a Government is bound to warrant and defend, but only a conditional grant, a prima facie title, sometimes called a mere right, to sue for alleged infringement, the condition being that it is invalid and nugatory if it shall appear that the patentee is not the original inventor, etc. The United States having granted a patent is, therefore, not only at liberty, but is bound to refuse to pay royalties under the same if it prove invalid. So, for instance, the late Secretary of the Navy, representing this Government, contracted to pay a large sum of money to an American patentee for a projectile, but made the contract conditional upon the validity of the patent, which the United States itself had already granted.

It was, therefore, plainly the duty of Mr. Tracy, in the case in question, to protect the United States from the payment of a royalty in the event that the Schneider patents should prove to be invalid. Any other action on his part would have been a neglect of duty. The royalty claimed by the patentee was 2 cents per pound of armor, and it was therefore provided in the contract between him and the Carnegie Company that 2 cents per pound of armor manufactured according to his process should be deposited to await the test of the validity of the patent. If invalid, or in the case of an amicable settlement, the balance of said amount remaining after such settlement and payment of legal expenses, as provided in the contract, was to be returned to the Government; if valid, said amount was to be used to pay the judgment, costs, and expenses, and if all was required to pay the judgment, then the United States was to pay certain expenses of the Carnegie Company, including reasonable attorney's fees.

It is difficult to see the slightest ground for criticism of the action of Mr. Secretary Tracy. On the contrary, it appears to have been the

ordinary precaution of a prudent man and faithful official, who honestly believed that his Government was liable to be subjected to a large invalid claim. The Carnegie Company, in making their contract at a fixed price for nickel-steel plate, insisted on being protected against a claim for the above-stated royalty by reimbursement of all damages thereby accruing. Mr. Secretary Tracy very properly agreed that they should be so reimbursed, but he further provided, with equal propriety, that if the claim for the royalty should, upon being tested, turn out to be an invalid one, the United States should be relieved from making any such reimbursement, except to the extent of the cost of making the test.

The case stands exactly as it would if at the time there had been a half dozen patentees claiming various rights in respect to such manufacture, and a general clause had been embodied in the contract between the United States and the Carnegie Company that, in addition to the price for the armor, there should be compensation for whatever sum should be judicially determined to be due from Carnegie & Co. to any of said patentees, and that there should also be added the fees and expenses which that company might be obliged to pay in testing the validity of such patents.

An omission of a provision of this kind would have been an inducement to the Carnegie Company to pay all such claims, without testing their validity, and then look to the United States for reimbursement. It is not easy to see how the case is made any stronger for Messrs. Schneider & Co. by reason of the fact that in this instance the amount reserved was a definite sum, amounting to $270,000, instead of an indefinite, unlimited sum.

As to the employment of counsel by this Government, what other course could it appropriately take in justice to itself? It bound itself to reimburse the Carnegie Company in case the patents should be declared valid, and as some $200,000 are involved, this Government would be derelict in its duty if it did not take care of its rights. It is the courts alone that can decide whether the Schneider patents have been infringed. If they are valid, they certainly will be sustained; if not, the United States should not pay for them. This Government stands exactly as any individual would under the same circumstances. It exercises no influences and takes no action that would not be permitted to any individual under similar condition. Consequently it is difficult to understand the infelicitous suggestion contained in the letter of Messrs. Pollok & Mauro to your excellency, that the "power and influence of the Government are to be used in the pending suit of Messrs. Schneider & Co. *v.* The Carnegie Company." This Government does not wish to believe that it was intended to say that any Government, that of the United States or that of France, because powerful or influential, should not defend itself against an invalid claim, or that either of them would make improper use of its power or influence in the conduct of judicial proceedings in its own courts.

Messrs. Pollok & Mauro say that "the United States Government has never in its history interfered in a civil suit to defend against a patentee suing under his grant from the Government. The good faith of the Government is pledged to protect its patentees in the enjoyment of the exclusive rights granted by the act of the Government." I have the honor to suggest in reply that in the case of The United States *v.* The American Bell Telephone Company, this Government filed a bill in equity to repeal and declare void letters patent which it had granted. A little further inquiry on the part of the attorneys of Messrs. Schnei-

der & Co. would have informed them that in a suit brought by Grosvernor et al. (American citizens) *v.* Dashiell, in the United States circuit court for the district of Maryland (62 Federal Reporter, 584), the Government took an active part, as appears from the reports of this case, when tried before the circuit court and when heard on appeal before the Supreme Court of the United States (162 U. S. Reports, 425), and that the interests of this Government were represented by Mr. Samuel F. Phillips, ex-Solicitor-General of the United States. The foregoing case is especially in point, as the defendant, who was charged with infringement of a patent upon improvements in breech-loading cannon, had (as had the Carnegie Company) made a contract with the United States to be paid a stipulated sum for the guns manufactured embodying the infringing device.

The Secretary of the Navy has further been informed by the law officer of his Department that research by the attorneys of Messrs. Schneider & Co. would have revealed that the reports of cases decided by the United States Court of Claims contain numerous instances in which the Government has defended itself against suits for alleged infringement by itself of patent rights. In this connection, I have the honor to call the attention of your excellency to the suit now pending before that court, brought by Messrs. Pollok & Mauro for the Société Anonyme des Anciens Etablissements Cail, a French company claiming reimbursement for the use, by the Government, of the De Bange gas check for ordnance. It is difficult to see any distinction between a case in which the Government directly defends itself against such a suit and one where it defends a suit in which its interests are involved, although it be not a nominal party thereto.

Reference to the Senate report of February 11, 1897, No. 1452, which is voluminous, containing some 25 printed pages of matter for the most part alien to the present inquiry, and upon which your excellency's note is in part based, will show that the facts therein stated are in accord with those herein set forth. It is true that the report contains one expression of opinion which may be regarded, to some extent, as a criticism of the action of the officials of this Government. It is, however, general rather than specific, and is as follows:

> The committee believe that Government officials ought not to promote a monopoly of the business of making armor through patents issued to the use of the combined manufacturers while using the power of the Government to destroy patents held by foreigners.

Whether this opinion has any bearing at all on the matter in question, or is warranted by the facts, can best be determined by a consideration of them and of the whole report. Even as a matter of abstract opinion, that committee would probably agree to the propriety of nullifying any patent, whether held by a citizen of this country or by a foreigner, if it were not a valid one.

It is not the opinion of this Government that the contract and the suit in question differ in any essential particular from an ordinary contract or an ordinary suit. Nor can this Government agree with the suggestion that it has acted in the premises otherwise than with entire propriety and due regard to the protection of its interests and those of its citizens, and without unfair treatment of the rights of any foreign citizens. It fails to see any reason why the matter should be made the subject of diplomatic correspondence, but feels assured that, after the foregoing presentation of facts, your excellency will readily agree that this suit, like any other, should be left to the courts. Instead of

appealing to diplomatic intervention for an adjustment of the rights of their clients, a much more direct course for Messrs. Pollok & Mauro to pursue would be to go on with the prosecution of the claim in the courts, where it will not fail to receive the justice and to secure the success which it may merit.

From the foregoing recital, your excellency will, I feel assured, clearly understand that this Government has not intervened in this instance, in a cause pending in the courts solely between American and foreign citizens, but the case being one in which its own interests are at stake, has simply taken the necessary and proper steps to care for those interests in compliance with the contract which was solemnly entered into for that purpose. Your excellency will therefore, I am sure, not press the request that the United States "will no longer be a party to the suit brought by Mr. Schneider." While this Government is not a party upon the record of the court, it is the real party in interest, and to ask it to cease to be such, would be asking it to submit to a claim which it has reason to believe is not a valid one. Such a request, if made by one of its own citizens, would be extraordinary, and citizens of a foreign country can hardly expect privileges in such a matter that are not granted to citizens of the United States.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

FRENCH MILITARY AND NATIONALITY LAWS.

Mr. Vignaud to Mr. Sherman.

No. 56.] EMBASSY OF THE UNITED STATES,
Paris, August 2, 1897. (Received Aug. 16.)

SIR: It frequently happens that American citizens of French origin apply for reliable information concerning their position in regard to the French military and nationality laws. In view of such inquiries I send the following report, which may interest the Department as well as enlighten those having any concern in the matter, if it is deemed advisable to make it public.

Various communications from this embassy have acquainted the Department with the different provisions of the French law on nationality, of June 26, 1889, which is the only one applicable to the cases now under consideration. I refer particularly to Mr. Reid's No. 29, of July 16, 1889 (Foreign Relations, 1890, p. 276), and to my Nos. 513, of April 7, 1892 (Foreign Relations, 1893, p. 295), and 47, of August 22, 1893 (Foreign Relations, 1893, p. 303).

It is proposed now to inform more fully the Department with regard to the official construction of the clause of that law which relates to naturalization in connection with military service and to the manner it is applied to American citizens of French origin.

According to that clause, Article 17 of the Civil Code is now made to declare that a Frenchman naturalized abroad does not cease to be French if he is still subject to military service in the active army, unless his naturalization was obtained with the consent of the French Government. Nothing in the law indicates whether this clause is to be applied to those who had failed to discharge their military obligations before the law was passed, or simply to those who had committed that offense after the law was enacted. The language, also, of the law is

not very explicit with regard to what is meant by the "active army." The period of service in that army is only for three years, but from the active army every Frenchman passes first into the reserve, in which the period of service is seven years, after which period he is transferred to the territorial army. Was it to be understood that the period during which a Frenchman can not renounce French citizenship without the consent of his Government embraced the whole time during which his military services were due in both the active army and the reserve of that army?

The ruling of the French Government in the cases submitted to its consideration by this embassy have settled these points, and it is now possible to state the exact meaning of the law according to the French Government, and what the position is of a Frenchman naturalized abroad without the consent of his Government, before having been discharged from the French active army.

With regard to the meaning of the law it is understood now:

(1) That it has a retroactive effect; it applies to those who have avoided military service and acquired another nationality before as well as after the law was enacted.

(2) That the words "active army" mean both the active and the reserve of the active army, and

(3) That the expression "If he is still subject to military service," is to be understood as applying to the date at which the naturalization was obtained.

Under this construction the law is made to have the following effect:

The Frenchman naturalized abroad without the consent of his Government, who at the date of his naturalization was still subject to military service in the active army or in the reserve of the active army, remains French, and as such is amenable to the military laws of France.

Not having responded to the notice calling him to accomplish the three years' military service which every Frenchman has to perform, he is placed on the list of those charged with insoumission—noncompliance with the national military laws—and if found under the jurisdiction of France, whatever his age may then be, or whatever the number of years he has lived abroad, even if he left France in his tender infancy, and even if he was born abroad, provided his father was French at the time, he is arrested and tried as an insoumis, and after such trial turned over to the active army or to the reserve of the active army or to the territorial army, according to his age.

When a Frenchman has passed the age during which he may be called to serve in the active army or its reserve—that is to say, when his name has been transferred from the muster roll of that army to that of the territorial army—he does not need the consent of his Government to be lawfully naturalized abroad; and when naturalized in the United States under such conditions an application from this embassy secures, without difficulty, the recognition of his American citizenship, provided this application is accompanied by the naturalization papers of the person in whose behalf it is made and by an American passport. The production of the passport is not absolutely necessary and can be dispensed with, but the original papers of naturalization or an authentic copy of the same must be produced.

Before or after his naturalization abroad a Frenchman may ask his Government its consent to renounce French national character, but if he is of the age during which active military service is due, this consent is never given, or given only under very exceptional circumstances.

I do not know of any successful application of that character. This consent is, on the contrary, usually given to those who, having passed the age of service in the active army and its reserve, can only be called to do service in the territorial army, although their naturalization may have taken place while still belonging to the active army.

Applications of this kind should be made direct to the minister of justice by the interested parties and must be accompanied by a fee of 1.75 francs and by a statement giving all necessary particulars concerning the applicant. When granted it is in the shape of a decree signed by the President and countersigned by the minister of justice and another high official. I inclose herewith a copy of the form used in such cases. This decree is then communicated to the minister of war, who directs that the name of the person concerned be erased from the military lists of the French army, as being no longer French, and who informs that person of his action.

It is the rule of this embassy to decline making any application of this kind in behalf of those who are already in possession of their full American papers of naturalization, as such a step might imply an improper admission on our part. But it does not refuse its good offices to those who desire to secure the consent of their Government before having been naturalized.

I add here a synopsis of the principal cases of naturalization submitted to the French Government by this embassy since the adoption of the law of 1889. Many other cases of this kind have been brought to its notice and became the subject of much correspondence, but were not presented to the French Government.

I have, etc.,

HENRY VIGNAUD.

APPENDIX A.

Cases of naturalization submitted to the French Government.

VICTOR POIDEBARD. Born in 1871. Settles in the United States at the age of 13. Naturalized October 30, 1888, through his father, and again December 29, 1892, being then of age. Notice reaches him in the United States in February, 1893, to join the regiment to which he had been assigned. Case submitted to the French Government March 22, 1893, under instruction from the Department. Rejected May 23, 1893, on the ground that a man of French birth can not assume another nationality before having complied with the military laws of France, unless he obtains permission from his government to do so, a permission which is refused to Poidebard on the ground that it would be an encouragement to young Frenchmen to have themselves naturalized abroad in order to escape from military service in France.

CELESTIN ROMAIN. Born in 1854. Settles in the United States in 1882. Fails to present himself, and is placed on the list of those charged with insoumission (noncompliance with the military laws). Naturalized April 17, 1893. Applies to this embassy July 13, 1893, for the recognition of his American citizenship by the French Government. Case submitted July 17, 1893. Rejected August 29, 1893, on the ground that being under the charge of insoumission he must stand his trial before the question of citizenship can be taken into consideration.

RAYMOND BOSSANGE. Settles in the United States with his parents at the age of 9. Naturalized in 18—, through his father. Notified in 1892, through the French consul at New York, to join a certain regiment of the French army. Declines to do so and applies to this embassy for a recognition of his rights. Case submitted May 25, 1893. Rejected July 15, 1893, on the ground that naturalization abroad can not divest of his national character a Frenchman who has not discharged his military obligations towards his country.

BENEDICT PAPOT. Born in 1860. Settles in the United States in 18—. Naturalized March 18, 1892, while still belonging to the reserve of the active army. Visits France in 1895, being then no longer liable for service in the active army; is arrested on the charge of insoumission; is released temporarily and returns at once to the United States. Case submitted February 27, March 16, and April 15, 1896. American citizenship recognized May 12, 1896.

PIERRE GIRON. Born in 1865. Settles in the United States in 1886. Naturalized November 8, 1894, while still belonging nominally to the reserve of the active army. Visits France in 1896, with an American passport issued by the State Department, and applies to this embassy to have his American citizenship recognized. At that time Giron had passed the age of service in the reserve. Case submitted July 4 and July 20, 1896, with the remark that it was similar to the one of Papot, whose American citizenship had been recognized. Case rejected September 29 on the ground that the case of Papot had been erroneously decided; that it was held now by the war department that when on the date of his naturalization a Frenchman still belonged to the active army his naturalization was void with regard to French law, and that consequently Giron was still French. If, however, he would procure from the minister of justice the permission provided by law to change his allegiance the war department, upon the production of that permission, would have his name struck off from the French military rolls. Giron procured the permission, produced it before the war department, and on July 24, 1897, his American citizenship was admitted to.

FELIX MAURICE ALLARD. Born in 1860. Served his time in the active army, and, after obtaining his discharge, settles in the United States. Naturalized May 29, 1895, being then no longer liable to military service in the reserve of the active army. Case submitted September 25, 1896. American citizenship recognized December 22, 1896.

HECTOR A. PIEDNOIR, jr. Born 1864. Settled in the United States with his parents at the age of 5. Naturalized September, 1894. Desiring to visit France, applies to this embassy, November 4, 1896, to ascertain what his rights were. Case submitted March 13 and 23, 1897. May 17, minister of foreign affairs replies that the name of Hector Piednoir not having been found on the muster-rolls of the French army no action can be taken in his case.

JULES LAPORTE. After having been regularly discharged from the active army, settles in the United States. Naturalized September 6, 1894, while still belonging to the reserve. Case submitted March 26, 1897. Rejected April 26, 1897, on the usual ground that when Laporte was naturalized he was still liable for military service in the reserve of the active army.

APPENDIX B.

Form of consent given to a Frenchman to change his allegiance.

[Translation.]

Ministry of Justice: The President of the French Republic on the report of the keeper of the seals, minister, decrees:

ART. I. M——— ———, born on ———, at ———, residing at ———, is authorized to become a naturalized American.

ART. II. The keeper of the seals, minister of justice, is charged with the execution of this decree, which will be published in the Bulletin of Laws.

Done at Paris, the ———.

(Signed) (Name of President.)

(Signed) (Name of Minister.)

The Keeper of the Seals, Minister of Justice.

For exemplification.

The Councillor of State, Director of Civil Affairs and of the Seal:

(Signature.)

MILITARY SERVICE—CASE OF ARTHUR D. HUBINOIT.

Mr. Sherman to Mr. Porter.

No. 30.] DEPARTMENT OF STATE,
Washington, June 15, 1897.

SIR: I inclose, for your information, a copy of a letter of the 12th instant from the Hon. Henry Cabot Lodge, a Senator from the State of Massachusetts, in relation to the case of Arthur D. Hubinoit, otherwise called Arthur D. Bennett, a naturalized American citizen who was born

in France but was brought to the United States when he was an infant, where he has ever since resided, until, having recently returned to France on a visit, he was arrested and is now held in a military prison in Châlon, France, the French Government claiming that he is a citizen of France, and, therefore, liable to military duty in that Republic.

There can be no question as to the exemption of a person so brought to the United States when an infant of 2 years, and continually residing here until formally admitted to citizenship at the age of 24 years.

The only question seems to be the identification of this Arthur D. Hubinoit with Arthur D. Bennett, whose certificate of naturalization has been produced. The mother's affidavit seems to fully establish the identity, taken in connection with the other paper submitted.

You are instructed to take prompt steps to secure the young man's release.

Respectfully, yours, JOHN SHERMAN.

Mr. Vignaud to Mr. Sherman.

No. 51.] EMBASSY OF THE UNITED STATES,
Paris, July 24, 1897. (Received Aug. 9.)

SIR: The case of Hubinoit, the Frenchman who became an American citizen under the name of Bennett, and who was arrested in France for not having served his time in the French army, was in accordance with your instruction No. 30, of June 15, laid before the minister of foreign affairs, who has not yet replied to our communication.

But I hear from a private note of Hubinoit to the consul-general that he was discharged on July 6. He gives no particulars, but says he spent all his money, and asks whether he can not hold the French Government responsible for the time he lost and for the amount of his return passage to New York. I have replied to him that, acting under your instructions, this embassy had requested some time ago his discharge from the French Government, but that without being further instructed to that effect it could not present the claim he mentioned.

I have, etc.,

HENRY VIGNAUD.

Mr. Vignaud to Mr. Sherman.

No. 57.] EMBASSY OF THE UNITED STATES,
Paris, August 2, 1897. (Received Aug. 16.)

SIR: I recently reported (No. 51, of July 24) that according to a letter addressed to the consul-general by Mr. Hubinoit-Bennett he had been discharged by the French military authorities and that he had expressed the intention of claiming an indemnity from the French for his arrest and confinement during over a month. I have since received a note from the minister of foreign affairs in reply to the one from this embassy laying the case before him, and Hubinoit himself has called. Mr. Hanotaux simply states that by order of the general commanding the Sixth Army Corps Hubinoit had been set at liberty. But the statement of Hubinoit and the papers which were given to him by the military authorities show that he has simply been acquitted of a charge of insoumission (noncompliance with the military laws) and that, as I suspected, he is still held to be French. Having passed the age of

service in the active army, he could not be incorporated in that army, but his name was placed on the list of reserves, and a military book (livret militaire) was furnished to him showing that he will belong to that reserve until the year 1905, and that permission is given to him to proceed to Pittsfield, United States, where any military notice will reach him.

The case of Hubinoit is therefore hardly changed. He can no longer be arrested and prosecuted for insoumission, but he remains French, and as such subject to be called for service in the reserve and in the territorial armies. If the Department will refer to my No. 56,[1] of this date, in which this whole matter is explained, it will be seen that there is only one way for Hubinoit to have his American citizenship recognized by the French Government; it is to apply for the necessary permission to change his allegiance, permission which is not likely to be refused under the circumstances, but which will cost 175 francs.

* * * * * * *

I have, etc.,

HENRY VIGNAUD.

Mr. Sherman to Mr. Vignaud.

No. 96.] DEPARTMENT OF STATE,
Washington, August 12, 1897.

SIR: Your dispatch, No. 51, of the 24th ultimo, in further relation to the case of the American citizen Hubinoit, otherwise known by the name under which he was naturalized, to wit, Bennett, has been received. Mr. Hubinoit makes inquiries whether he can not obtain indemnity for time lost and return passage to New York, and you have replied to him that you had fulfilled your instructions in asking for his discharge, but that without further instructions you could not present the claim he mentions.

Your response to Mr. Hubinoit's inquiry was discreet and proper. It is not recalled that the solicited discharge of an American citizen from military duty in a foreign country has been followed by a successful claim or reparation for actual loss and injury sustained. Certainly no claim of exemplary damages has been preferred. As a general thing the interested party is satisfied with his release from the embarrassing situation in which he had been placed by his inadvertent return to his original jurisdiction, and this is especially so when there is probable cause for proceedings against him, as in the present instance, when the naturalization of Mr. Hubinoit under another name required somewhat elaborate proof to establish his asserted identity.

There have, however, been instances where a foreign government has graciously compensated a person erroneously detained and released, for actual loss of time or money, and if the circumstances of the present case appear, in the judgment of the embassy, to warrant an informal suggestion to the French Government in this regard, it is possible that it might be taken into kindly consideration without formal admission of liability in the premises.

Respectfully, yours, JOHN SHERMAN.

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[1] Printed on p. 141, *ante*.

PROHIBITION OF THE IMPORTATION OF AMERICAN CATTLE AND MEATS.

Mr. Sherman to Mr. Porter.

No. 62.] DEPARTMENT OF STATE,
Washington, July 15, 1897.

SIR: I inclose for your information a copy of a letter of the 12th instant from the Secretary of Agriculture, inviting the attention of the Department to certain facts relative to the French prohibition of the importation of American cattle and meats. I also inclose, as bearing upon the subject, a copy of the Department's instruction No. 2,[1] of the 5th ultimo, to Mr. Bellamy Storer, the minister of the United States at Brussels, relative to the similar questions which are pending between this country and Belgium.

These papers so fully set forth the case of the United States, and the demonstrated facts so clearly entitle this Government to ask and expect that American pork products shall be treated fairly and without injurious discrimination in France, that it seems unnecessary to especially enlarge thereon in the present instruction.

Respectfully, yours, JOHN SHERMAN.

[Inclosure.]

Mr. Wilson to Mr. Sherman.

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, July 12, 1897.

SIR: I have the honor to invite your attention to certain facts in relation to the French prohibition of American cattle and meats, which may be useful as a basis for the representations which you have instructed the American ambassador to make concerning this subject.

Beginning with the year 1877 a large export trade was established by our merchants in bacon and hams, the exports to France being in that year over 23,000,000 pounds. By activity in the introduction of these excellent meat products the trade had increased in 1881 to over 68,000,000 pounds. Then came the French decree prohibiting the further importation of American pork. This decree was made without any evidence to show that any inhabitant of France had been injuriously affected by eating American pork, or any evidence to show that the trichinæ which this pork was alleged to contain were alive in the cured meat, which alone was shipped to that country. As a result of this prohibition the large trade which had been established at much expense was at once utterly destroyed.

After many protests and the establishment of a microscopic inspection in this country of pork for export, the prohibition was removed, to take effect January 1, 1892. It was supposed by this Government that the withdrawal of the prohibition would give our exporters an opportunity to again enter the French markets and regain the trade which had been ruined eleven years before by the action of the French Government. Unfortunately, the decree withdrawing the prohibition established regulations which were scarcely less oppressive to the trade than the prohibitory decree. In its correspondence with the Depart-

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[1] Printed on p. 32, *ante*.

ment of State, this Department protested against these regulations in the following language:

After a thorough inspection has been made by the Government of the United States, it is unjust and unreasonable to require our shippers to pay the expense of another inspection at the French ports. This tariff and these inspection charges will result in a prohibition as absolute as the decree which has just been revoked.

Again, under date of February 10, 1892, a further protest was made by this Department as follows:

U. S. DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., February 10, 1892.

SIR: I have the honor to inclose for your information a translation of the instructions of the French Government to the veterinary inspectors who are charged with the sanitary inspection of salt pork from the United States. The paragraphing and numbering of the paragraphs have been done in this Department for convenience of reference, but otherwise the translation is a literal one.

An examination of these regulations shows that they are unnecessarily burdensome to our shippers, and that the trade in pork products can not be expected to prosper if they are enforced. In the first place, no pork is admitted unless thoroughly cured. The standard for thoroughly cured meats must be an arbitrary one, and under this provision any or all of our meats may be rejected or the trade may be harassed and ruined by a few unfriendly inspectors. The only object in requiring such meat to be thoroughly cured is to guard against the danger from trichinæ, but this Government has established an expensive system of microscopic inspection to remove this danger, and it was in consideration of this inspection that the prohibition was removed. Our inspected pork should, therefore, be admitted without regard to the degree of salting if it is undamaged and free from taint.

The extreme injustice of these regulations is seen more particularly by reference to paragraph 6. Notwithstanding the fact that all insufficiently cured meat is refused entrance, there is here a provision that all meat which the inspector may consider to be insufficiently cured shall be submitted to a microscopic examination. Why should our shippers be put to the expense and delay caused by a microscopic inspection of pork which under no circumstances will be admitted into France? If the meat is refused entrance, that should end the matter and the shipper should be allowed to forward his consignment at once to more friendly markets. But to hold the meat which has already been refused entrance for a microscopic examination, to destroy such of this as the inspectors believe to be infected with trichinæ, and then to reject all that is not found affected, is a wanton outrage which should not be submitted to by this Government.

Again, in paragraph 8 it is provided that meats in brine shall be considered insufficiently cured, and shall be rejected if the brine is not of a certain arbitrary degree of density. This also is an unjust and unreasonable requirement. If the meat is free from taint or damage, it is perfectly wholesome; and to reject it because the brine does not reach an arbitrary standard of density is a discrimination against this country which can not be justified on sanitary or other grounds.

In this connection I beg to call the attention of your Department to the condition of trade between France and the United States. In 1878 the balance of trade was, in round numbers, $12,000,000 in our favor; in 1879 it was $39,000,000 in our favor; in 1880 it was $31,000,000 in our favor; in 1881 it was $24,000,000 in our favor. In 1882 came the prohibition of our pork products and a more pronounced attitude against our trade, and we find the balance of trade reversed, and instead of being in our favor, it suddenly turns nearly $39,000,000 against us. From 1882 to the present the balance of trade has been steadily unfavorable, varying from $10,000,000 to nearly $40,000,000 a year. In 1891 it was $17,000,000 against us.

These facts show how much more favorable our laws and regulations have been for the maintenance of French trade than those of France have been for the encouragement of American trade.

As our exports to France consist chiefly of agricultural products, I feel free to say that in my opinion this condition of the trade should be taken into account, and a determined effort should be made to secure such modifications of the French regulations as will develop our exports to that country and make them equal to the imports. If the French Government is unwilling to meet such a demand and remove its unreasonable and unjust discriminations against our shippers, then this Government owes it to our people to enforce the remedy which Congress has already provided for such cases.

I have, etc.,

J. M. RUSK,
Secretary.

The SECRETARY OF STATE.

In March, 1892, Messrs. Arlıour & Co., of Chicago, stated in a letter to this Department that while "in Germany the trade is going on well, as far as France is concerned, we, as well as many others, have abandoned the business entirely."

The harsh and injurious regulations referred to in this correspondence were continued, and our exporters were subjected to so many annoying decisions that they have practically abandoned the field, and this country has never regained, and there is no prospect of its regaining, the trade which was destroyed by the prohibitory decree of 1881. The following table shows the exports of hog products to France for the years from 1875 to 1882, inclusive, and from 1891 to 1897, inclusive:

Exports of hog products to France—Comparative periods.

Fiscal years.	Bacon and hams.	Pickled pork.	Fiscal years.	Bacon and hams.	Pickled pork.
	Pounds.	*Pounds.*		*Pounds.*	*Pounds.*
1875	3,916,811	724,075	1879	53,593,720	2,168,614
1876	3,484,772	221,199	1880	66,357,041	1,608,545
1877	23,167,236	179,500	1881	68,105,887	1,896,969
1878	55,280,429	599,696	1882	5,350,311	257,574
[February 18, 1881, decree of prohibition.]					
1891	65,275	184,400	1895	9,842,048	236,600
1892	1,823,426	316,780	1896	4,221,228	180,200
1893	112,547	8,000	1897 (10 months)	2,284,712	19,500
1894	792,491	150,250			

I respectfully request you to inquire if the French regulations of 1892 are still in force, this Department having received no information to the contrary, and in case they are still maintained that a protest be entered against restrictions limiting the trade to thoroughly cured pork, against any inspection fees being imposed, against the arbitrary rejection of meat on account of lack of density in the brine when the meat is in good condition, and against the destruction of shipments of meat which are refused admission.

In the year ending June 30, 1894, American exporters inaugurated the shipment of live cattle to France, as there appeared to be an opportunity of establishing a large trade. In that year 5,184 head were shipped. In the next year this trade had continued to grow and 10,538 head had been exported to that country up to February, 1895, when the traffic was prohibited. Protests have been made against this prohibition without avail. It has been shown that there are no contagious diseases of cattle in this country liable to injure the domesticated animals of France, but even if that were not the case, it is customary for nations which are disposed to be friendly toward the trade of other countries to at least allow animals to be brought to the frontier ports or seaport towns for immediate slaughter. The importation of cattle for this purpose can be guarded so that there is no possible danger of the spread of any contagion, and the proof of this is the fact that from 300,000 to 400,000 head of cattle are annually sent to Great Britain and slaughtered in this manner without the introduction of disease.

I would request that you instruct the American ambassador to protest against the prohibition of live animals from this country, and to ask that either such animals be admitted freely to France, or that in case there is any fear from a sanitary point of view, that at the very least our cattle and sheep for slaughter should be allowed to land at

the principal ports for slaughter within a reasonable period, say at any time within two weeks from the date of landing.

In October, 1896, a special concession was made by the French Government with the purpose of allowing the transportation of American cattle across the French territory destined for Basel, Switzerland. This concession, which at first appeared to have been made with the intention of assisting American shippers, although in reality there was no market for American cattle in Switzerland, was afterwards found to be hedged in by such restrictions that even if there had been a market in Switzerland and our shippers had been ever so desirous of reaching it, they could not have shipped by the route indicated. The regulations mentioned require, first, that there shall be a certificate delivered by the proper authorities attesting that the animals do not come from States in which Texas fever is prevalent; secondly, that the certificate shall also state that there has been no contagious disease for six months prior to their shipment in the place from which they have come; thirdly, that the cattle have been held in a Government quarantine station for at least forty-five days before shipment; and fourthly, that they shall have been put to the tuberculin test before shipment.

Notwithstanding these certificates and this quarantine and this tuberculin test, it is required that a French veterinarian shall accompany the animals in their trip across the Atlantic, and during their transit across French territory until they reach the Swiss border, the said veterinarian to be compensated by the owners of the cattle, and finally, these export cattle shall not be allowed to be placed in any train having cars of French cattle. The impossibility of shipping cattle under such regulations is apparent at a glance.

The fact is, that since 1881 the exporters of American animals and meats have been practically shut out of the French markets. These are among the largest items of our export trade, and they are the ones which it would be of the most benefit to our agricultural population to have exploited. During these years there have been no prohibitions against French produce, and no unjust sanitary regulations have been enforced. There have been no discriminations against French trade, so far as I am aware, but her merchants have been given the same favorable consideration that has been extended to the merchants of other countries. It would be unjust to our own people to continue very much longer to give these facilities to French trade while such important branches of American trade are unjustly prohibited.

I have the honor to request, therefore, that you will instruct the American ambassador to place this matter fully before the French Government, and to urge that the injurious regulations and prohibitions referred to shall be favorably modified at an early day. The friendly relations which have so long existed between France and the United States should insure an immediate settlement of this question upon a satisfactory basis.

Very respectfully,

JAMES WILSON,
Secretary.

[Subinclosure 1.—Translation.]

Decree of December 4, 1891.

The President of the French Republic, on the report of the minister of agriculture, in view of the decrees of the 18th February, 1881, and of the 28th December, 1883, by which American pork was excluded; in view of the sanitary inspection now provided by the Government of the United States for pork intended for export;

in view of the opinions expressed by the ministers of foreign affairs, of finance, of the interior, and of commerce and industry, decrees as follows:

ARTICLE 1. Salted pork meats from the United States can be imported into France at points to be fixed by subsequent decree.

ARTICLE 2. Before discharge of cargo the importers must produce for each shipment a certificate from the inspector of the Department of Agriculture designated by the Government of the United States for the inspection of the slaughterhouses certifying that the meats are from healthy animals and suitable for human food.

The boxes must bear the official stamp of this inspector. No shipment can be admitted which does not comply with these requirements.

ARTICLE 3. After their discharge these meats shall be examined by sanitary inspectors appointed by the minister of agriculture and instructed to make sure of their healthy condition and of their being properly salted.

All meat found unwholesome shall be destroyed in the presence of these inspectors.

ARTICLE 4. The custom-house shall permit the meats mentioned in article 1 to enter the territory of the republic only after seeing the certificate of the inspectors provided for by article 3, certifying that the meats have been found to be healthy and suitable for public consumption.

ARTICLE 5. The expenses of the inspection prescribed by article 3 shall be paid by the importers, according to a tax fixed by a decree issued on the proposal of the minister of agriculture on the advice of the consultation committee on epizootics. This tax shall be paid to the custom-house collectors.

ARTICLE 6. The decrees of the 18th February, 1881, and of the 28th December, 1893, are repealed, as well as all other regulating (regulations?) which may be in conflict with the present decree.

ARTICLE 7. The minister of agriculture, the minister of the interior, the minister of commerce, industries, and the colonies, and the minister of finance are intrusted with the execution of the present decree, which will go into effect on the 1st January, 1892.

Made at Paris, December 4, 1891.

CARNOT.

By the President of the Republic:

JULES DEVELLE,
Minister of Agriculture.

JULES ROCHE,
Minister of Commerce, Industry, and the Colonies.

ROUVIER,
Minister of Finance.

The President of the French Republic, on the report of the minister of agriculture, in view of the decree of this day authorizing the importation into France of meats of American origin and especially of article 1 of said decree; in view of the opinions expressed by the ministers of foreign affairs, of finance, of the interior, of commerce, industry, and the colonies, decrees as follows:

ARTICLE 1. The importation of salted pork meats from the United States of America shall only take place by the ports of Dunkirk, Havre, Bordeaux, and Marseille.

ARTICLE 2. The minister of agriculture, the minister of commerce, industry, and the colonies, and the minister of finance are intrusted with the execution of the present decree.

Made at Paris, December 4, 1891.

CARNOT.

By the President of the Republic:

JULES DEVELLE,
Minister of Agriculture.

JULES ROCHE,
Minister of Commerce, Industry, and the Colonies.

ROUVIER,
Minister of Finance.

[Subinclosure 2.—Translation.]

Instructions directed to veterinary inspectors intrusted with the sanitary inspection of salt pork meats coming from the United States of America.

SIR: 1. Only thoroughly cured and undamaged pork shall be admitted.

2. Every package will be opened, and each piece successively examined.

3. The appearance, consistency, and odor especially revealed by the use of the tryer will furnish the general indication.

4. An incision shall be carefully made in every piece suspected of being damaged or of being incompletely cured in such a manner as not to endanger the sale in case of being found of good quality.

5. Every piece recognized as damaged will be seized and destroyed.

6. Every piece recognized to be insufficiently cured shall be submitted to microscopic examination. If it contains trichinæ, it is to be seized and destroyed. In the contrary case, its admission must be simply refused.

The inspection of barrels containing brine will be made as follows:

7. A small quantity of brine will be collected, smelled, tasted, and weighed with an aneometer.

8. Any damaged brine (to smell or taste) will cause the seizure and destruction of the entire contents of the barrels.

All brine weighing less than 18 of the aneometer (pèse saumure) will be considered as having given to the meat but an imperfect cure, and it shall cause the rejection of the entire barrel.

A record will be kept concerning the operations performed by the inspection service.

Implements, apparatuses, reagents, indispensable for your service, together with inspection seals, will be sent to you through my administration, and you shall forward me an official statement of your taking charge of them.

The requisite persons for the unlading and lading again must be furnished by the importers, whom you must require to do so.

You are respectfully requested to enforce these rules most severely and rigidly. I pray you, sir, to communicate this note to Mr.———, and it shall remain in the records of the service.

Agree, and so on, etc.

J. DEVELLE,
The Minister of Agriculture.

[Subinclosure 3.—Translation.—From the Journal Officiel de la République Française, February 25, 1895, p. 1074.]

Ministerial order of February 24, 1895, prohibiting the importation of cattle from the United States.

THE MINISTER OF AGRICULTURE: Pursuant to the law of July 21, 1881, on the sanitary police regulations regarding animals, and the decree of June 22, 1882, relating to the regulations for the public administration for the observance of the same; in view that there are many contagious diseases which do not exist in France but prevail among the cattle in the United States of America, cases having been found among animals imported from that country into Europe, it is only reasonable that measures be taken to prevent the introduction of these diseases into our territory, and having the opinion of the consultative committee on epizootics, and on the report of the counselor of state, director of agriculture, Resolved:

ARTICLE 1. The importation into France and the transit of cattle coming from the United States of America, over our land and sea frontiers, is interdicted until otherwise ordered.

However, cattle sent from the United States before February 24, 1895, shall be admitted, providing they be landed under the conditions prescribed by law for the admission of foreign cattle.

ARTICLE 2. Prefects of departments are charged, each as it concerns him, with the execution of this decision.

Done at Paris, February 24, 1895.

GADAUD.

EXTRATERRITORIAL RIGHTS OF UNITED STATES IN MADAGASCAR.

Mr. Olney to Mr. Eustis.

No. 795.] DEPARTMENT OF STATE,
Washington, December 10, 1896.

SIR: Our consul at Tamatave, Madagascar, has transmitted to the Department in his No. 169, of October 19, 1896, a copy of the following communication made to him by the French resident-general in Madagascar, September 15, 1896:

MR. CONSUL: Madagascar has become a French colony. A decree of the 9th of June organizes the judiciary. Foreign subjects will hereafter be amenable thereto. The

Government of the Republic has notified the Government of the United States of this disposition on the 28th of July.

I have therefore the honor to make known to you that, beginning with the 16th of October, our tribunals will exercise their functions over all your nationality, and from now on will entertain, on their part, all suits and actions.

Until October 16 the cases already inscribed upon the calendar of your consular court may be by it wound up, but after that date the consular courts can no longer take cognizance of new cases, nor further count on our cooperation to assure their working and execution of their sentences.

I seize this occasion to renew to you, etc.,

HIPPOLYTE LAROCHE.

On May 4, 1896, the consul was instructed by cable, at the instance of the French ambassador here, to "suspend until further instructed exercise consular judicial functions in all cases where cooperation of an established French court is available for disposition judicial cases affecting American citizens."

It appears from the consul's reply, dated October 5, 1896, to the above quoted note of the French resident-general, that the consul, acting under the telegraphic instructions of May 4, had ceased temporarily the exercise of his judicial functions, and had informed the French resident-general that he would so suspend the exercise of judicial powers in all districts where the cooperation of an established French court was available for the disposition of judicial cases affecting American citizens. The consul goes on further to say that in pursuance of this instruction he had permitted no new case to be entered upon his court calendar after receipt of that telegram. The Department is not informed and can not draw from the consul's dispatch a clear inference as to whether he continued to exercise his judicial authority in winding up the pending court business after the receipt of the telegram. In the absence of competent French tribunals he might properly have done so.

The establishment of French sovereignty and civil jurisdiction over the Island of Madagascar puts an end to the extraterritorial rights of the United States in that country, and to the judicial powers of our consul dependent thereon. This changed condition is assumed to have gone into effect on the 16th of October, when, according to the statement of the French resident-general, the French courts were to have been opened for business. It does not appear from the communications received from the consul—nor from those received from the French Government—what provision, if any, was made for the disposition of the cases and other pending matters which the consul may have been unable to finally adjudicate and dispose of before his judicial authority became extinct. Did these unfinished matters abate ab initio, or has provision been made for their transfer to the proper French tribunals for complete adjudication?

It is hoped that the French Government has taken care that the lawful rights of citizens of the United States shall not be lost or prejudiced in the transition from extraterritorial to French jurisdiction.

I am, etc.,

RICHARD OLNEY.

Mr. Vignaud to Mr. Olney.

No. 626.] EMBASSY OF THE UNITED STATES,
Paris, February 1, 1897. (Received Feb. 15.)

SIR: After receiving your No. 795, of December 10, concerning the judicial functions of our consul at Tamatave, which were to cease on October 16, 1896, I inquired of the minister of foreign affairs whether

any provision had been made for the disposition of the cases pending before our consul which he may have been unable to adjudicate finally before the date mentioned.

I am this morning in receipt of a note from Mr. Hanotaux, saying that my inquiry had been transmitted to the minister of the colonies, whose reply would be communicated to this embassy as soon as received.

I have, etc.,

HENRY VIGNAUD.

Mr. Vignaud to Mr. Olney.

No. 636.] EMBASSY OF THE UNITED STATES,
Paris, February 18, 1897. (Received March 1.)

SIR: Referring to my No. 626 of February 1, concerning the cases pending on October 16, 1896, before the American consular court in Madagascar, I have to report that I am in receipt of a note from Mr. Hanotaux stating in reply to an inquiry from this embassy that the instructions of the minister of colonies to the French resident-general are to the effect that all facilities should be given to the consuls for settling the cases brought before their courts before the above-mentioned date of October 16, 1896.

I inclose herewith a copy and a translation of Mr. Hanotaux's note.

I have, etc.,

HENRY VIGNAUD.

[Inclosure in No. 636.—Translation.]

Mr. Hanotaux to Mr. Vignaud.

PARIS, *February 14, 1897.*

MR. CHARGÉ D'AFFAIRES: As I had the honor to inform you on the 30th of January last, I did not fail to communicate to the minister of the colonies the letter by which, on the 21st of the same month, you expressed the desire to know under what conditions the affairs which the consul of the United States at Tamatave had not been able to adjudge before the 16th of October, 1896, would be settled.

Mr. André Lebon has just made known to me that the instructions addressed by his department to the resident-general at Tananarive reserves to consuls the faculty of liquidating the affairs inscribed on the roll of their consular court prior to the date mentioned above.

Accept, etc.,

G. HANOTAUX.

CONCESSIONS GRANTED BY THE MALAGASY GOVERNMENT IN MADAGASCAR.

Mr. Sherman to Mr. Porter.

No. 10.] DEPARTMENT OF STATE,
Washington, May 29, 1897.

SIR: I inclose copy of a dispatch and its pertinent annex from the United States consul at Tamatave, reporting a notification of the French resident-general, under date of April 3, 1897, whereby all holders of

concessions granted by the Malagasy Government are "invited" to produce to the resident-general, or the provincial resident, a copy of their concession or title deeds within two months from the date thereof, and to make certain particularized statements in regard thereto, under penalty of forfeiture of their rights.

This Government could not regard such a notice as valid or binding upon American citizens who may have obtained concessions or acquired real property in Madagascar, inasmuch as it appears to be a purely administrative procedure, lacking the most elementary forms of judicial administration. It is observed that in default of the parties furnishing the information demanded of them and of their placing themselves "in accord with the local residents" (whatever that may mean), the parties in interest are to be considered as renouncing their concessions, and it is added that the Government will dispose thereof at the risk and peril of such parties.

This announcement is of so singular a character, that it behooves this Government to invite, through you, the attention of the French Government thereto, and to advert particularly to its failure to comply with the elementary requirements of justice and equity, so far as it might affect the rights of any citizen of the United States.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 10.]

Mr. Wetter to Mr. Rockhill.

No. 192.] CONSULATE OF THE UNITED STATES,
Tamatave, April 18, 1897. (Received May 24.)

SIR: I have the honor to transmit herewith a copy and a clipping from the Journal Officiel, which may prove interesting to the Department.

The copy alluded to is of a notice appearing in issue No. 76, of April 3, 1897, of said newspaper, and calls for submission of all concessionary titles to General Galliéni for examination under penalty of forfeiture sale.

I am, sir, etc.,

EDW. TELFAIR WETTER,
United States Consul.

[Subinclosure in No. 10.—Translation.—From Journal Officiel No. 76, April 3, 1897.]

NOTICE.

The resident general, desirous of proceeding to the recognizance and the examination of the concessions granted by the Malagasy Government, invites those at interest:

1. To cause to reach, within a delay of two months, the resident-general or the resident of their province, a copy either of their title of concession or their title of acquisition.

2. To attach a detailed statement of the object of their concession, of its compass, of the obligations which it places to the charge of the Malagasy Government and to their personal charge, of the rights and advantages which it gives them.

3. To say whether they have executed all or a part of their obligations, whether they have acquitted the custom duties in kind or in cash; in case where they have not acquitted them whether they have been relieved thereof, and by whom.

4. To say whether the Malagasy Government has executed the obligations whereunto it was bound.

5. To say what are, in résumé, their actual pretensions vis-a-vis of the French Government.

6. In case where they are desirous of continuing an exploitation already entered upon, to make application before the resident of the province for the obtension of a provisory exploitation permit, to submit themselves to the control of the French agents, to conform to the provisions of the French law affecting public order.

In default of their furnishing the informations which are demanded of them, and of placing themselves in accord with the local residents, those at interest will be considered as renouncing their concessions, and the Government will dispose thereof at their risk and peril.

The present notice does not imply in any manner recognizance of the validity of any concession, no more than it implies the renunciation on the part of the French Government of the damage rights which may be due to it, and of the right of taking advantage of either the nullity of any concession or of the forfeiture which the concessionaries may have incurred.

Mr. Vignaud to Mr. Sherman.

No. 50.] EMBASSY OF THE UNITED STATES,
Paris, July 24, 1897. (Received Aug. 9.)

SIR: Your instruction No. 10, of May 29, to General Porter, directed him to call the attention of the French Government to the singular character of a notice issued by the French resident-general in Madagascar, whereby all holders of concessions granted by the Malagasy Government are asked to produce a copy of their concessions within a specified time, under penalty of forfeiture. This instruction was complied with in a written communication dated June 16, and on the 29th of the same month Mr. Hanotaux informed this embassy that it had been referred to Mr. Lebon, minister of the colonies. I am now in receipt of another letter from Mr. Hanotaux, dated July 22, stating that Mr. Lebon considers the notice referred to as being of a general character, and as having no other object in view but to establish the validity of the concessions in question. This measure, says the minister of colonies, can in no way affect property regularly acquired; it would be applied with great impartiality, and it is calculated to be to the advantage of those who can show that their title is regular and that they have complied with the conditions stipulated in their contract.

I inclose herewith a copy and a translation of this reply of Mr. Hanotaux.

I have, etc., HENRY VIGNAUD.

[Inclosure in No. 50.—Translation.]

Mr. Hanotaux to Mr. Porter.

PARIS, *July 22, 1897.*

MR. AMBASSADOR: As I said in my letter of the 26th of June last, I had placed before the minister of the colonies your excellency's communication of the 16th of the same month concerning a notice published by the residency-general of France in Madagascar on the 3d of the preceding April, which requested the holders of concessions granted by the Hova Government to produce, within a prescribed time, before the French authorities a copy of their titles under penalty of forfeiture.

Mr. A. Lebon has just informed me that the object of this order, the requirements of which are of a general character, is to enable the local administration to complete the data which it already possesses as to

the manner in which were passed, and then executed, the contracts relating to the disposing of the concessions granted by the old Government of Madagascar, either to our citizens or to foreign colonists settled in the large island before our occupation.

The requirements which are in question have, therefore, no other end than to establish the validity of the said concessions, and would therefore not affect property acquired in a regular manner.

My colleague adds that this inquiry, which will be conducted with the greatest impartiality to all interested parties, whatever their nationality, could not be other than profitable to those who show regular titles and who will justify the execution of the clauses contained in their contract.

Please accept, etc., G. HANOTAUX.

Mr. Sherman to Mr. Vignaud.

No. 101.] DEPARTMENT OF STATE,
Washington, August 12, 1897.

SIR: I have received your dispatch No. 50, of July 24, inclosing a copy of Mr. Hanotaux's note relative to the notice issued by the French resident general in Madagascar, inviting holders of concessions granted by the Hova government to produce within two months copies of their title deeds, under penalty of forfeiture of their rights.

Mr. Hanotaux explains that the object of this order is to enable the local administration to complete the data which it possesses relative to concessions granted by the Hova government to French citizens and foreign colonists settled in the island before French occupation. He states that "the requirements which are in question have no other end than to establish the validity of the said concessions, and would therefore not affect property acquired in a regular manner."

It is added that the inquiry will be conducted with the greatest impartiality to all interested, whatever their nationality.

While Mr. Hanotaux's note is calculated to remove to some extent the impression made upon the Department by the text of the notice referred to, his treatment of the matter is somewhat vague.

The Department appreciates the desire of the French Government to obtain complete data in regard to concessions made by the Hova Government to foreigners in Madagascar, prior to French occupation, and it is hoped that Americans holding concessions will promptly furnish the information desired. But this Government can not admit the right of the French Government, in the event of the noncompliance of any American citizen with the order in question, to treat his concession as forfeited or subject to disposition by that Government. As stated by me in my previous instruction: "This Government could not regard such a notice as valid or binding upon American citizens who may have obtained concessions or acquired real property in Madagascar." In the language of Mr. Hanotaux: "The requirements which are in question would not affect property acquired in a regular manner."

If your former note to Mr. Hanotaux did not make the position of this Government in this matter entirely plain, you should take occasion to do so now.

Respectfully, yours, JOHN SHERMAN.

LANDING OF THE FRENCH CABLE.

Mr. Patenôtre to Mr. Sherman.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, May 4, 1897.

MR. SECRETARY OF STATE: The French Telegraph Cable Company (Compagnie Française des Câbles Télégraphiques) finds it necessary to add a supplementary cable to that which it already has between Brest and Cape Cod. It consequently requests me to transmit, in its name, the inclosed application to the Federal Government, with a view to obtaining the various facilities for the landing of this second cable that were granted in 1879 to the French Paris and New York Telegraph Company (Compagnie Française du Télégraphe de Paris à New-York), whose rights of ownership were transferred to it in 1895 by an authentic instrument of conveyance, in due form.

This submarine line, which was established eighteen years ago, has been worked since that time in pursuance of an authorization granted by the President of the United States to the original concessionnaires November 10, 1879. The inclosed application reproduces in detail the terms on which this permission to land was then granted by the Federal Government, which remitted the custom-house formalities in the case of the vessel which carried the cable and the material, and likewise certain duties in the ports of the State of Massachusetts.

The only cable which has hitherto been used by the French Telegraph Cable Company has now become very defective, in consequence of long usage. The frequent breaks which it has suffered have occasioned various interruptions of its service, to wit, ten months in 1895, eight months in 1896, and two months and nine days early in the present year. It is therefore a matter of great importance to remedy the insufficiency of the first cable by the establishment of a second.

The two American submarine lines which connect the United States with France have two cables each. The companies owning those lines have received from the French telegraph department all desirable facilities for the establishment and management of these double lines. In view of this reciprocity, the Government of the Republic feels confident that the Federal Government will be pleased to comply with the request of the French company in a manner that will enable it speedily to secure the regular transmission of its telegraphic communications in such a way as will be equally advantageous to our two countries.

Be pleased to accept, etc.,

PATENÔTRE.

[Inclosure 1.]

Mr. Turrienne to Mr. Sherman.

EDISON BUILDING,
New York, May 3, 1897.

MR. SECRETARY: The French Telegraph Cable Company, whose representative in the United States I am, being obliged to remedy, by the laying of a second submarine cable, the insufficiency of the only cable

which for eighteen years has connected Brest, France, and Cape Cod, Massachusetts, the present condition of which is such as to endanger the safety of its telegraphic communication with America, has instructed me to submit to you the following application, which, for greater clearness, I will preface by a few explanatory details:

The cable from Brest to Cape Cod which we now use belonged originally to the French, Paris and New York Telegraph Company. It was laid in 1879, in pursuance of authority granted by the President of the United States. The application to this effect was drawn up on the 24th of October, 1879, by M. de Chauvin, the said company's agent at New York, and was transmitted to the Hon. William M. Evarts, Secretary of State of the United States, by Mr. Outrey, then minister of France at Washington. In that document, a copy of which you will find herewith, the company requested permission to "lay, land, and use its cable or cables," and also to land its material (in case of bad weather or if its vessel arrived on Sunday) without the ordinary customs formalities; finally it requested the remission of the dues payable by the vessel having the cable on board if it was obliged to enter any port of the United States on the coast of Massachusetts.

These various requests were complied with on certain conditions, which were accepted by the French, Paris and New York Telegraph Company. These conditions are enumerated in a memorandum of the Federal Government bearing date of October 27, 1879, which is likewise inclosed with this application, together with a copy of a subsequent letter, dated November 10, 1879, whereby the Hon. Mr. Evarts officially informed Mr. Outrey of this decision.

The cable between Brest and Cape Cod was used by the French, Paris and New York Telegraph Company until January 1, 1895, when it became the property of the French Telegraph Cable Company. An authentic copy of the instrument whereby this transfer was made, certified by the United States consul-general at Paris, was filed at the embassy of France at Washington and at the consulate-general of France in New York.

As I stated at the beginning of this communication, the cable in question has, owing to long usage, suffered injuries which render it very defective. Long interruptions of telegraphic communication have been the result, especially during the years 1895 and 1896 and early in 1897. These interruptions, which lasted six months in 1895, eight months in 1896, and two months and nine days in 1897, have entailed not only a loss of business, which has been detrimental to the company, but also considerable expense for repairs. The establishment of a second cable is consequently a matter of urgent necessity. The French Telegraph Cable Company, having acquired the rights of the French, Paris and New York Telegraph Company, now has the honor to solicit for the landing of its second submarine cable the facilities and exemptions from customhouse requirements that were granted in 1879 to the original concessionaires. To this effect it is prepared to renew the engagement with the Federal Government entered into by the company, whose place it has taken, and to submit to the various requirements stated in the memorandum of October 27, 1879, to which reference has been made above.

The steamer having the cable on board will, in all probability, be able to land its material at Cape Cod early in June. The company which I represent would be very grateful to the Federal Government if it would kindly notify the customs authorities of Massachusetts in

due time and send them the necessary instructions, to the end that the landing in question may take place just as it did in 1879.

In accordance with the mode of procedure observed at that time, I have the honor to transmit this application to you through the representative of the French Republic at Washington.

Be pleased to accept, etc.,

A. T. TURRIENNE,
Representative of the French Telegraph Cable Company in America.

[Inclosure 2.]

Memorandum of conditions required by the Government of the United States.

WASHINGTON, D. C., *October 27, 1879.*

First. That the company receive no exclusive concession from the Government of France which would exclude any other line which might be formed in the United States from a like privilege of landing on the shores of France and connecting with the inland telegraphic system of that country.

Second. That the company shall not consolidate or amalgamate with any other line or combine therewith for the purpose of regulating rates.

Third. That it shall give precedence in the transmission of official messages to the Government of the United States and France.

Fourth. That the charges to this Government shall be at the rate of those to the Government of France and the general charges shall be reasonable.

Fifth. That the Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, or agreement be granted to the French Government.

Sixth. That a citizen of the United States shall stand on the same footing as regards privileges with the citizens of France.

Seventh. That messages shall have precedence in the following order: (A) Government messages; (B) telegraphic business; (C) general business.

Eighth. That the line shall be kept open for daily business and all messages in the above order be transmitted according to the time of receipt.

[Inclosure 3.]

Mr. Evarts to Mr. Outrey.

DEPARTMENT OF STATE,
Washington, November 10, 1879.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, transmitting in authentic form the acceptance by the Compagnie Française du Télégraphe de Paris à New-York, of the conditions deemed essential by this Government to its grant of a permission to that company to land its cable on the shores of the United States. You assure me at the same time on behalf of your Government that the authorization granted in France to the Compagnie Française du Télégraphe de Paris à New-York does not involve any exclusive privileges, and that the conditions imposed on that company by its undertaking with the French Government will be made applicable by that Government to any other company, whether French or foreign and recognized as solvent, which shall apply for the privilege, for the right of landing.

I have without delay brought the subject, together with the information conveyed by your note, to the attention of the President, and he authorizes me to say that, in view of the assurances thus received from the French Government, that reciprocal privileges of landing will be granted by France to any company which may be formed by citizens of the United States upon the same terms that these privileges are granted

to the present or any future company of French citizens that may apply for such landing privileges, and having also received the acceptance by the directors of the Compagnie Française du Télégraphe de Paris à New-York of the conditions prescribed by this Government, the executive permission of the Government of the United States will be granted to that company to land its cable at Cape Cod, in the State of Massachusetts.

It is proper for me to add, however, that this executive permission is to be accepted and understood by the company as being subject to any future action of Congress in relation to the whole subject of submarine telegraphy, as explained in my note to you of the 27th ultimo.

In compliance with the suggestion of your note of the 24th of October, I will take pleasure in requesting the Secretary of the Treasury to give such orders to the local customs officers at Boston as will permit the landing of the cable in advance of the regular entry of the *Faraday*, in case that vessel should arrive off the coast at night or on Sunday or upon the approach of storm, circumstances in which delay might be attended with danger to the success of the enterprise.

Accept, etc.,

WILLIAM M. EVARTS.

[Inclosure 4.]

Mr. Von Chauvin to Mr. Evarts.

WORMLEY'S HOTEL,
Washington, October 24, 1879.

SIR: The French Paris and New York Telegraph Company, whose representative in America I have the honor to be, was organized early this year under the French laws.

The capital of the company is 52,000,000 francs, 42,000,000 of which form its capital in shares. These shares have been issued, have all been subscribed for, and the fourth and last payment will be due January 1, 1880.

The 10,000,000 supplementary francs are, according to the present plan, to be obtained by means of bonds as soon as possible, so as to permit the company to lay another cable during the summer of the coming year.

The lines of the company, when finished, will comprise trans-Atlantic cables as follows: From Brest to St. Pierre; from England to St. Pierre; from Brest to England; from St. Pierre to Cape Cod; from St. Pierre to Cape Breton. An overland line from Cape Cod to New York.

This latter line was built for the company which I represent by the American Union Telegraph Company of New York. The same company, has, moreover, purchased the land at Cape Cod which is necessary for the landing of our cable. A contract has been concluded between the American Union and my company for the exclusive exchange of telegraphic correspondence.

The work of making and laying our cables has been intrusted to Messrs. Siemens Brothers, of London, England.

My company has secured from the French Government a concession for landing and working its cables, and a copy of said concession and other official documents relative to the organization of my company has already been transmitted to your Department.

I, consequently, have the honor, in the name of my company, to solicit the permission of your Government to the end that it may be authorized to lay, land, and work, as a foreign company, its cable or cables on the coasts of the United States, the point at which the company proposes to land its cable being Cape Cod, in the State of Massachusetts.

In case my request is favorably received by your Government, I will add an additional respectful request, viz, that permission may be granted to the vessel or vessels charged with the laying of the cable to land their cargo before the regular custom-house formalities have been complied with, in case these vessels arrive on Sunday, or just before a storm, in order that a delay may thus be avoided which might prove disastrous to our enterprise.

A similar favor has been granted to the direct cable company, and I have the honor herewith to enclose a copy of the letter containing the instructions given under those circumstances.

I further take the liberty to request that the Department of State will kindly remit, as was done for the direct cable company, all charges that would otherwise be payable by the steamer having the cables on board, if that vessel should be obliged to enter any United States port on the coast of Massachusetts.

In case of a favorable decision by your Government, my company is prepared to finish, without delay, a complete line of telegraphic communication between Europe and America, the steamer *Faraday* being now at St. Pierre, awaiting the necessary instructions for this purpose.

I have the honor, etc.,

G. VON CHAUVIN,
Representative in America and Chief Engineer of the French Paris and New York Telegraph Company.

Mr. Sherman to Mr. Patenôtre.

No. 97.] DEPARTMENT OF STATE,
Washington, May 11, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of May 4, 1897, in which you inclose an application made by the French Telegraph Cable Company, as successors of the French Paris and New York Company, to lay a supplementary cable to that which it already has between Brest and Cape Cod.

The existing cable was laid under permission granted by the President of the United States in 1879, subject to the action of Congress and to certain conditions. Without discussing the question of his authority to grant that permission, I have the honor to inform you that the present Executive does not regard himself as clothed, in the absence of legislative enactment, with the requisite authority to take any action upon the application which you present. A bill was introduced in the last Congress giving the President of the United States express authority to authorize the landing of submarine cables on the shores of the United States, subject to conditions therein specified, but it failed to become a law. Until Congress shall see fit to clothe the President with power to act in matters of this kind, he will be compelled to refrain from doing so.

Accept, etc., JOHN SHERMAN.

Mr. Sherman to Mr. Patenôtre.

No. 102.] DEPARTMENT OF STATE,
Washington, June 4, 1897.

EXCELLENCY: In connection with my note of the 11th ultimo, concerning the application of the French Telegraph Cable Company to lay a supplementary submarine cable to that which it already has between Brest and Cape Cod, I have now the honor to state that, according to representations which have recently been made to the Department, the steamer *Dacia*, from Calais, has arrived at Cape Cod, Massachusetts, with the avowed purpose of landing the shore end of the new French cable. It is also represented that the superintendent of that company at Cape Cod lately inquired of counsel at Boston as to the landing rights of the company on the shores of Massachusetts.

In view of the statements made in my note that the President did not feel himself authorized, in the absence of legislative enactment to that end, to grant the application of the French Cable Company, I can only say that it is the expectation of the Federal Government that that company will take no steps toward laying its proposed cable from Cape Cod without express authorization of the President or of Congress, before which, as I have observed to you, a bill was introduced at the last session, but which has not yet been enacted into law. If that company should, however, take action in the manner proposed, it is proper to say that it would do so at its peril.

Asking that these views be immediately made known to the proper agent of the company, I avail myself, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Patenôtre.

No. 103.] DEPARTMENT OF STATE,
Washington, June 5, 1897.

EXCELLENCY: I have the honor, in connection with my note of the 4th instant, to say that the Department is advised that about 1,000 feet of the new French cable was laid from the "hut" at Cape Cod yesterday afternoon.

Before taking any further action in the matter, I request that you will promptly instruct the proper authorities of the French Telegraph Company, in case the Department's information should be correct, to immediately desist from its work, pending the necessary authorization either of the President or of Congress.

Accept, etc., JOHN SHERMAN.

Mr. Patenôtre to Mr. Sherman.

[Translation.]

FRENCH EMBASSY, *Washington, June 5, 1897.*

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of the note of June 4, which you sent me yesterday evening, to be communicated to the agent of the Compagnie Française des Câbles Télégraphiques. In accordance with the request which you made I have transmitted a copy of it to the representative of the said company at New York.

Accept, etc., PATENÔTRE.

Mr. Patenôtre to Mr. Sherman.

[Translation.]

FRENCH EMBASSY, *Washington, June 5, 1897.*

MR. SECRETARY OF STATE: The new note which you have done me the honor to address me to-day, for transmission to the Compagnie Française des Câbles Télégraphiques, reached me this evening. I immediately sent a copy of it, as you requested, to the said company's representative at New York.

Accept, etc. PATENÔTRE.

Mr. Patenôtre to Mr. Sherman.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, June 6, 1897.

MR. SECRETARY OF STATE: Referring to the notes which you were pleased to address to me, under date of June 4 and 5, for transmission to the French Telegraph Cable Company, and the receipt of which I have already acknowledged, I think proper, without waiting for explanations from the interested parties, which can only reach you after considerable delay, to submit to you now, with a view to the prevention of unfortunate misunderstandings, certain observations which have been suggested to me by the perusal of these two communications.

For greater clearness, and at the risk of repetition, I will briefly recall the origin of the matter which has served as a basis for this exchange of communications.

In 1879 the French Telegraph Company from Paris to New York, of which the French Telegraph Cable Company is now the legal heir, received authority from the President of the United States to land at Cape Cod a submarine telegraph cable intended to connect America and France. This telegraph cable, like all submarine cables, the working of which becomes impossible after a certain number of years, unless a second cable is added which renders it possible to make good the inevitable breaks in the first one, allowed, in the opinion of those who laid it, the subsequent addition of a supplementary cable. In other words, once in possession of the concession which had been granted it, and the duration thereof not being limited, the company thought that it had an incontestable right to avail itself of the practical means of utilizing said concession, and it still holds this opinion. The American lawyers whom it has consulted since then have confirmed it in the view originally taken by it. If the case were otherwise, the right to operate the line, which was granted to it in 1879, and which has been in no respect impaired since that time, would, in fact, become illusory.

Under these circumstances—the necessity of a supplementary cable having been superabundantly demonstrated—the company, as you are aware, addressed the Department of State on the 3d ultimo, making application, in view of the speedy landing of the said supplementary cable, for the various facilities (exemption from customs duties, etc.)

which had been granted when the first cable was laid. It was informed in reply that—

> In the absence of legislative provisions on the subject, the present Executive did not consider himself invested with the authority necessary to enable him to form a decision in regard to this application, and that, until Congress should see fit to invest the President with power to act in questions of this nature, he would be compelled to abstain from doing so.

In view of this declaration of incompetency and of abstention the French company gave up all expectation of the exemption from the payment of customs duties which it had solicited from the Federal Government, and, in consideration of the concession granted it in 1879, decided to proceed in the ordinary way to the performance of the operations which had become indispensable to the continuance of the working of its line. The usual formalities for the landing of the cable had been complied with by it, when I received your note of June 4, the object of which was to advise it that, in the absence of a special authorization from the President or the Congress, the work which it proposed to do would be done at its peril. I have transmitted this note to the representative of the company at New York, but its receipt has not yet been acknowledged.

I received last evening (Saturday, June 5) your second note, requesting me to inform the company that it must discontinue the work of landing the cable until it had received a special authorization either from the President or from Congress. I have likewise forwarded the latter note to the agent of the Frenc' Telegraph Cable Company at New York. This order to discontinue the work, which is hardly reconcilable with the declaration of incompetency contained in your note of May 11, seems to me, in a legal point of view, to call for certain observations which you will allow me to formulate here. The company has violated no law of the United States, so far as I know, at least. It does not propose to establish a new telegraph line, for which it might require a previous authorization. The supplementary cable which it desires to lay is designed solely to assure the operation of an old line which it possesses in virtue of the authority granted by the President in 1879. The prohibitory measures with which it is now threatened seem, under these circumstances, to be scarcely justifiable. They would be the less justified inasmuch as the two American companies whose submarine lines connect the United States with France have obtained from the French Government all desirable facilities for operating their double cable.

I take the liberty to submit these views to your impartial consideration, trusting that they may contribute toward preparing the way to an amicable settlement of this matter.

Be pleased to accept, etc., PATENÔTRE.

Mr. Patenôtre to Mr. Sherman.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, June 8, 1897.

MR. SECRETARY OF STATE: The representative of the French Telegraph Cable Company, by a letter dated June 7, acknowledges the receipt of the communications which you requested me, by your notes of June 4 and 5, to transmit to him. Mr. Lurienne informs me that

these communications reached him so late that it was impossible for him to modify or stop the performance of the work of the vessel which brought the cable, which work the company thinks that it did in an entirely legal way, after complying with the usual formalities.

It was not until the 5th instant that your note of the 4th (which was not delivered to me until evening) reached the agent of the company. The *Dacia*, which had finished work of landing the cable, had then left the coast.

As to your note of June 5 (which was left at the embassy Saturday evening) directing the company to stop work, it could not be delivered to the company's representative at New York before Monday, June 7, inasmuch as there is no postal service in the United States on Sunday. The *Dacia*, having finished laying the cable, was then out at sea.

In compliance with Mr. Lurienne's wish, I have the honor to bring this information to your notice, as a sequel to my dispatch of June 6.

Be pleased to accept, etc.,

PATENÔTRE.

Mr. Richards to Mr. Sherman.

DEPARTMENT OF JUSTICE,
Washington, D. C., January 18, 1898.

SIR: On May 4, 1897, the French ambassador submitted to your Department the application of the French Company of Telegraphic Cables (the successor of La Compagnie Française du Télégraphe de Paris à New-York) for permission to land a cable supplementary to that which it has between Brest and Cape Cod, upon the same terms and conditions as those which were imposed by the President in 1879, when the original cable was landed.

On May 11, 1897, your Department replied to this request, saying:

> The present Executive does not regard himself as clothed, in the absence of legislative enactment, with the requisite authority to take any action upon the application which you present. A bill was introduced in the last Congress giving the President of the United States express authority to authorize the landing of submarine cables on the shore of the United States subject to conditions therein specified, but it failed to become a law. Until Congress shall see fit to clothe the President with power to act in matters of this kind, he will be compelled to refrain from doing so.

On June 4, 1897, your Department addressed a note to the French ambassador, calling his attention to the fact that it had been represented to the Department that a steamer from France had arrived at Cape Cod with the avowed purpose of laying the shore end of the new cable, and saying:

> It is the expectation of the Federal Government that that company (the French Cable Company) will take no steps toward laying its proposed cable from Cape Cod without express authorization of the President or of Congress before which, as I have observed to you, a bill was introduced at the last session, but which has not yet been enacted into law. If that company should, however, take action in the manner proposed, it is proper to say that it would do so at its peril.

On June 5, 1897, another note was sent, informing the French ambassador of advices received to the effect that about 1,000 feet of the new French cable had been laid at Cape Cod the day before, and saying:

> Before taking any further action in the matter, I request that you will promptly instruct the proper authorities of the French Telegraph Company, in case the Department's information should be correct, to immediately desist from its work pending the necessary authorization either of the President or of Congress.

The French ambassador's notes, two of the 5th and one each of the 6th and 8th of June, disclose the fact that, although the Department's notes of the 4th and 5th of June had been promptly forwarded to the company's agent, the work of landing the cable had been completed before their receipt.

In view of the situation outlined, and the fact that Congress has not acted upon the matter, you request an official expression of my views as to the power of the President, in the absence of legislative enactment, to control the landing of foreign telegraphic cables.

What the President can do and ought to do in the case of projected cables may possibly be ascertained from what he has done; at any rate, a recurrence to the history of the landing of certain existing cables may prove of service in considering the question you propound.

The first cable from a foreign country landed upon the shores of the United States was one connecting the island of Cuba with the State of Florida, and was landed in 1867, under supposed authority of the act of Congress of May 5, 1866 (14 Stat., 44), granting to the International Ocean Telegraph Company, a New York corporation, the sole privilege, for fourteen years, of laying and operating telegraphic cables from the shores of Florida to Cuba, the Bahamas, and other West India islands, upon these conditions, namely, the United States to have the free use of the cable for military, naval, and diplomatic purposes; the company to keep all its lines open to the public for the daily publication of market and commercial reports and intelligence; all messages to be forwarded in the order received; no charge to exceed $3.50 for messages of ten words, and Congress to have the power to alter and determine the rates (Forty-ninth Congress, second session, Senate Doc. No. 1[illegible]2, p. 63; letter of Mr. Frelinghuysen to the President, January 27, 1885.)

In 1869 a concession was granted by the French Government to a company which proposed to lay a cable from the shores of France to the United States. One of the provisions of this concession gave to the company for a long period the exclusive right of telegraphic communication by submarine cable between France and the United States. President Grant resisted the landing of the cable unless this offensive monopoly feature should be abandoned. The French company accordingly renounced the exclusive privilege, and the President's objection was withdrawn. The cable was laid in July, 1869; it ran from Brest, France, to St. Pierre, a French island off the southern coast of Newfoundland, thence to Duxbury, Mass., and was known as the "First French Cable." It soon passed, however, into the control of the Anglo-American Company, controlling the cables connecting Great Britain with this continent. (Senate Doc. No. 122, pp. 63, 71.)

In a note respecting this cable, dated July 10, 1869, and addressed to the French and British ministers, Mr. Fish said:

> It is not doubted by this Government that the complete control of the whole subject, both of the permission and the regulation of this mode of foreign intercourse, is with the Government of the United States, and that, however suitable certain legislation on the part of a State of the Union may become, in respect of its proprietary rights, in aid of such enterprises, the entire question of the allowance or prohibition of such means of foreign intercourse, commercial and political, and of the terms and conditions and its allowance, is under the control of the Government of the United States. (Sen. Doc. No. 122, p. 65.)

In his annual message of December, 1875, President Grant recounts his action respecting the French cable of 1869, and says:

> The right to control the conditions for the laying of a cable within the jurisdictional waters of the United States to connect our shores with those of any foreign state pertains exclusively to the Government of the United States under such limi-

tations and conditions as Congress may impose. In the absence of legislation by Congress, I was unwilling, on the one hand, to yield to a foreign state the right to say that its grantees might land on our shores while it denied a similar right to our people to land on its shores; and, on the other hand, I was reluctant to deny to the great interests of the world and of civilization the facilities of such communication as were proposed. I therefore withheld any resistance to the landing of the cable, on condition that the offensive monopoly feature of the concession be abandoned, and that the right of any cable which may be established by authority of this Government to land upon French territory and to connect with French land lines, and enjoy all the necessary facilities or privileges incident to the use thereof upon as favorable terms as any other company, be conceded. (Senate Doc. No. 122, p. 70.)

After adverting to the need of new cables in order to provide competition and reduce rates, President Grant continues:

As these cable-telegraph lines connect separate States, there are questions as to their organization and control which probably can be best, if not solely, settled by conventions between the respective States. In the absence, however, of international conventions on the subject, municipal legislation may secure many points which appear to me important, if not indispensable, for the protection of the public against the extortions which may result from a monopoly of the right of operating cable telegrams, or from a combination between several lines:

I. No line should be allowed to land on the shores of the United States under the concession from another power which does not admit the right of any other line or lines formed in the United States to land and freely connect with and operate through its land lines.

II. No line should be allowed to land on the shores of the United States which is not, by treaty stipulation with the Government from whose shores it proceeds, or by prohibition in its charter, or otherwise to the satisfaction of this Government, prohibited from consolidating or amalgamating with any other cable-telegraph line, or combining therewith for the purpose of regulating and maintaining the cost of telegraphing.

III. All lines should be bound to give precedence in the transmission of the official messages of the Governments of the two countries between which it may be laid.

IV. A power should be reserved to the two Governments, either conjointly or to each, as regards the messages dispatched from its shores, to fix a limit to the charges to be demanded for the transmission of messages.

I present this subject to the earnest consideration of Congress.

In the meantime, and unless Congress otherwise direct, I shall not oppose the landing of any telegraphic cable which complies with and assents to the points above enumerated, but will feel it my duty to prevent the landing of any which does not conform to the first and second points as stated, and which will not stipulate to concede to this Government the precedence in the transmission of its official messages, and will not enter into a satisfactory arrangement with regard to its charges. (Senate Doc. No. 122, pp. 71–72.)

It will be observed that President Grant rested his authority to annex conditions to the landing of a foreign cable upon his power to prevent its landing altogether, if deemed by him inimical to the interests of this Government, its people, or their business. The right to prevent carried with it the right to control.

The Direct United States Cable Company completed its line in 1875 from Ballinskellings Bay, Ireland, to Rye Beach, New Hampshire, by way of Torbay, Nova Scotia. This cable was laid under the act of March 29, 1867 (15 Stat., 10), conferring upon the American Atlantic Cable Telegraph Company the privilege for twenty years to land a submarine telegraph cable at any place on the Atlantic coast except the coast of Florida, and to operate the same, the Government to have the preference in its use, on terms to be agreed upon between the Postmaster-General and the company, Congress reserving the right to alter, amend, or repeal the act. Application was made to the Department of State for the privilege of landing, accompanied by the voluntary assurance of the company that no amalgamation should take place with any other company for the purpose of controlling rates.

In view of these assurances, the landing of the cable was acquiesced

in by the President, Mr. Fish, in his letter to Mr. Eckert of January 2, 1877, saying:

On receiving such assurances from the promoters of the company, the President decided to withhold resistance to the landing of their cable.

The President adheres to the views which he expressed to Congress in December, 1875, that no line should be allowed to land on the shores of the United States which is not, by prohibition in its charter or otherwise to the satisfaction of the Government, prohibited from consolidating or amalgamating with any other cable-telegraph line, or combining therewith for the purpose of regulating and maintaining the cost of telegraphing.

These views are understood to have met the approval of Congress and of the people of the United States, indicated by the tacit acquiescence of the Congress, and by the expressed approval of individual members of that body, and the general approval of the public press of the country. In the same message the President announced that the right to control the conditions for the laying of a cable within the jurisdictional waters of the United States, to connect our shores with those of any foreign state, pertains exclusively to the Government of the United States, under such limitations and conditions as Congress may impose. And he further stated that, unless Congress otherwise direct, he would feel it his duty to prevent the landing of any telegraphic cable which does not conform (among others) to the point above referred to.

The President is of the opinion that the control of the United States over its jurisdictional waters extends to the right of discontinuing and preventing their use by a cable whose proprietors may violate any of the conditions on which the Government by acquiescence or silent permission allowed its landing, as well as to the resistance and prohibition of an original landing. (Senate Doc. No. 122, pp. 11, 12.)

The so-called "Second French Cable" was laid by La Compagnie Française du Télégraphe de Paris à New-York in 1879, from Brest to St. Pierre, and thence to Cape Cod. The company applied, through the French minister, to your Department for permission to land the cable, and the privilege was granted upon substantially the conditions formulated in President Grant's message of 1875, Mr. Evarts, in his letter of November 10, 1879, to Mr. Outrey, saying:

I have, without delay, brought the subject, together with the information conveyed by your note, to the attention of the President, and he authorizes me to say that, in view of the assurances thus received from the French Government that reciprocal privileges of landing will be granted by France to any company which may be formed by citizens of the United States upon the same terms that these privileges are granted to the present or any future company of French citizens that may apply for such landing privilege; and, having also received the acceptance by the directors of the "Compagnie Française du Télégraphe de Paris à New-York" of the conditions prescribed by this Government, the executive permission of the Government of the United States will be granted to that company to land its cable at Cape Cod, in the State of Massachusetts. It is proper for me to add, however, that this executive permission is to be accepted and understood by the company as being subject to any future action of Congress in relation to the whole subject of submarine telegraphy as explained in my note to you of the 27th ultimo. (Senate Doc. No. 122, p. 76.)

The Mackay-Bennett commercial cable was laid in 1884 from the coast of Europe to the United States, by permission of the President, upon substantially the conditions outlined in President Grant's message to Congress in 1875. Mr. Felinghuysen, in his letter of December 5, 1883, describes the attitude of the Government thus:

This Government regards with favorable consideration all efforts to extend the facilities for telegraphic communication between the United States and other nations, and, in pursuance of this sentiment the President is desirous of extending every facility in his power to promote the laying of the cables. While there is no special statute authorizing the Executive to grant permission to land a cable on the coast of the United States, neither is there any statute prohibiting such action; and I find on examination of the records of this Department that in 1875 conditional authority was given to land a French cable at Ryebeach, N. H., and that in 1879 permission was given to land a cable at Cape Cod.

These precedents seem to justify a similar concession to the promoters of the present enterprise, which there is the less hesitation in according as they are citizens of the United States. (Senate Doc. No. 122, p. 84.)

On October 18, 1889, the Compagnie Française du Télégraphe de Paris à New-York applied to your Department for permission to lay a cable from San Domingo to the United States. To this request Mr. Blaine replied, December 21, 1889:

While the authority of the President to grant the permission you desire must be accepted subject, of course, to the future ratification by Congress, yet there are certain conditions which he regards as absolutely essential before such provisional permission can be accorded.

These conditions are as follows:

(1) That neither the company, its successors or assigns, nor any cable with which it connects, shall receive from any foreign government exclusive privileges which would prevent the establishment and operation of a cable of an American company in the jurisdiction of such foreign government.

(2) That the company shall not consolidate or amalgamate with any other line or combine therewith for the purpose of regulating rates.

(3) That the charges to the Government of the United States shall not be greater than those to any other government, and the general charges shall be reasonable.

(4) That the Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, or agreement be granted to any other government.

(5) That a citizen of the United States shall stand on the same footing as regards privileges with citizens of San Domingo.

(6) That messages shall have precedence in the following order: (*a*) Government messages and official messages to the Government; (*b*) telegraphic business; (*c*) general business.

(7) That the line shall be kept open for daily business, and all messages, in the above order, be transmitted according to the time of receipt.

Conditions similar to these were required of your company in 1879 in reply to its application for authority to land one or more of its cables on the Atlantic coast of this country, and assented to by the company's order November 5, 1879. And it would seem needless to add that similar conditions have been imposed upon all cable companies desiring to land their cables from foreign countries upon the shores of the United States. It will be observed, however, that the first condition has been modified to meet a case which did not arise in 1879, of the cable for which the privilege of landing is sought being used as a link in a longer line of communication. Such a case is believed now to exist in respect to the proposed cable between the United States and San Domingo, which is understood to be only a link in a line between the United States and South America. The spirit and purpose of the first condition imposed in 1879 require that American cable companies should not now be excluded from operating and establishing lines between the United States and South America, either directly or by way of San Domingo.

The President, therefore, directs me to say that if the foregoing conditions are satisfactory to your company, and it will first file in this Department a duly authenticated copy of the concession granted by the Dominican Government to land its cable at Puerto Plata, together with a like certified copy of the conditions imposed by this Government, he will be willing to grant the necessary permission to your company to land its cable at Charleston, S. C., subject to the future action of Congress. (House of Representatives, Fifty-second Congress, first session, Report No. 964.)

The cable company took no steps to comply with these requirements. Nearly two years later, on December 2, 1891, the French Cable Company, through its attorney, Mr. Jefferson Chandler, renewed its application for permission to land a cable. Meantime, on December 1, 1891, the company, through the same attorney, obtained from the legislature of South Carolina a joint resolution purporting to authorize it to land a cable on the coast of that State, and in January, 1892, from the legislature of Virginia an act purporting to authorize it to land a cable on the shore of that State. On March 10, 1892, a joint resolution was introduced into Congress to confirm these grants. This resolution was referred to a committee, of which Mr. Wise was chairman, and to him was addressed the letter of Acting Secretary Wharton of March 22, 1892, published in House Report No. 964, Fifty-second Congress, first session. After receiving this communication the committee reported a

substitute granting the landing privilege upon the conditions prescribed by Mr. Blaine. Thereupon, for the time being, the attempt of the company to obtain the consent of Congress ceased.

On June 21, 1893, the same company, through the same attorney, applied again to the Department of State ostensibly for permission to land a cable on the shore of Virginia, but the application was accompanied by a written argument to show that the President had no power to act in the matter; the concluding paragraph of this argument and application being:

> I respectfully request, therefore, on behalf of the applicant, that the honorable Secretary of State will decide this application on its merits, and will declare that under the law the States may freely land cables, and that the Executive has no jurisdiction nor disposition to prevent the landing and operation of a submarine cable from the shores of Virginia to any point permitted by the State, and that the authority of the State of Virginia to so permit cable companies to land and establish themselves on its coast is complete, and, further, that no action is required or permitted by any of the executive officers of the Government as the law now is. (Fifty-third Congress, second session, Senate Doc. No. 14; letter of Mr. Gresham.)

In response to this argument, Mr. Gresham, changing the attitude of the Government as established by the Presidents and their Secretaries of State, from President Grant's time down, declined to act on the application, saying in his communication of August 15, 1893:

> There is no Federal legislation conferring authority upon the President to grant such permission, and in the absence of such legislation executive action of the character desired would have no binding force. (Fifty-third Congress, second session, Senate Doc. No. 14; letter of Mr. Gresham.)

October 2, 1895, Mr. Olney addressed a letter to Mr. Scrymser, president of the Central and South American Telegraph Company, in which, in answer to his letter of September 25, 1895, he stated that La Compagnie Française des Cables Télégraphiques had not made application for permission to land its cables on the coast of the United Sates, and added:

> Furthermore, in the absence of Federal legislation conferring authority upon the Executive to grant such permission, this Department has no power to act in the matter.

On the 24th of October, 1895, Mr. Scrymser laid before your Department certain information concerning an agreement for laying and maintaining submarine cables between France, North America, and the Antilles, to which the Government of France was a party, and suggested that the French minister be officially informed as to the policy of the Government of the United States in the matter of cable-landing privileges on our shores. Replying to this communication, on October 28, 1895, Mr. Olney referred to his former letter, and said:

> There is no Federal statute conferring authority upon the Executive to grant or withhold permission to land cables on the shores of the United States. This Department has, therefore, no power to act in the matter, and I am unable to comply with your request.

As a natural sequence of the attitude taken by your Department under Mr. Gresham and Mr. Olney, La Compagnie Française des Cables Télégraphiques, acting in connection with the United States and Haiti Telegraph and Cable Company and the United States and Haiti Cable Company, in 1896 landed a cable, extending from Haiti to this country, at Coney Island, New York, without permission of the Government. This Department, acting through the Attorney-General and the United States attorney, brought an injunction suit against the companies named to prevent the landing and operation of the cable, but in view

of the fact that the cable had been landed, the motion for an injunction against its operation was refused. At the same time Judge Lacombe said (77 Fed. Rep., 496):

> It is thought that the main proposition advanced by complainant's counsel is a sound one, and that, without the consent of the General Government, no one, alien or native, has any right to establish a physical connection between the shores of this country and that of any foreign nation. Such consent may be implied as well as expressed, and whether it shall be granted or refused is a political question, and in the absence of Congressional action would seem to fall within the province of the Executive to decide. As was intimated upon the argument, it is further thought that the Executive may effectually enforce its decision without the aid of the courts.

It thus appears that from 1869 to August, 1893, during the terms of Grant, Hayes, Garfield, Arthur, Cleveland (first term), and Harrison, it was held by the Presidents and their Secretaries of State that the Executive has the power, in the absence of legislation by Congress, to control the landing, and incidentally regulate the operation of foreign submarine cables in the protection of the interests of this Government and its citizens. Against this established rule, supported by the opinion of the only United States judge who has passed upon the question, stands opposed the refusal to act of Mr. Gresham, followed by the dictum of Mr. Olney. The attitude taken by your Department under Mr. Gresham has resulted in the landing of two foreign cables upon our shores without permission of this Government and subject to no limitations or restrictions whatever. Must this condition continue? Is the President powerless to act until Congress legislates?

A foreign submarine cable which lands upon our shores in its location enjoys rights upon our territory, and in its operation provides a means of international communication, public and private, political and commercial.

The jurisdiction of this nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. (Mr. Chief Justice Marshall, The Exchange, 7 Cranch, 116, 136.) No one has a right to land a foreign cable upon our shores and establish a physical connection between our territory and that of a foreign State without the consent of the Government of the United States.

The preservation of our territorial integrity and the protection of our foreign interests is intrusted, in the first instance, to the President. The Constitution, established by the people of the United States as the fundamental law of the land, has conferred upon the President the executive power; has made him the commander in chief of the Army and Navy; has authorized him, by and with the consent of the Senate, to make treaties, and to appoint ambassadors, public ministers, and consuls, and has made it his duty to take care that the laws be faithfully executed. In the protection of these fundamental rights, which are based upon the Constitution and grow out of the jurisdiction of this nation over its own territory and its international rights and obligations as a distinct sovereignty, the President is not limited to the enforcement of specific acts of Congress. He takes a solemn oath to faithfully execute the office of President, and to preserve, protect, and defend the Constitution of the United States. To do this, he must preserve, protect, and defend those fundamental rights which flow from the Constitution itself and belong to the sovereignty it created. (Mr. Justice Miller, In re Neagle, 135 U. S., 1, 63, 64; Mr. Justice Field, The Chinese Exclusion Case, 130 U. S., 581, 606; Mr. Justice Gray, Fong Yue Ting *v.* United States, 149 U. S., 698, 711; Mr. Justice Brewer, In re Debs, 158 U. S., 564, 582.)

The President has charge of our relations with foreign powers. It is his duty to see that, in the exchange of comities among nations, we get as much as we give. He ought not to stand by and permit a cable to land on our shores under a concession from a foreign power which does not permit our cables to land on its shores and enjoy there facilities equal to those accorded its cable here. For this reason President Grant insisted on the first point in his message of 1875.

The President is not only the head of the diplomatic service, but commander in chief of the Army and Navy. A submarine cable is of inestimable service to the Government in communicating with its officers in the diplomatic and consular service, and in the Army and Navy when abroad. The President should therefore demand that the Government have precedence in the use of the line, and this was done by President Grant in the third point of his message.

Treating a cable simply as an instrument of commerce, it is the duty of the President, pending legislation by Congress, to impose such restrictions as will forbid unjust discriminations, prevent monopolies, promote competition, and secure reasonable rates. These were the objects of the second and fourth points in President Grant's message.

The executive permission to land a cable is, of course, subject to subsequent Congressional action. The President's authority to control the landing of a foreign cable does not flow from his right to permit it in the sense of granting a franchise, but from his power to prohibit it should he deem it an encroachment on our rights or prejudicial to our interests. The unconditional landing of a foreign cable might be both, and therefore to be prohibited, but a landing under judicious restrictions and conditions might be neither, and therefore to be permitted, in the promotion of international intercourse.

I am of the opinion, therefore, that the President has the power, in the absence of legislative enactment, to control the landing of foreign submarine cables. He may either prevent the landing, if the rights intrusted to his care so demand, or permit it on conditions which will protect the interests of this Government and its citizens; and if a landing has been effected without the consent or against the protest of this Government, respect for its rights and compliance with its terms may be enforced by applying the prohibition to the operation of the line, unless the necessary conditions are accepted and observed.

Very respectfully,

JOHN K. RICHARDS,
Acting Attorney-General.

ADMISSION OF FOREIGNERS TO FRENCH GOVERNMENT SCHOOLS.

Mr. Porter to Mr. Sherman.

No. 160.] EMBASSY OF THE UNITED STATES,
Paris, January 11, 1898. (Received Jan. 24.)

SIR: I am in receipt of your No. 212, of December 20, stating that Mr. Andrew Roy, of Glen Roy, Ohio, who desires to procure the admission of his son, Robert Roy, to the School of Mines, informs the Department that this can only be done through this embassy, and asking, in view of occasional inquiries of this nature, for information on the subject, as well as on the eligibility of American pupils to enter the French schools.

Mr. Roy's statement is correct. No foreign student can be admitted to the School of Mines unless it be on the formal application of the diplomatic representative of his country. This rule is not confined to the School of Mines only; it applies to every Government school, superior or primary, without a single exception. No American can enter any of the scientific, artistic, literary, or military schools of France—medicine, pharmacy, dentistry, veterinary, painting, design, architecture, music, declamation, engineering, etc.—if his admission is not asked for or recommended by this embassy. In most of the cases two letters suffice; one making the application, the other expressing thanks when the request is granted. But in a great number of cases many more are necessary, for the reason that those proposing to enter any of the schools of a high grade have to produce certain certificates of studies or diplomas, which the authorities will not take into consideration unless they come from the embassy. These rules are applied to all foreign students. No discrimination is made against Americans; on the contrary, the experience of this embassy goes to show that the authorities extend to them all possible facilities. American students are numerous in Paris, and as a rule they are much liked by the managers and professors of French institutions of learning.

With regard to the School of Mines, foreigners can be admitted there either as foreign pupils, in which case they have to stand an examination, or as free auditors, in which case there is no examination. But all the courses are not open to that class of students, and they are not entitled to a diploma. In both cases they have to pay a sum of 50 francs for matriculation.

If Mr. Roy will inform me of his intentions, I will take pleasure in making the necessary application for the admission of his son. It is not likely to be refused unless the school should be too full, as it occasionally happens, in which case applications are put off to the following year.

I have, etc.,

HORACE PORTER.

GERMANY.

THE PROTEST OF GERMANY AGAINST THE NEW TARIFF.

Baron von Thielmann to Mr. Sherman.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, April 5, 1897.

MR. SECRETARY OF STATE: The bill approved by the House of Representatives, now before the Senate of the United States, relating to the tariff of the United States (H. R. 379) provides in Schedule E, No. 206, that sugars, etc., the product of any country which pays, directly or indirectly, a bounty on the export thereof shall pay, apart from the actual duty set forth in the said No. 206, an additional duty equal to such export bounty so far as this bounty shall be in excess of any (internal) tax collected upon such sugars or upon the raw materials (beet or cane) used in their manufacture.

By instruction of the Imperial Government, I have the honor respectfully to invite your excellency's attention to the fact that this provision can not be reconciled with the right of the most favored nation, which is granted by existing treaty stipulations to German products with respect to the duties to be imposed upon them on entry into the United States. The above provision, should it become a law, would, on the contrary, by imposing upon German sugar a special additional duty and thereby establishing in the aggregate a higher duty than upon sugars from various other countries, seriously damage, in treaty violation, German exports to the United States.

Your excellency is aware that this question was already discussed in the year 1894 between the Imperial Government and the Government of the United States. I may, in especial, refer to the memorandum of this embassy of July 16, 1894, and to the note of August 28, 1894, addressed by my predecessor, Baron Saurma, to the Secretary of State, Mr. W. Q. Gresham, both of which are found printed on pages 234 and 235 of the proper volume of Foreign Relations of 1894.

It appears to me needless, therefore, to repeat here the text of these two documents; but I must say here emphatically that I accept in their entirety as my own the arguments advanced therein on the part of my predecessor in behalf of the opinion held by the Imperial Government. I must state furthermore here that the damage which threatens German exports from the provisions of the present bill before Congress is a much heavier one than that which resulted from the tariff law of August 28, 1894, as this law provided only for an additional duty of one-tenth of a cent per pound on German sugar, while the present bill, if it should become a law, will entail a much higher additional duty upon German sugar.

As your excellency further knows, the Government of the United States has unreservedly recognized the justice of our protest against any additional duty based on our export bounty upon German sugar. This is clearly expressed in words in the report by Secretary of State

W. Q. Gresham to the President of the United States, of October 12, 1894, a copy of which was communicated to this embassy in a note of December 7, 1894, and may be found printed on pages 236 and 239 of the proper volume of Foreign Relations for the year 1894. The President of the United States explicitly concurred in this view of the Secretary of State by recommending to Congress in his annual message of December, 1894, the repeal of the additional duty upon German sugar. The Imperial Government may, therefore, entertain the hope that the Government of the United States will exert every endeavor to explain to Congress the importance of the existing treaty obligations between Germany and the United States, and the consequences to be adduced therefrom, in order to prevent the proposed provision concerning the addition of the amount of the German export bounty to the duty upon German sugar from becoming a law in violation of treaty obligation.

On this occasion I may invite your excellency's attention to another point which my predecessor in 1894 only touched upon. On August 22, 1891, declarations were exchanged at Saratoga between Mr. von Mumm, the Imperial chargé d'affaires ad interim, and Mr. John W. Foster, specially empowered by the United States, which had on the one part the importation of German sugar into the United States in view, and on the other the importation of American pork into Germany. The United States made as the basis of these declarations the admission, free of duty, of German sugar, pursuant to the tariff act of October 1, 1890. The tariff act of August 28, 1894, had already shifted in an unfavorable way for Germany the premises upon which the exchange of these notes were effected and they would be changed still more to the disadvantage of Germany if the present bill, now before Congress, should without amendment concerning sugar become a law. The Imperial Government would in such event be compelled to regard the premises as defective upon which the German declarations had been based in the correspondence exchanged in August, 1891, and it would, moreover, be confronted with the question whether those advantages should be further continued which it had hitherto extended to the United States by applying to the importations from that country, especially with regard to its agricultural products, the minimum tariff established by the customs treaties concluded between the German Empire on the one hand and Austria-Hungary and several other States on the other.

With respect to the advantages which the United States and especially its agriculture has been afforded by these reduced duties, I may refer to the note of Mr. von Mumm, chargé d'affaires ad interim, of December 10, 1891, in the annex to which the duty rates of the general German tariff are contrasted with the treaty tariff. This note will be found printed as an annex to the proclamation of the President of the United States of February 1, 1892.

Accept, etc., THIELMANN.

Baron von Thielmann to Mr. Sherman.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, May 16, 1897.

MR. SECRETARY OF STATE: In my note of the 5th ultimo, relative to the duty on German sugar which was proposed in the Dingley bill, the receipt of which your excellency had the kindness to acknowledge

under date of the 7th ultimo, No. 206, Schedule E, was referred to by me as the one against whose provisions I had been instructed by the Imperial Government to protest on the ground of the treaties concluded by the United States with various German States. The Committee on Finance of the United States Senate has, meantime, made important changes in the original wording of the tariff bill, has eliminated from Schedule E the discriminating duty on sugar from countries which pay export bounties, and has introduced that discriminating duty, in a form which extends to goods of all kinds, into the new section 3.

I consequently have the honor, with a view to the prevention of misunderstandings, most respectfully to inform your excellency that the protest which I was instructed by the Imperial Government to make now naturally has reference to the contents of the new section 3, since in case the contents of the new section 3 should acquire the force of law, German goods would be obliged to pay a discriminating duty in addition to the ordinary duties.

I should be obliged to your excellency if you would have the kindness to bring this note, as you did that of the 5th ultimo, to the notice of the United States Senate.

Accept, etc., THIELMANN.

Mr. von Reichenau to Mr. Sherman.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, July 28, 1897.

MR. SECRETARY OF STATE: The United States tariff act, which took effect on the 24th instant, provides, in section 5, that any dutiable article imported into the United States from a foreign country, on which an export bounty is paid by the foreign State, shall be subject, in addition to the general duty imposed by the tariff act, to an additional duty equal to the net amount of the export bounty.

A higher duty is imposed on German sugar by the above provision than upon sugar from several other countries.

Against this discriminating treatment of German sugar, which, in the opinion of the Imperial Government, is incompatible both with the most favored nation rights that are secured to German productions by the treaties in force as regards the duties to be levied on them when they are imported into the United States, and with the provisions of the Saratoga agreement of August 22, 1891, the German ambassador, in pursuance of instructions received, protested in his notes of April 5 and May 16, 1897, in case the treaty-violating provision should acquire the force of law.

Since that is now the case, in consequence of the passage of the entire tariff act on the 24th instant, I have been instructed by the Imperial Government, and accordingly have the honor, for the reasons which were stated in Baron Thielmann's aforesaid two notes, and which are therefore not repeated here, to hereby again protest against the treaty-violating treatment of German sugar in the United States tariff act of July 24, 1897.

Accept, etc., REICHENAU.

Mr. Sherman to Mr. von Reichenau.

No. 384.] DEPARTMENT OF STATE,
Washington, September 22, 1897.

SIR: By the Department's note, No. 359, of July 30 last, you were informed that yours of the 28th of the same month, relative to the application of section 5 of the United States tariff act of July 24, 1897, to bounty sugar imported from Germany, had been referred to the Secretary of the Treasury for his consideration. That official having given careful attention to the protest which your said note contains, I have the honor to acquaint you with the substance of his conclusions as follows:

The protest of your Government rests upon two grounds: (1) That "this discriminating treatment of German sugar is incompatible with the most favored nation rights that are secured to German productions by the treaties in force as regards the duties to be levied on them when they are imported into the United States," and (2) "that it is incompatible with the provisions of the Saratoga agreement of August 22, 1891."

An answer to the first of these objections may be found in the opinion of November 13, 1894, of the Attorney-General upon the question whether salt exported from Germany was dutiable under paragraph 608 of the tariff act of August 28, 1894, in view of the fact that Germany imposed duties upon salt exported from the United States. In this opinion the Attorney-General said, in part:

> If it be assumed * * * that the treaty of 1828 binds the United States as regards all the constituent parts of the German Empire, the claim of the German ambassador, founded upon the most favored nation clause, must be pronounced untenable for at least two conclusive reasons. In the first place, the most favored nation clause of our treaties with foreign powers has, from the foundation of our Government, been invariably construed both as not forbidding any internal regulations necessary for the protection of our home industries and as permitting commercial concessions to a country which are not gratuitous, but are in return for equivalent concessions, and to which no other country is entitled except upon rendering the same equivalents. Thus, Mr. Jefferson, when Secretary of State in 1792, said of treaties exchanging the rights of the most favored nation that they leave each party free to make what internal regulations they please and to give what preference they find expedient to native merchants, vessels, and productions. In 1817 Mr. John Quincy Adams, acting in the same official capacity, took the ground that the most favored nation clause only covered gratuitous favors and did not touch concessions for equivalents, express or implied. Mr. Clay, Mr. Livingston, Mr. Evarts, and Mr. Bayard, when at the head of the Department of State, have each given official expression to the same view. It has also received the sanction of the Supreme Court in more than one well-considered decision. * * * In the next place, even if the provisions of our recent tariff act under consideration could be deemed to contravene the most favored nation clause of the treaty with Germany (as they cannot be for the reasons stated), the result would be the same. The tariff act is a statute later than the treaty, and, so far as inconsistent with it, is controlling.

Inasmuch as the subject-matter of the above opinion and the question under consideration are, with respect to the most favored nation clause, in pari materia, the reasoning of the former may, under the well-known rule of construction, be applied to the latter question. But reliance upon this principle is not necessary to make the opinion of the Attorney-General applicable to the present case. One paragraph thereof is directly in point.

> The interpretation of the most favored nation clause [he says], so clearly established as a doctrine of American law, is believed to accord with the interpretation put upon the clause by foreign powers—certainly by Germany and Great Britain. Thus as the clause permits any internal regulations that a country may find necessary to give a preference to native merchants, vessels, and productions, the repre-

sentatives of both Great Britain and Germany expressly declared at the international sugar conference of 1888 that the export sugar bounty of one country might be counteracted by the import sugar duty of another without causing any discrimination which could be deemed a violation of the terms of the most favored nation clause.

As to the second ground of protest—that of incompatibility with the Saratoga agreement of August 22, 1891, the Secretary of the Treasury is of the opinion, in which I join, that the said agreement was no longer in force at the time of the passage of the act of July 24, 1897, inasmuch as the act of August 28, 1894, repealed section 3 of the act of October 1, 1890, under which the agreement was made.

It is to be added that the protest of Baron von Thielmann against the enforcement of the corresponding paragraph of the act of August 28, 1894, and against the enactment of section 5 of the act of July 24, 1897, having been at his request laid by me before the Senate on May 19 last, the Congress of the United States acted with full knowledge of them.

Accept, etc., JOHN SHERMAN.

EFFECT OF THE NEW TARIFF ON TRADE BETWEEN GERMANY AND THE UNITED STATES.

Mr. Jackson to Mr. Sherman.

No. 157.] EMBASSY OF THE UNITED STATES,
Berlin, October 28, 1897. (Received November 6.)

SIR: I have the honor to transmit herewith a copy of a note sent by me to the Imperial foreign office to-day—after consultation with Consul-General Goldschmidt, who, at my request, kindly furnished to me the figures given in the note—in regard to the effect of the new American tariff upon trade between Germany and the United States. My reason for addressing the foreign office upon this subject at this time is in order that that office may be possessed of the authentic statistics in regard to it, as distorted statements in regard to the decrease in American exports from Germany during the last quarter, together with still more distorted conclusions drawn from the same, have frequently appeared in the German newspapers during the past week or two.

I have, etc.,

JOHN B. JACKSON.

[Inclosure in No. 157.]

Mr. Jackson to Mr. von Bulow.

OCTOBER 27, 1897.

The undersigned, chargé d'affaires of the United States of America, has the honor to inform His Excellency Ambassador von Bulow, acting secretary of state for foreign affairs, that he has just been furnished with authentic reports from the American consular officers in Germany, which show that the total value of the exports from Germany to the United States for the quarter ending September 30, 1897, was $14,839,459.73, as compared with $26,233,467.41 for the same quarter of 1896. An analysis of this decrease (which amounts to $11,394,007.68), shows that more than one-half of its amount (or $6,591,917), is in the article "sugar" alone. From the consular districts of Bremerhaven, Brunswick, Hamburg, Magdeburg, Stettin, and Breslau the value of

the sugar exported to the United States in the third quarter of 1896 was $6,662,951, while in the quarter just ended the amount was $78,034.

In this connection, however, the undersigned begs to call attention to the fact that the increase in the value of the total exports from Germany to the United States for the fiscal year ending June 30, 1897, over their value in the preceding year was $21,219,779.81, the whole amount of which is due to increased exports from the six districts above mentioned, the increase and decrease from the other districts in Germany approximately being equivalent to each other.

In view of this enormous volume of imports into the United States, just before and in anticipation of a change in the American tariff, and of the consequent overstocking of the American market—which was especially the case with sugar—it was, of course, to be anticipated that, for the next quarter at least, the returns would be kept below those of similar periods immediately before the enactment of the existing American tariff. It would therefore appear to be nothing more than reasonable that if the decrease during the past quarter is to be attributed to the new tariff, the increase during the last fiscal year above referred to should be considered at the same time, and that no conclusions should be drawn (as has been done in the German press), in regard to its possible or probable effect upon trade between the two countries concerned until abnormal conditions have disappeared and the value of the goods exported from Germany to the United States is again determined by the actual demand for such goods, and not by the fictitious state of the markets.

The undersigned avails, etc.,

JOHN B. JACKSON.

UNITED STATES CITIZENSHIP OF JOSEF GEORG SURMANN.

Mr. von Reichenau to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, November 11, 1896.

MR. SECRETARY OF STATE: Josef Georg Surmann, who resides in Alsace-Lorraine, claimed, in February last, when an official investigation was held with a view to settling the question of his citizenship, to be a citizen of the United States, and produced, in support of his claim, the inclosed certificate of the United States consul at Freiburg in Breisgan.

First, however, Karl Surmann, the father, was, at the time of the birth of his son, Josef Georg, i. e., on the 1st of July, 1873, a subject of the German Empire; for he is a native of Sennheim, where he was born July 3, 1850, and did not elect, during the time which was allowed for that purpose, to become a French citizen. He was, moreover, according to his own declaration, made before the Imperial authorities, a resident of Alsace-Lorraine at the time of the cession of that country to the German Empire in pursuance of the Frankfort treaty of peace of May 10, 1871.

Second, he left the territory of the United States in the year 1874 with his son Josef Georg, before the latter had reached his second year. Josef Georg Surmann has never returned to the United States, and, so far as can be ascertained, has never, since attaining his majority, declared his option to become an American citizen.

It appears doubtful, under the circumstances, in view of the practice prevailing in the United States, whether Josef Georg Surmann should really be considered a citizen of the United States on account of his birth in this country. In the coincidently similar case of Speck, the Swiss, for instance, it was denied by the United States Government that Speck was a citizen of the United States. (See Acting Secretary Seward's note of August 20, 1878, in Wharton's Digest of the International Law of the United States, Washington, 1886, Vol. II, §183, p. 396.) Compare also the note of Secretary Evarts, of December 31, 1878, loc. cit.

Josef Georg Surmann can assert his claim to American citizenship on no ground save that of his birth in the United States.

His father does, indeed, claim that he acquired American citizenship, through naturalization, for himself and also for his son (who was then a minor) during his stay in the United States. He has, however, failed to furnish any proof of this claim. The certificate produced by him, bearing date of September 14, 1874, which is herewith inclosed, merely shows that he made, on that day, before the judge in Cleveland, the sworn declaration of his intention to become an American citizen which must be made at least two years before naturalization, according to Title XXX, section 2165, subsection 1, of the Revised Statutes of the United States, edition of 1878.

There is, however, absolutely no proof that Karl Surmann was afterwards naturalized, and the contrary seems to be shown by the fact that he finally left the United States in the latter part of the year 1874, after a residence of little more than three years, thus failing to meet the requirement of section 2170 of the Revised Statutes, which reads thus:

> No alien shall be admitted to become a citizen who has not, for the continued term of five years next preceding his admission, resided within the United States.

I have the honor most respectfully to remark, in this connection, that the statement made in the certificate of September 14, 1874, viz, that Karl Surmann arrived in the United States in July, 1870, is, according to his own subsequent declarations, erroneous, and that he did not leave Sennheim, his birthplace, until May, 1871.

I will further add, for the sake of completeness, that Karl Surmann, the father, took up his abode at Muhlhausen, Alsatia, after his return from the United States with his family; that he removed thence in February, 1876, to Fontaines-les-Luxenil, in France, and remained there until October, 1888, that is to say, he resided there uninterruptedly for more than ten years, which involved the loss of German citizenship for himself, his wife, and minor children, including his son Georg Josef (Josef Georg?). The family have again lived at Sennheim, their old home, since 1888.

I have the honor, in obedience to instructions received, most respectfully to request your excellency, in consideration of the reasons above stated, to examine the question of Georg Josef (Josef Georg?) Surmann's citizenship, and to inform me of the conclusion reached by you. I likewise request that the two inclosures may be returned to me.

Accept, etc.,

REICHENAU.

[Inclosure No. 1.]

UNITED STATES OF AMERICA,
Probate Court of Cuyahoga County, Ohio:

Be it remembered, that on the 14th day of September, in the year of our Lord one thousand eight hundred and seventy-four, Charles Surmann, an alien and native of

Germany, personally appeared before me, Daniel R. Tilden, judge of the probate court of Cuyahoga County, Ohio, and declared on his solemn oath that he first arrived in the United States in the month of July, A. D. 1870, and that it is his *bona fide* intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatsoever, and particularly to William I, Emperor, of whom he is a subject; and subscribed his name to said declaration, which remains of record in my office.

In testimony whereof I have hereunto subscribed my name officially, and affixed the seal of the said court, at the city of Cleveland, this 14th day of September, A. D. 1874.

[SEAL.]

DANL. R. TILDEN,
Probate Judge.

[Inclosure No. 2.]

Consulate of the United States of North America.

I, J. H. Thieriot, consul of the United States of North America at Freiburg, Baden, hereby certify, in view of the certificate of baptism, which has been exhibited to me, said certificate having been issued by G. Westerhold, pastor of St. Peter's Church, Cleveland, Ohio, United States of North America, under date of August 3d, 1873, in the presence of Joseph Bachmann and Lina Hug, and bearing the official seal of the church, that Joseph Georg Surmann, who was born July 1st, 1873, at Cleveland, Ohio, is, as the son of Carl Surmann, of Sennheim, and Theresia Surmann, nee Huber, his wife, a citizen of the United States of North America by birth; that, according to the laws of the United States, there is no impediment to the marriage of the said Joseph Georg Surmann; that, especially, he does not need the consent of his parents, and that the proclamation of the banns of his marriage in Cleveland is not necessary.

J. H. THIERIOT, *Consul.*

FREIBURG, I BR., *February 1st, 1896.*

I hereby certify that the foregoing is a true copy of its original.

[L. S.]

G. RISLER, *Burgomaster.*

SENNHEIM, *March 11, 1896.*

Mr. Olney to Mr. von Reichenau.

DEPARTMENT OF STATE,
Washington, November 20, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, presenting certain inquiries respecting the citizenship of one Josef Georg Surmann.

From the statement contained in your note and the papers accompanying the same, it appears that Josef Georg Surmann was born at Cleveland, Ohio, July 1, 1873; that his father, Karl Surmann, came to the United States in July, 1870, or, according to later statements, in May, 1871; that he declared his intention to become a citizen of the United States before the probate court of Cuyahoga County, Ohio, September 14, 1874, but that the latter part of the same year he quitted the United States, taking his infant son with him. It would seem that the father, Karl, never returned to the United States to perfect his acquisition of American citizenship, but that, after a residence of twelve years in France, whereby he forfeited for himself, his wife, and minor children his German citizenship, he has returned to his native place, Sennheim, in Alsace-Lorraine, where he has resided since 1888.

The son, Josef Georg Surmann, of whom you inquire, has never returned to the United States, and is now over 23 years old.

The certificate signed by the United States commercial agent at Freiburg in Baden, which you submit to me, contains the only statements

material to the young man's case of which the Department has any knowledge. Upon those statements Josef Georg Surmann is, according to the Constitution and laws of the United States, a citizen thereof by birth. Conformably to a general rule of international law, followed by this Department in its special rulings in cases as they arise, the young man might, if sojourning in a foreign country, have been required, on attaining the age of 21, to make formal option of allegiance. It does not appear whether he ever made such option or was afforded an opportunity to do so. Were he now called upon to elect American allegiance, and were he to demonstrate his immediate purpose of returning to the United States, here to dwell and discharge the duties of citizenship, a passport might be issued to him by the United States ambassador at Berlin upon being satisfied of the bona fides of the case. Otherwise, following the precedents established for many years, to which you advert, this Department would be constrained to regard Josef Georg Surmann as having voluntarily relinquished his right to continued protection as a citizen of the United States by reason of and during his prolonged and indefinite sojourn abroad after attaining majority. The executive branch of this Government is not competent to declare that any person lawfully born or becoming a citizen of the United States may have forfeited his citizenship for any cause, inasmuch as the laws of the United States make no provision for executive determination of such a case. Were the young man within the jurisdiction of the United States, and were a judicial issue raised involving the question of his citizenship, that would be a matter of fact and of law for the decision of the competent court, either State or Federal, as the case might be.

A copy of your note and of the present reply will be sent to the United States ambassador at Berlin for his information and guidance should Josef Georg Surmann apply to him for a passport under the circumstances above stated.

The original inclosures which accompanied your note are herewith returned as requested.

Accept, etc.,

RICHARD OLNEY.

PROTECTION OF GERMAN VESSEL AT MARTINIQUE.

Mr. Sherman to Baron von Thielmann.

No. 301.] DEPARTMENT OF STATE,
Washington, March 10, 1897.

EXCELLENCY: I have the honor to apprise you of the receipt of a telegram from Mr. Julius G. Tucker, United States consul at St. Pierre, Martinique, dated the 9th instant, reading as follows:

> Captain Alm, German bark *Elizabeth Ahrens*, Rostock, loaded sugar Jenipa Bay, asks my protection; crew scuttled ship; leaks closed; situation unsafe proceed sea; wire authority act.

If it is the wish of your excellency's Government that Mr. Tucker shall take action such as he indicates, it will give me pleasure to cause him to be instructed to render the captain all possible assistance and to report accordingly.

Awaiting your reply, I beg to renew, etc.,

JOHN SHERMAN.

Baron von Thielmann to Mr. Sherman.

[Translation.]

WASHINGTON, D. C., *March 10, 1897.*

SIR: In reply to your excellency's note of to-day's date, No. 301, I beg to say that I shall thank you for kindly instructing, by telegraph, the United States consul at St. Pierre, Martinique, to extend his protection and render assistance to Captain Alm, master of the German bark *Elisabeth Ahrens.*

I avail myself, etc.,

THIELMANN.

Mr. Sherman to Baron von Thielmann.

No. 305.] DEPARTMENT OF STATE,
Washington, March 13, 1897.

EXCELLENCY: Referring to the Department's note to you of the 10th instant, offering on behalf of this Government to extend protection and render assistance at St. Pierre, Martinique, to Captain Alm, master of the German bark *Elisabeth Ahrens*, and to your reply thereto of the same date, I have the honor to inform you that upon receipt of your communication a telegram in the sense of my above-mentioned note was at once sent to the American consul at Martinique.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Baron von Thielmann.

No. 334.] DEPARTMENT OF STATE,
Washington, May 21, 1897.

EXCELLENCY: Referring to your note of the 10th of March last, in which you requested the Department to instruct the consul of the United States at Martinique to extend his protection and render assistance to the master of the German bark *Elisabeth Ahrens*, I have the honor to inclose herewith a certificate covering the transportation of four prisoners from Martinique to New York; also two letters from Messrs. Outerbridge & Co., of New York, in reference to their account.

Inasmuch as the Department's action was taken at your request, and in view of your oral statement to Mr. Rockhill that you would assume the expense incident to the matter, it is suggested that you settle the account with the owners of the vessel directly.

Accept, etc.,

JOHN SHERMAN.

Baron von Thielmann to Mr. Sherman.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, June 4, 1897.

MR. SECRETARY OF STATE: I have the honor to inform your excellency, in reply to your polite note of the 21st ultimo, that the amount of the cost of the transportation homeward of four seamen belonging to the bark *Elisabeth Ahrens*, of Rostock (said seamen being under arrest), which amount ($100) was paid into the Treasury Department at

Washington by the firm of A. Emilius Outerbridge & Co., has been refunded to the said firm by the imperial consulate-general at New York.

I perform a pleasing duty in expressing my warmest thanks to your excellency for the obliging action of the Department of State in this matter, and I beg that the expression of my thanks may be conveyed to the United States consul in Martinique.

Accept, etc.,

THIELMANN.

Mr. Sherman to Mr. von Reichenau.

No. 363.] DEPARTMENT OF STATE,
Washington, August 13, 1897.

SIR: Referring to the Department's note of the 10th of March last to your embassy, in relation to the case of the German bark *Elisabeth Ahrens*, of Rostock, I have the honor to inclose for your information a copy of a dispatch from the United States consul at Martinique, stating that he is in receipt of a letter from the owner of the vessel thanking him for the assistance he rendered Captain Alm, of said bark, during the trouble with his crew, who tried to burn and afterwards to scuttle the ship.

You will observe that the consul calls attention to the fact that on the occasion in question he advanced Captain Alm the sum of $26.47, the latter being out of funds.

I beg to request you to do me the favor to bring Mr. Tucker's claim to the notice of your Government with a view to having the money reimbursed to the consul which he advanced to the captain of the *Elisabeth Ahrens*.

Accept, etc.,

JOHN SHERMAN.

Mr. von Reichenau to Mr. Sherman.

IMPERIAL GERMAN EMBASSY,
Washington, August 24, 1897.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your polite note of the 13th instant relative to the German bark *Elisabeth Ahrens*.

I have not failed to bring the matter to the notice of the Imperial Government, and a subsequent communication may be expected from me on this subject.

Accept, etc.,

REICHENAU.

Mr. von Holleben to Mr. Sherman.

IMPERIAL GERMAN EMBASSY,
Washington, December 13, 1897.

MR. SECRETARY OF STATE: Referring to Mr. von Reichenau's note of August 24, 1897, I have the honor, in pursuance of instructions received, to express to your excellency the warmest thanks of the Imperial Government for the assistance so kindly rendered to the captain of the German bark *Elisabeth Ahrens* by Mr. Julius G. Tucker, United States consul in Martinique.

I have the honor at the same time to inclose a check for $26.47, in payment of the amount advanced to Captain Alm by Mr. Tucker.

Accept, etc.

HOLLEBEN.

IMPORTATION OF AMERICAN PORK CONTAINING TRICHINÆ.

Mr. White to Mr. Sherman.

No. 22.] EMBASSY OF THE UNITED STATES,
Berlin, July 8, 1897. (Received July 23.)

SIR: I have the honor to transmit herewith a translation of an inclosure in a note which has to-day been received from the Imperial foreign office, in which is contained a list of cases where trichinæ have been found in pork, or other hog products, imported from the United States to Germany during the second half of the year 1896. In the note accompanying this memorandum, it is stated that only those cases are mentioned in which the shipment was imported accompanied by the prescribed American certificate of inspection.

I am, etc.,

ANDREW D. WHITE.

[Inclosure in No. 22.]

No.	Name of district.	Time when examinations took place.	Specifications of the parts in which the trichinæ were found.	Remarks.
	Prussia.			
1	City of Bromberg.....	End of Nov., 1896.	3 sides of bacon.....	Found in a shipment of 300 sides of bacon. (American certificate of origin, No. 290745.)
	Bavaria.			
2	City of Fürth.....	Aug. 21, 1896	1 piece of smoked meat.	Found among 20 pieces of smoked pork and several pieces of bacon, having a total weight of 50 kilos. (American health certificate, Chicago, June 6, 1896, No. 1841.)
	Saxe Coburg and Gotha.			
3	City of Coburg	Oct. 23, 1896	1 side of bacon.....	Certificate of examination of Aug. 4, 1896, No. 814. The tag of the shipment was marked thus: PW 23, and No. 289327 to 289351.
	Free and Hanseatic City of Hamburg.			
4	City of Hamburg.....	Oct. 10, 1896	1 piece of boneless ham.	Chicago, Aug. 31, 1896, No. 2451.
5	.....do	Oct. 30, 1896	2 pieces of boneless ham.	Chicago, Oct. 1, 1896, No. 3013.
6	.....do	Nov. 3, 1896	1 piece of boneless ham.	Do.
7	.....do	Nov. 5, 1896	.....do	Do.
8	.....do	Nov. 16, 1896	.....do	Chicago, Sept. 30, 1896, No. 3031.
9	.....do	Nov. 30, 1896	2 butts	Chicago, Sept. 26, 1896, No. 2639.
10	.....do	Dec. 29, 1896	1 side of bacon (short, fat backs).	Chicago, Nov. 4, 1896, No. 4043.

Mr. White to Mr. Sherman.

No. 107.] EMBASSY OF THE UNITED STATES,
Berlin, September 25, 1897. (Received October 8.)

SIR: Referring to my dispatch No. 22, of July 8 last, I have the honor to transmit herewith a translation of a note and two accompaniments which have to-day been received from the Imperial foreign office, in which is contained a list of cases where trichinæ have been found in pork or pork products imported from the United States to Lübeck, Bavaria, and Hamburg during the first half of the year 1897.

I am, etc.,

AND. D. WHITE.

[Inclosure in No. 107.—Translation.]

Baron von Rotenhan to Mr. White.

FOREIGN OFFICE,
Berlin, September 24, 1897.

Referring to the communication from this office of July 7 last, the undersigned has the honor to transmit herewith to his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Andrew D. White, two compilations of cases in which trichinæ were found in pork shipped from America to Lübeck, Bavaria, and Hamburg during the first half of the year of 1897.

Aside from the cases mentioned in the compilations, a number of other cases occurred where trichinæ were found. These cases have not been mentioned, as the accompanying certificate can not be ascertained.

The undersigned avails himself, etc.,

ROTENHAN.

[Subinclosure in No. 107.—Translation.]

No.	Name of district.	Time of examination.	Specification of meat in which trichinæ were found.	Remarks.
	Free and Hanseatic			
1	City of Lübeck.....	July 19, 1897	One side of bacon.....	Taken from a shipment of 25 cases of American sides of bacon. Certificate of inspection is issued by Daniel Gand & Son, Chicago, Jan. 25, 1897, No. 7607; aside of this, No. 34476 is to be found in the right-hand corner; the inspection was made for Halely Bed.
	Kingdom of Bavaria.			
2	Sündersbühl, district of Lichtenhof.	Jan. —, 1897	One piece of meat each taken from 2 barrels.	Certificate of inspection: Chicago, Nov. 25, 1896, No. 4289, Inspector W. S. Denve. Meat-inspection stamps, 323959 and 323983.
3	District of Schoppershof.	Feb. 26, 1897	One piece of meat.....	Taken from a barrel containing 147 neck roasts (Halsbraten); meat-inspection stamp No. 272156.
4	.....do	.....do	.....do	Taken from a barrel containing 229 neck roasts (Halsbraten); meat-inspection stamp No. 272151.
5	.....do	Mar. 17, 1897	.....do	Taken from a barrel containing 146 neck roasts (Halsbraten); meat-inspection stamp No. 272188.
6	.....do	Apr. 21, 1897	.....do	Taken from a barrel containing 119 neck roasts (Halsbraten); meat-inspection stamp No. 273274.
7	.....do	May 11, 1897	.....do	Taken from a barrel containing 241 neck roasts (Halsbraten); meat-inspection stamp No. 273589.
8	.....do	May 14, 1897	.....do	Taken from 2 barrels with 257 neck roasts (Halsbraten); meat-inspection stamp No. 273277.
9	.....do	May 15, 1897	.....do	Taken from 2 barrels containing 164 neck roasts (Halsbraten); meat-inspection stamp No. 273284.
10	.....do	May 20, 1897	.....do	Taken from a barrel containing 130 neck roasts (Halsbraten); meat-inspection stamp No. 273283.
11	.....do	.....do	Two pieces of meat...	Taken from 2 barrels containing 274 neck roasts (Halsbraten); meat-inspection stamp No. 273285.
12	.....do	May 28, 1897	One piece of meat	Taken from 2 barrels containing 236 neck roasts (Halsbraten); meat-inspection stamp No. 273290.
13	.....do	May 31, 1897	.....do	Taken from 2 barrels with 246 neck roasts (Halsbraten); meat-inspection stamp No. 273276.

State of confiscation of American pork on account of trichinæ.

Date.	Specification of the confiscated goods.	The encasing from which the trichinous goods were taken had on it the following—		Specification of the American health certificate to which the encasing belonged.		Name of the American shipper.	Name of the receiver of the goods in Hamburg.
		Commercial mark.	American stamp number.	No.	Date.		
1897.							
Jan. 11	1 piece of bacon (short fat backs).	Case ◇P 17	231142	4269	Chicago, Nov. 24, 1896	A. D. White & Co	Order of A. D. White & Co.
14	1 piece of boneless ham	Barrel ◇O 197	332206	4306	Chicago, Nov. 27, 1896	Armour & Co	Tietgens & Robertson.
15	1 piece of bacon*						
16	1 piece of boneless ham	Barrel ◇B 133	323931	4287	Chicago, Nov. 25, 1896	Armour & Co	Tietgens & Robertson.
20	do	Barrel ◇O 197	323205	4306	Chicago, Nov. 27, 1896	do	Do.
23	1 piece of rib bellies	Case ◇P 10	(†)	4112	Chicago, Nov. 11, 1896	A. D. White & Co	Order of A. D. White & Co.
26	1 piece of boneless ham	Barrel [m] 137	323984	4290	Chicago, Nov. 25, 1896	Armour & Co	Tietgens & Robertson.
28	do	Barrel [B] 133	323916	4287	do	do	Do.
Feb. 4	do	Barrel 133			do	do	Do.
23	1 piece short picnics	Case [HJ] 4	334631	6054	Chicago, Jan. 13, 1897	Viles & Robbins	Hammond Import Co., Berlin.
Mar. 2	1 piece of boneless ham	Barrel [B] 133	323925	4287	Chicago, Nov. 25, 1896	Armour & Co	Tietgens & Robertson.
17	do	Barrel [EA] 21	345146	6367	Chicago, Feb. 5, 1897	Viles & Robbins	E. Acker & Co.
24	1 piece of picnic hams	Case [Q] [B] [E]	16770	518	Chicago, Feb. 17, 1897	The G. H. Hammond Co., South Omaha, Nebr.	Hammond Import Co., Berlin.
24	do		16778		Chicago, Feb. 16, 1897	Nelson Morris & Co	Brock & Schnars.
25	1 piece of bacon	Case [H]	350903	6471	Chicago, Oct. 24, 1896	Armour & Co	Tietgens & Robertson.
26	1 piece of boneless ham	Barrel [E] 91	315518	3209	Buffalo, N.Y., Feb. 27, 1897	Jacob Dold Packing Co	Brock & Schnars.
30	1 piece of pork	Case [BS] 15	141190	1279	Buffalo, N.Y., Feb. 18, 1897	North Packing & Prov. Co.	Packing & Prov. Co.
31	1 piece of bacon	do	141203		Kansas City, Apr. 1, 1897	Armour Packing Co	Tietgens & Robertson.

Apr. 8	1 piece of short clear ham...	Case K X	294545	3915	Chicago, Mar. 11, 1897.....	A. D. White & Co.....	Order of A. D. White & Co.
9	1 piece of boneless ham.....	Barrel S 88	272252	5485	Chicago, Oct. 24, 1896.....	Armour & Co.....	Tietgens & Robertson.
14	1 piece of bacon.....	Case E P	362035	7086	Kansas City, Apr. 1, 1897..	Armour Packing Co	Do.
24	1 piece of boneless ham.....	Barrel E 91.....	315497	3209	.....do	.....do	Do.
30	.....do	Barrel S 88	272245	5485	Chicago, Dec. 12, 1896.....	Armour & Co.....	E. Stander.
May 1	.....do	.....do	272252	5485	Chicago, Oct. 24, 1896.....	.....do	Tietgens & Robertson.
3	.....do	Barrel A 258.....	335286	4480	Chicago, Apr. 17, 1897	A. D. White & Co.....	A. D. White & Co.
14	.....do	Barrel E 91.....	315504	3209	Kansas City, Apr. 1, 1897..	Armour Packing Co	Tietgens & Robertson.
19	1 piece of rib bellies	Case P N A	369824	8078	Chicago, Mar. 23, 1897.....	Viles & Robbins.....	Hammond Import Co., Berlin.
25	1 piece of boneless ham.....	Barrel S 88	272250	5485			
June 19	1 piece of sweet-pickled picnics.	Case H J 13	363227	7777			

* It could not be ascertained to which lot or to which health certificate the bacon belonged.
† The case belonged to a lot of 25 cases bearing the numbers 324173–324197.

INSPECTION BUREAU, *Hamburg, July 5, 1897.*
By order:
STRUSS.

VOLLERS,
The State Veterinary.

Mr. Sherman to Mr. White.

No. 227.] DEPARTMENT OF STATE,
Washington, November 20, 1897.

SIR: With your No. 107, of September 25 last, you inclosed a compilation furnished by the foreign office of cases of trichinæ found by German inspectors in American pork during the first half of the year 1897.

The Secretary of Agriculture, to whom I communicated the same, desires me to express to you his appreciation of your report, and to assure you that every effort will be made to trace the origin of the meat by his Department, which will take any additional steps that may be necessary to prevent such occurrences in the future. However, this Government does not hold that it can give an absolute guaranty that inspected pork is free from trichinæ. The microscopic character of the parasite, together with its possible distribution to all parts of the carcass, makes it a very difficult if not impossible matter to discover infection in all cases in which it exists. As the German Government required the microscopic inspection of the pork consumed by its population, this Government has endeavored to meet that requirement by making a microscopic inspection of the pork shipped from this country to Germany. It can not, however, undertake to do by this inspection what the Germans themselves have proved to be impossible by the results of the very perfect and painstaking inspection maintained in that country. The occasional discovery by German inspectors of trichinæ in a piece of American pork is neither an evidence of careless inspection in this country nor an indication that our inspected pork is more dangerous than the German inspected pork.

The Secretary of Agriculture has made a very careful search through the medical literature of Germany in order to determine to what extent the microscopic inspection of that country protects the people against trichinosis. There have been found recorded in German literature 4,596 cases of trichinosis in Germany, and 262 deaths occurring during the fifteen years from 1881 to 1895; and of these, 1,815 cases and 115 deaths resulted from German inspected pork. Nor can it be said that these cases largely occurred during the early years of the inspection service before methods had been perfected, for it is found that they occur throughout the entire period. And even during the years 1896 and 1897 there are recorded in Prussia alone 160 cases and 8 deaths from trichinosis, of which 102 cases and 2 deaths resulted from inspected German pork; and in all of Germany there were during the two years last mentioned 174 cases and 8 deaths from trichinosis, of which 103 cases and 2 deaths were due to inspected German pork. It is plain, therefore, that a large proportion of the cases of trichinosis which occur in Germany are the result of eating pork which German inspectors have declared to be free from trichinæ, but which evidently contained that parasite, as otherwise the disease would not have developed.

This Government has undertaken in good faith the microscopic inspection of pork exported to Germany, and endeavors to conduct this in as perfect a manner as circumstances permit; but the pork from this country should not be treated in a markedly unfriendly manner and held to be more dangerous than the pork of other countries or that produced in Germany, when the records show that in the fifteen years from 1881 to 1895, inclusive, there were 1,140 cases of trichinosis in Prussia caused by inspected pork, being 49 per cent of all the cases occurring in that country during that period and that there were 96

deaths from this disease during that period, caused by inspected pork, being 60.3 per cent of all the deaths from trichinosis in that country. The harmlessness of the American pork sold in Germany is shown by the fact that, during the past seventeen years, notwithstanding the outcry against and the suspicion of such pork, the evidence shows that but an extremely small number of trichinosis in man and not a single death can be reasonably attributed to it. This search of the German medical literature demonstrates that so far as the danger from trichinosis is concerned, American pork is not to be compared with the inspected German pork.

You will bring the foregoing to the attention of the minister for foreign affairs, at the same time insisting that—

1. American pork as sent to Germany is practically harmless and certainly far less dangerous than inspected German pork, as is shown by the medical records of Germany.

2. The discovery of trichinæ in a few pieces of our pork when reexamined abroad can not be accepted as evidence of inefficient inspection. The numerous cases of trichinosis in man which have occurred in Germany from eating pork inspected there shows the impossibility of discovering all trichinous meat by the first inspection.

3. As American pork is carefully inspected here before shipment, it is unjust to our shippers to require them to pay the expense of a second inspection after it arrives in Germany. This expense, together with the damage from unpacking, exposure, and hastily repacking, is a great obstacle to this important branch of our commerce with the German nation.

Respectfully, yours,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 207.] EMBASSY OF THE UNITED STATES,
Berlin, December 3, 1897. (Received December 18.)

SIR: In reply to your instruction No. 227, of November 20, containing a report upon the cases of trichinæ in German pork, based upon a careful investigation made by the Secretary of Agriculture, I beg to say that the interesting and valuable data contained therein will be transmitted immediately to the Imperial foreign office.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Sherman.

No. 217.] EMBASSY OF THE UNITED STATES,
Berlin, December 9, 1897. (Received December 23.)

SIR: I have the honor to inclose herewith translations of two reports from the foreign office on the subject of trichinous American pork found in Germany during the first half of the year 1897. One of these reports is a detailed statement of matters regarding trichinous American pork imported into Stettin from January 1 to June 30, 1897, while the other report is a summarized statement of matters regarding trichinous American pork imported into Prussia for the same period. In comparing these two reports one finds that in the detailed statement for

Stettin 54 cases of American trichinous pork are stated to have been imported into that place from the United States during the first half of the present year, while in the summarized statement for Prussia the number therein stated to have been imported into Stettin is 108. The foreign office has explained this inconsistency by saying that in the detailed report only those cases were included in which full, definite information was obtainable, while in the summarized report many cases were included where definite information was not possible owing to indistinct labels or for some other unknown reasons. When it was suggested to one of the chief officials at the foreign office that possibly some of these 108 cases of trichinæ might have been found in pork not of American origin, the answer was that there was positively no doubt as to the origin of the meat in the reports transmitted to the embassy, as all cases of doubtful origin had been excluded before transmittal.

I am, etc.,

AND. D. WHITE.

[Inclosure in No. 217.]

Compilation of cases of trichinæ which occurred in American pork in Prussia during the first half of 1897.

No.	Government district.	Number of pieces of bacon and pork found to contain trichinæ.	Specification of the pieces.	
			Meat inspection certificate.	*Certificate of inspection.*
1	Königsberg.....	4 pieces of bacon.....	338534	6045
			141148	
			141145	1277
			141149	
2	Potsdam.....	2 hams.....	149851	
			149853	1478
		4 pieces of bacon.....	2 from Turst & Co., Chicago, case No. 45 K. N. 29353, accompanied by a certificate; Chicago, Dec. 19, 1896, No. 59582; 1 piece of bacon from Halsley Bros., Chicago, case No. 1620 or 1688, certificate; Chicago, Apr. 29, 1897, No. 3357.	
3	Stettin	108 pieces of bacon....	Special report accompanies this.	
4	Osnabrück	2 pieces of bacon.....	One; 17176 to 17200 B 70, dated Jan. 2, 1897.	
5	Wiesbaden	.....do	One; 332580; 4361.	

No.	Number of pieces examined.	Name of firm which imported the American pork.	Date when notice was given by the meat inspection office (1897).	Was the meat accompanied by the prescribed American certificate of inspection?	Number of the meat inspection stamp.	Number of the certificate of inspection.
1	1	C. & G. Muller, Alt-dammer St., 6*a*.	7.1	Yes.....	291981	No. 3808, of 23, 11, 1896; name of place missing.
2	1	.....do	15.1	Yes.....	331416	No. 4276, Nov. 25, 1896.
3	1	.....do	15.1	Yes.....	331402	Chicago.
4	1	.....do	15.1	Yes.....	331407	
5	1	.....do	22.1	Yes.....	322876	No. 4198, Nov. 18, 1896; Chicago.
6	1	.....do	11.2	Yes.....	322684	
7	1	.....do	13.2	Yes.....	322676	No. 4160, Nov. 12, 1896; Chicago.
8	1	.....do	15.2	Yes.....	322679	
9	1	.....do	5.3	Yes.....	292566	No. 3834, Dec. 26, 1896; name of place missing.
10	1	.....do	6.3	Yes.....	316812	No. 3113, Oct. 15, 1896; Chicago.

Compilation of cases of trichinæ which occurred in American pork, etc.—Continued.

No.	Number of pieces examined.	Name of firm which imported the American pork.	Date when notice was given by the meat inspection office (1897).	Was the meat accompanied by the prescribed American certificate of inspection?	Number of the meat inspection stamp.	Number of the certificate of inspection.
11	1	Tetzlaff & Wenzel, Pladrin St., 73.	15.3	Yes.....	358447	No. 6729, Feb. 2, 1897; name of place missing.
12	1	C. & G. Muller, Altdammer St., 6*a*.	15.3	Yes.....	24064	No. 1455, Nov. 9, 1896; name of place missing.
13	1	.....do	15.3	Yes.....	341663	No. 4978, Jan. 1, 1897; Chicago.
14	1	.....do	20.3	Yes.....	327450	No. 5552, Feb. 2, 1897; name of place missing.
15	1	Aug. Sanders & Söhne.	20.3	Yes.....	K L 78 347040	No. 6309, Feb. 2, 1897; Chicago.
16	1	C. & G. Muller, Altdammer St., 6*a*.	23.3	Yes.....	327411	No. 5550, Feb. 10, 1897; name of place missing.
17	1	.....do	26.3	Yes.....	327462	No. 5552, Feb. 10, 1897; name of place missing.
18	1	.....do	26.3	Yes.....	327441	No. 5551, Feb. 10, 1897; name of place missing.
19	1	.....do	5.4	Yes.....	M A 293910	No. 3893, Feb. 4, 1897; name of place missing.
20	1	.....do	5.4	Yes.....	C 68 150951	No. 3329, Feb. 10, 1897; name of place missing.
21	1	.....do	22.4	Yes.....	DP 356671	No. 6831, Feb. 25, 1897; Chicago.
22	1	.....do	26.4	Yes.....	293376	No. 3873, Jan. 26, 1897; name of place missing.
23	1	.....do	26.4	Yes.....	293385	Do.
24	1	.....do	26.4	Yes.....	293378	Do.
25	1	.....do	4.5	Yes.....	347671	No. 6429, Feb. 2, 1897; Chicago.
26	1	.....do	4.5	Yes.....	347664	Do.
27	1	.....do	22.5	Yes.....	387852	No. 5568, Feb. 2, 1897; name of place missing.
28	1	.....do	21,5	Yes.....	357022	No. 6496, Feb. 2, 1897; Chicago.
29	1	.....do	24,5	Yes.....	353233	No. 7634, Mar. 6, 1897; name of place missing.
30	1	.....do	24,5	Yes.....	353241	No. 7643, Mar. 3, 1897; name of place missing.
31	1	.....do	26,5	Yes.....	327386	No. 5569, Feb. 26, 1897; name of place missing.
32	1	.....do	26,5	Yes.....	327379	Do.
33	1	.....do	28,5	Yes.....	364142	No. 7127, Mar. 12, 1897; Chicago.
34	1	.....do	31,5	Yes.....	328273	No. 5585, Feb, 27, 1897; name of place missing.
35	1	.....do	2,6	Yes.....	347846	No. 6430, Feb. 12, 1897; Chicago.
36	1	Aug. Sanders, Söhne & Co.	5,6	Yes.....	327684	Nos. 7153-7154, Mar. 6, 1897; Chicago.
37	1	C. & G. Müller....	9,6	Yes.....	353240	No. 7643, Mar. 3, 1897; name of place missing.
38	1	Aug. Sanders, Söhne & Co.	10,6	Yes.....	347799	No. 5563, Feb. 11, 1897; name of place missing.
39	1	C. & G. Müller....	11,6	Yes.....	142297	No. 1326, Apr. 30, 1897; Buffalo.
40	1	Tetzlaff & Wenzel	14,6	Yes.....	142528	No. 1335, May 10, 1897; Buffalo.
41	1	.....do	14,6	Yes.....	142528	Do.
42	1	.....do	14,6	Yes.....	142540	Do.
43	1	.....do	14,6	Yes.....	142533	Do.
44	1	.....do	14,6	Yes.....	142522	Do.

Compilation of cases of trichinæ which occurred in American pork, etc.—Continued.

No.	Number of pieces examined.	Name of firm which imported the American pork.	Date when notice was given by the meat inspection office (1897).	Was the meat accompanied by the prescribed American certificate of inspection?	Number of the meat inspection stamp.	Number of the certificate of inspection.
45	1	Tetzlaff & Wenzel	14, 6	Yes.....	142522	No. 1335, May 10, 1897; Buffalo.
46	1	C. & G. Müller....	17, 6	Yes.....	141901	No. 1307, Apr. 3, 1897; Buffalo.
47	1	.....do	17, 6	Yes.....	141901	Do.
48	1	.....do	17, 6	Yes.....	141906	Do.
49	1	.....do	17, 6	Yes.....	142338	No. 1327, Apr. 30, 1897; Buffalo.
50	1	.....do	17, 6	Yes.....	141910	No. 1307, Apr. 3, 1897; Buffalo.
51	1	.....do	30, 6	Yes.....	141303	No. 1283, Mar. 3, 1897; Buffalo.
52	1	.....do	30, 6	Yes	141303	No. 1283, Mar. 3, 1897; Buffalo.
5	1	.....do	30, 6	Yes.....	141311	Do.
54	1	.....do	30, 6	Yes.....	141313	Do.

MILITARY-SERVICE CASE OF ALFRED MEYER.

Mr. Uhl to Mr. Sherman.

No. 301.] EMBASSY OF THE UNITED STATES,
Berlin, March 19, 1897. (Received April 2.)

SIR: I have the honor to transmit herewith the correspondence had with the Imperial German foreign office, in the matter of the impressment into the German army of Alfred Meyer.

The intervention on behalf of Meyer was made on the 31st of December last, the day following the receipt of a communication from the United States consulate at Hamburg, informing the embassy that he had been impressed into the German army, and in the absence of any reply to my first note, I again brought the subject to the attention of Baron von Marschall, in notes of February 1, 11, and 20, and of March 5, and, in addition to these written communications, I called in person at the foreign office on or about the 26th ultimo, and urged upon his excellency the importance of an early reply to the representations before made in writing.

It will be observed that Meyer was born in Baltimore on December 16, 1875; that he is unable to furnish any evidence that his father, who was born in Prussia, ever became an American citizen; and that his father returned to Germany in 1879, taking his son with him, where he afterwards resided until the time of his death.

The conclusion of the German Government is that the fact that Meyer was born abroad does not alter his legal status, and that according to German law he possesses the nationality which he inherited from his father; that is to say, that he is a Prussian subject, and that if through the fact of his birth at Baltimore he acquired American citizenship according to American law, he possesses a double nationality, and consequently is bound to perform the obligations to both countries, as well to Germany as to the United States, which are put upon him by the laws of both these countries, and that the Prussian Government does not find itself in a position to comply with the request that he be discharged.

I have the honor, etc., EDWIN F. UHL.

[Inclosure 1 in No. 301.]

Mr. Uhl to Baron Marschall.

F. O. 145.] EMBASSY OF THE UNITED STATES,
Berlin, December 31, 1896.

The undersigned, ambassador, etc., of the United States of America, has the honor to invite the attention of His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, to the case of one Alfred Meyer, a native citizen of the United States, lately impressed into the Prussian military service.

The facts of the case as presented to the embassy are as follows:

Alfred Meyer was born at Baltimore, Md., December 16, 1875, as is shown by the certificate of birth herewith inclosed, with the request for its ultimate return. His father, Moritz Meyer, a naturalized American citizen, was borne at Pinne, near Posen, in 1839, emigrated to the United States, but returned to Germany (Colmar, Al.) in 1880, bringing with him his son Alfred. His father died in 1889 and his mother in 1894, at Burg, near Madgeburg. He was impressed into the Prussian military service on October 1 last, although he protested against it, claiming that he was a citizen of the United States, and is now serving in the First Company Eighty-fifth Regiment of Infantry (Duke of Holstein's), at Reudsburg. The undersigned has the honor to request that his excellency will kindly cause an immediate investigation of this case, and should the facts be found to be substantially as stated that Meyer will be at once discharged from military service.

The undersigned avails himself, etc.,

EDWIN F. UHL.

[Inclosure 2 in No. 301.—Translation.]

Baron Marschall to Mr. Uhl.

FOREIGN OFFICE,
Berlin, March 14, 1897.

The undersigned has the honor to inform his excellency, the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Edwin F. Uhl, in regard to the impressment of Alfred Meyer into the German army, which was last referred to in the note verbale of the 24th ultimo, and while returning Meyer's birth certificate, as follows:

The intervention which was made in behalf of Meyer, in the note of December 31, 1896—(F. O. 145)—is based upon the presumption that his father, Moritz Meyer, who was born at Pinne, near Posen, and died in Colmar, had acquired American citizenship through naturalization during his sojourn in the United States. As yet this presumption has not been proved to be correct. Neither the son, Alfred Meyer, nor his uncle and former guardian, Hermann Meyer, a merchant at present living at Colmar, has any knowledge of the naturalization of Moritz Meyer. According to their statements, he emigrated from Germany in 1872, and went to Baltimore, where a son was born to him. In 1879 he left the United States of America, taking his son with him, and returned to Germany, and from that time until the time of his death he lived in Colmar. He, therefore, retained his Prussian nationality, which he had in the beginning, until the time of his death, without having, as far as can be ascertained, acquired any other nationality.

As Alfred Meyer has also lived in Germany since 1879, and was only temporarily in Switzerland in 1895, the conclusion must be drawn

that, according to German law, he possesses the nationality which he inherited from his father; that is to say, that he is a Prussian subject. The fact that he was born abroad does not alter the case. If through the fact of his birth in Baltimore he acquired American citizenship according to American law, he possesses a double nationality, and consequently is bound to perform the obligations to both countries, as well to Germany as to the United States of America, which are put upon him by the laws of both of these countries.

As was stated in the note of the 15th of January, 1886, in the case of Henry Rabien, which, if not exactly the same, is still similar under existing circumstances, the treaty of February 22, 1868, on the subject of nationality, has no application to the case of Alfred Meyer, as in this case it has not been proved that the father, Moritz Meyer, had become a naturalized citizen of the United States of America at the time of the birth of his son.

It was, therefore, right that Alfred Meyer should be called upon to serve in the German army, and the Prussian Government does not find itself in a position to comply with the request that he be discharged.

The undersigned, while promising a further communication in regard to the case of Casimir Hartmann, which was also referred to in the note verbale of the 24th ultimo, as the investigation in regard to his impressment into the Second Hessian Infantry Regiment, No. 82, is not yet completed, avails himself, etc.,

MARSCHALL.

NOTE.—A copy of the note in the case of Henry Rabien, referred to above, was sent to the Department in Mr. Pendleton's dispatch, No. 182, of January 28, 1886.

J. B. J.

[Inclosure 3 in No. 301.]

Mr. Uhl to Baron Marschall.

F. O. No. 199.] MARCH 18, 1897.

Referring to the esteemed note from the imperial foreign office of the 14th instant, the undersigned, ambassador, etc., of the United States of America, in order that there may be no misconception of the position taken by him in regard to the case of Alfred Meyer, has the honor to inform His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, that his intervention in Meyer's behalf was not based upon the presumption that his father, Moritz Meyer, had become a naturalized American citizen, although it was understood that such was the case, but that it was based upon the fact that, through his birth in Baltimore, Alfred Meyer became according to American law a native citizen of the United States.

The undersigned avails himself, etc.

EDWIN F. UHL.

Mr. Sherman to Mr. Uhl.

No. 369.] DEPARTMENT OF STATE,
Washington, April 20, 1897.

SIR: Your No. 301, of the 19th ultimo, has been received. You therewith transmit correspondence had with the Imperial foreign office in the matter of the impressment into the German army of Alfred Meyer.

Meyer was born in Baltimore in 1875, his father being a native Prussian. In 1879 the father returned to Germany, taking his son with him, and resided there until his death. There is no evidence that the father ever became a citizen of the United States. The conclusion of the German Government is that the fact of Meyer's foreign birth does not alter his legal status under German law, according to which he inherits his father's Prussian nationality, and that if through the fact of his birth at Baltimore he acquired American citizenship, according to American law, he possesses a double nationality, and consequently is bound to perform the obligations of both countries, as well to Germany as to the United States, which are put upon him by the laws of both those countries.

In support of this conclusion Baron Marschall refers to the case of Henry Rabien, which arose in 1886, as "similar." There is a very important difference between the two cases. Rabien had made a formal declaration before a German tribunal that he did not intend ever to settle in America.

This fact alone was sufficient to justify this Government in dropping the case. The course pursued by this Government in the Rabien case can not by any means be considered as an admission of the right of the German Government to impress native-born American citizens into its military service. Questions in relation to the impressment of American citizens in Germany usually arise in cases of sons born in the United States of naturalized Americans of German origin, who return to Germany with their sons during their minority. In some such cases the German Government contended that the fathers by continued residence in Germany have renounced their naturalization in the United States; but even then it has repeatedly recognized the American citizenship of the sons and has not attempted to compel them to perform military service.

The case of Ferdinand Revermann, which arose in 1885, is a case in point, and, while the father had been duly naturalized in this country, the status of the son was considered, in view of his birth in the United States, independently of the father's naturalization. The father emigrated to the United States from Germany in 1850, was naturalized in Illinois in 1856, and resided continuously in this country until 1871. The son was born in Illinois in 1860, was taken to Germany by the father in 1871, and continued to reside there until 1880. In the latter year the Landrath at Munster certified that as he was born a citizen of the United States his name would be stricken from the military rolls, and this was done. He was, however, in October, 1884, summoned before the Landrath and told that by order of the Royal Government at Munster he must either become naturalized in Germany or leave the country. A week later, his expulsion being ordered, he applied to the United States legation to intervene for a suspension of the order and its reversal. Minister Kasson represented the facts to the German foreign office in his note of October 31, 1884. In replying to this note, on December 31, Dr. Busch, the German foreign minister, contended that under the treaties of 1868 regulating nationality the fathers in such cases should be regarded as having renounced their naturalization by a longer sojourn in Germany than two years, and said:

The provisions of these treaties do not, however, extend to the minor children of persons naturalized in America. The rules there prescribed can not, therefore, find any application to the legal status of these children. Their legal status should, therefore, be judged rather by the principles of law governing in the United States, in view of the fact that the children have been born in America, and have thereby, apart from the naturalization of the fathers, independently acquired American citi-

zenship. American law, so far as known here, contains no provision which makes the renunciation of American naturalization by the father act upon his minor sons also. The Government of H. M. the Emperor has, therefore, no hesitation in recognizing such persons as American citizens. * * * Individuals possessing this character can not be made to perform military service in Germany.

Dr. Busch contended that, when the actual circumstances indicated that the persons in question used their American citizenship for the purpose of withdrawing themselves from the duties, and in particular from the military duty devolving upon the domestic population, without being disposed to abandon their permanent sojourn in Germany and the advantages connected therewith, international principles permitted the refusal to such persons of sojourn in Germany, and the adoption of measures against them. The United German Government, he said, purposed to act in the future with respect to all such cases in accordance with the principles thus presented.

This Government, in replying to the above note, contested the right of Germany to expel such persons upon abrupt notice at the pleasure of the authorities. Mr. Frelinghuysen, in instructing Mr. Kasson, February 7, 1885, said that the decision of the German Government that the sons were not within the provisions of the naturalization treaty of 1868 was just. "But," added he, "as American citizens by native right, they must come under the general provisions of the treaty affecting all American citizens who have not been naturalized."

Other cases might be cited in which this Government has contended for and the German Government has conceded the principle involved in the present case; but the above will suffice. You will again bring the case to the attention of the German foreign office, in view of the above, and urge that Meyer be released from the army.

Respectfully, yours,

JOHN SHERMAN.

Mr. Uhl to Mr. Sherman.

No. 337.] EMBASSY OF THE UNITED STATES,
Berlin, April 30, 1897. (Received May 5.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 369, of the 20th instant, and to inclose herewith a copy of a note addressed by me to the Imperial foreign office, in compliance with the directions contained therein, making further intervention in behalf of Alfred Meyer.

I have, etc., EDWIN F. UHL.

[Inclosure in No. 337.]

Mr. Uhl to Baron Marschall.

F. O. 219.] APRIL 30, 1897.

Referring to his note of the 18th ultimo (F. O. 199), the undersigned, ambassador, etc., of the United States of America, has the honor to inform His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, that he is instructed to again invite the attention of his excellency to the case of the American citizen Alfred Meyer, and to again urge that Meyer be released from service in the German army.

In the opinion of the Secretary of State of the United States there is a very important difference between the Meyer case and the case of Henry Rabien, referred to by his excellency in his note of March 14 last. Rabien had made a formal declaration before a German tribunal that he did not intend ever to settle in America, and this fact alone was sufficient to justify the United States Government in dropping the case, and the course then pursued can not be, by any means, considered as an admission of the right of the German Government to impress native-born American citizens into its military service. Questions in relation to the impressment of American citizens in Germany usually arise in cases of sons born in the United States of naturalized Americans of German origin who return to Germany with their sons during their minority. In some cases the German Government has contended that the fathers, by continued residence in Germany, have renounced their naturalization in the United States; but even then it has repeatedly recognized the American citizenship of the sons and has not attempted to compel them to perform military service.

The case of Ferdinand Revermann, which arose in 1885, is a case in point, and while the father had been duly naturalized in the United States, the status of the son was considered, in view of his birth in the United States independently of the father's naturalization. The father emigrated to America from Germany in 1850; was naturalized in Illinois in 1856, and resided continuously in the United States until 1871. The son was born in Illinois in 1860, was taken by the father to Germany in 1871, and continued to reside there until 1880. In the latter year the Landrath at Munster certified that as he was born a citizen of the United States, his name would be stricken from the military rolls, and this was done. He was, however, in October, 1884, summoned before the Landrath and told that by order of the Royal Government at Munster he must either become naturalized in Germany or leave the country. A week later he applied to the United States legation for protection, and on October 31, 1884, Minister Kasson made intervention in his behalf.

In replying to this note on December 31, Dr. Busch, the German foreign minister, contended that under the treaties of 1868, regulating nationality, the fathers in such cases should be regarded as having renounced their naturalization by a sojourn in Germany longer than two years. He further said:

> The provisions of these treaties do not, however, extend to the minor children of persons naturalized in America. The rules there prescribed can not, therefore, find any application to the legal status of these children. Their legal status should, therefore, be judged rather by the principles of law governing in the United States, in view of the fact that the children have been born in America, and have thereby, apart from the naturalization of the fathers, independently acquired American citizenship. American law, so far as known here, contains no provision which makes the renunciation of American naturalization by the father act upon his minor children. The Government of H. M. the Emperor has, therefore, no hesitation in recognizing such persons as American citizens. * * * Individuals possessing this character can not be made to perform military service in Germany.

Alfred Meyer was born in the United States in 1875, and, although there is no evidence that his father ever became a citizen of the United States, he acquired American citizenship "independently" thereby, and consequently should not be made to perform military service in Germany, and his release therefrom is, therefore, again urgently requested.

The undersigned avails himself, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Sherman.

No. 372.] EMBASSY OF THE UNITED STATES,
Berlin, June 3, 1897. (Received June 18.)

SIR: Relating to my dispatch No. 337, of April 30 last, I have the honor to inform you that as no reply has been received from the German foreign office to my note of that date, in the case of Alfred Meyer, I have again invited Baron von Marschall's attention to the case and have requested that an early disposition of it may be made, and that the speedy release may be ordered of this native-born American citizen, who has already been held to involuntary service in the German army for more than eight months.

I have, etc., EDWIN F. UHL.

Mr. White to Mr. Sherman.

No. 4.] EMBASSY OF THE UNITED STATES,
Berlin, June 17, 1897. (Received July 2.)

SIR: Referring to Mr. Uhl's dispatch No. 372, of the 3d instant, I have the honor to inform you that, although no reply has as yet been received to the embassy's notes of April 30 and June 3, I have learned from our consul at Hamburg that Alfred Meyer has, within the past few days, been released from service in the German army as "dienstuntauglich" (unfit to serve).

I have, etc., AND. D. WHITE.

Mr. Sherman to Mr. White.

No. 20.] DEPARTMENT OF STATE,
Washington, June 21, 1897.

SIR: I have to inform you that Mr. Uhl's dispatch No. 372, of the 3d instant, reporting that he had made further intervention on behalf of Mr. Alfred Meyer, has been received.

The Department fully approves Mr. Uhl's course in regard to the matter, and would be glad to have you keep this case in mind in view of the importance of the principle involved.

Respectfully, yours,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 42.] EMBASSY OF THE UNITED STATES,
Berlin, July 27, 1897. (Received August 13.)

SIR: Referring to my dispatch No. 4, of the 17th ultimo, and the Department's reply, Instruction No. 38, July 6 (7), I have the honor to inform you that the embassy is in receipt of a note from the Imperial foreign office, dated July 23, 1897, a copy of which, with translation, is herewith inclosed. From this note it appears that the German Government confirms its former opinion—that Meyer, being born in the United States of German parents, the proof of whose naturalization in America was not forthcoming, was to be regarded as a German subject and therefore could be held for military duty. Although the principle

is not relinquished, the aim in this particular case has been accomplished by the discharge of Meyer as "unfit for service," and as the Department suggests (No. 38, July 6, 1897) that "it may not be useful to push the discussion further in this instance," no further communication in the case will be addressed to the Imperial foreign office unless specially ordered by the Department.

I am, etc.,

ANDREW D. WHITE.

[Inclosure in No. 42.—Translation.]

Baron von Rotenhan to Mr. White.

FOREIGN OFFICE,
Berlin, July 23, 1897.

Referring to the notes of April 30 and June 30, 1897, the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Andrew D. White, that the request to release Alfred Meyer from service in the German army has again been thoroughly investigated. If the request in the note of April 30 last was based on the statements made in the case of Ferdinand Revermann in a note to the foreign office dated December 31, 1884, it must be stated that this case in a legal sense was different from that of Alfred Meyer. With Revermann it was the case of an American citizen who was born after his father was naturalized in America, and who therefore never possessed German nationality, and on his coming to Germany was to be solely regarded an American citizen. With Alfred Meyer, on the other hand, the acquisition of American citizenship was based solely on his birth in the United States, while the naturalization of his father in America could not be proved. According to investigations made, the latter remained a Prussian subject until the time of his death. His son, therefore, also possesses German nationality by descent, and if through his birth in Baltimore he is considered by the American side as at the same time an American citizen, it can only be stated that through his double nationality he will have to fulfill his duties toward both countries.

Touching the legal point of this so-called subjets mixtes, this question has been more thoroughly treated in the case of Wizemann, and the undersigned begs to refer to his note of the 23d ultimo.

If Alfred Meyer is to be regarded as a German subject according to the laws prevailing in Germany on whom the regulations of the treaty of February 22, 1868, can not be applied, he can not be liberated from performing his military duty in Germany.

While the undersigned therefore is not, to his regret, in a position to comply with the request made, he avails himself, etc.,

ROTENHAN.

REPORTS ON MILITARY-SERVICE CASES.

Mr. Uhl to Mr. Sherman.

No. 309.] EMBASSY OF THE UNITED STATES,
Berlin, March 31, 1897. (Received April 16.)

SIR: Referring to my dispatch No. 228, of December 31, 1896, I have the honor to append hereto a memorandum report of certain military cases—more particularly mentioned below—which have either not yet

been referred to in my correspondence with the Department, or, having already been reported, have now been favorably concluded, and to be, sir,

Your obedient servant, EDWIN F. UHL.

[Inclosure in No. 309.]

Military case report.

1. Frank Nachtigall was born at Schkolen, August 27, 1866, and after performing military service in Prussia, emigrated in 1891 to the United States, where he became naturalized as a citizen on the 27th of June last. In July he returned to Germany on a short visit to his parents, having left again early in September, and on the 22d of August he was, in order to avoid arrest and imprisonment, compelled to pay a fine of 50 marks, on account of his failure to report to the military authorities. The case was first brought to the attention of the embassy on August 26, 1896, and after investigating it, and after receiving from Nachtigall the evidence of his American citizenship, which he had not brought with him when he came from America, intervention was made on October 17 last (F. O. 110), which resulted in the refunding to Nachtigall of the money which he had been compelled to pay.

2. Ludwig Goldschmidt, a naturalized American citizen of German origin, applied to the embassy on January 8, 1897, for its aid in expediting a decision by the Prussian authorities as to whether or not certain money which he had been compelled to pay in order to avoid arrest on account of his not having performed military service was to be refunded to him. The embassy intervened at once (F. O. 150) with the result that a decision in Goldschmidt's favor was given and the money in question returned to his representative in Breslau, Goldschmidt himself having gone back to the United States in the meantime.

3. Henry Goken was born at Minsen, Oldenburg, August 3, 1865, and emigrated in 1883 to the United States, where he became naturalized, at New York, on August 5, 1891. He returned to Germany on a visit to his relatives, and on the 14th of January last, intending to leave again, which intention he eventually carried out on February 23. On February 2 he was obliged to pay a fine of 1,000 marks in order to avoid arrest and imprisonment, on account of his failure to report himself for military duty. The case was brought to the attention of the embassy on February 11, and, after preliminary investigation, intervention was made on the 15th (F. O. 178), with the result that the money paid by Goken was ordered to be refunded to his representative in Oldenburg early in March.

4. Wendel Gillen (see case No. 3, in Dispatch No. 228), having returned to America before his case had been finally settled, asked the intervention of the embassy to the end that the money which was to be refunded should be paid to his father, Mr. Nic Gillen, at Heisterberg. Application was accordingly made on December 31, 1896 (F. O. 144), and on March 21 the embassy was informed by Mr. Nic Gillen that he had received the money.

5. Fred Mossler, an American citizen of Alsatian origin, after an absence from Germany for several years, returned to his former home at Balbronn in December, 1896, and remained there, with the permission of the authorities, for about two months, engaged in settling the estate of his deceased grandfather. About the 24th of February Mr. Mossler left Alsace under the impression that he would be expelled if he should remain there any longer, and applied to the embassy for its good offices in obtaining permission to return and to remain at Balbronn for another month. The embassy at once acted upon his request (F. O. 183), with the result that Mr. Mossler was able to return on March 7, and that permission has been granted him to remain until the 7th of April next.

Mr. White to Mr. Sherman.

No. 112.] EMBASSY OF THE UNITED STATES,
Berlin, October 1, 1897. (Received October 20.)

SIR: Referring to my dispatch No. 17, of June 30 last, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, to which as yet no reference has been made by the embassy in its correspondence with the Department, and am, sir, etc.,

AND. D. WHITE.

[Inclosure in No. 112.]

Military case report.

1. Julian A. Jehl brought his case to the attention of the embassy in a letter written from New York, which was received on June 14 last. He was born in Alsace-Lorraine in June, 1868, and had emigrated, after having obtained a release from German allegiance, to the United States in 1883, and he desired to revisit his former home. The embassy instructed him to make application to the proper authorities, and subsequently, upon his own request, permission was granted him to visit his home at Oberehnheim, and to remain there until August 2. On July 14 a second letter was received from him, in which he asked that the embassy would obtain for him an extension, so that he might remain in Germany for another month. The embassy, on the same day, addressed the foreign office on the subject (F. O. 26), and on the 23d of the same month a reply was received, in which it was stated that Jehl might continue his visit until the 10th of September.

2. Ernest Theodore and Karl Kegel, sons of Dr. August Herman Kegel, of Shelby, Iowa, who was born in St. Ulrich, Prussia, in 1844, and who emigrated to the United States in 1891, and who subsequently became naturalized as an American citizen—were born in Potsdam in 1875 and 1876, respectively, and had emigrated with their father to America. The older son became an American citizen through his own naturalization on October 30, 1896, and the younger son, being still a minor, became a citizen through the naturalization of his father on the same day. Acting upon the request of Dr. Kegel, the embassy addressed the foreign office in behalf of his sons on April 26 last (F. O. 218), and upon July 27 a reply was received, in which it was stated that their names had been removed from the list of those liable to be called upon for military service in Germany.

3. Johann Heinrich Tietjen was born in Prussia in 1864, and emigrated to the United States in 1882, where he became naturalized as a citizen on January 4, 1895. In November last he returned on a visit to his native place, and soon after his arrival he was arrested, and, in order to avoid imprisonment, was compelled to pay a fine of 250 marks, on account of his not having performed military service. His case was brought to the attention of the embassy on December 14 last, and a communication was at once (F. O. 132) addressed to the foreign office in regard to it. On August 3 a note was received in reply, in which the sum of 246.90 marks was inclosed (charges for postage having, it was said, amounted to .60, and 3.10 marks having been paid to Tietjen's father), which was sent by the embassy to Mr. Tietjen, who had in the meantime finished his visit without further molestation, and had returned to his home in New York.

4. Joseph Haag was born in Alsace-Lorraine, and when about 15 years of age emigrated to the United States, where he duly became naturalized as a citizen. In July last he returned to his home, and on the fourth day after his arrival he was taken by the police from the house of an uncle, with whom he was stopping, and in spite of his protest as an American citizen and his presenting evidence of the fact that his emigration had been with the consent of the German authorities, he was conducted by force across the border into France. On August 15 last a letter was received from him by the embassy, in which he stated that the object of his return to Alsace was to see his relatives and to collect an inheritance which had come to him, and in which he asked that the embassy might endeavor to obtain for him permission to return and finish his business. The embassy at once addressed the foreign office on the subject (F. O. 52), and on the 8th ultimo a reply was received, in which it was stated that as Haag's only relative in Alsace was an uncle, as his brothers and sisters live in America, where his parents died, and as he sold at auction, for cash, the farm land which had belonged to him on July 5 last, and had no other business interests at his former home in Morlenbach, there appeared to be no reason why he should be permitted to remain in that place, and consequently the "Statthalter" of Alsace-Lorraine declined to give him permission to return there.

5. Henry Kopcke was born in Germany, and emigrated to the United States, where he became naturalized as a citizen, at Chicago, on September 24, 1896. He subsequently informed the local authorities at his former home of this fact, and requested that his name be removed from the military lists and that a formal release from German allegiance be issued to him. In reply he was informed that his military leave of absence had been prolonged for two years. He thereupon brought his case to the attention of the embassy, and in a reply to a note which was addressed by it to the foreign office on June 28 last (F. O. 11), it was informed on the 27th ultimo that Kopcke's name had been stricken from the list of those liable to be called upon for military service in Germany.

6. George Hey, in a letter dated August 16 last, informed the embassy that he had been impressed into German military service. In this letter he stated that he had been born in Germany, but had emigrated to the United States and had there become naturalized as an American citizen, and that his impressment had taken place while he was visiting his former home. As no evidence of American citizen-

ship accompanied his letter, however, it was referred to the acting consul-general at Frankfort, who sent it to the consul at Mayence, near which place Hey was serving. As the officers of the regiment said that nothing could be done in the case until after the maneuvers, and as letters to Hey remained unanswered, the embassy brought the case to the attention of the foreign office on the 17th ultimo (F. O. 77), and although no reply has as yet been received to this note, it has been learned that Hey was released from military service on the 29th ultimo.

J. B. J.

EXCLUSION OF AMERICAN LIFE INSURANCE COMPANIES.

Mr. Uhl to Mr. Olney.

No. 257.] EMBASSY OF THE UNITED STATES,
Berlin, January 28, 1897. (Received February 12.)

SIR: On the 24th instant, Sunday, I received your telegraphic instruction, as follows:

UHL, *Ambassador, Berlin:*

New York Life Company is advised that Prussian council meets next week, and asks your offices to procure hearing before such council in behalf of American insurance companies. If the agents of the companies are prepared to go before such council in concert, with full statements and carefully prepared argument, you will use good unofficial offices to procure such hearing.

OLNEY.

On the following morning I sent for and had a conference with Mr. von Adelson, the local representative of the New York Life Insurance Company, and informed him of the instruction received. To my question whether he desired, on behalf of his company, to submit to the Prussian ministry of state any further showing, either in the form of statement or argument, he replied that he did not, that he had nothing additional to present, and did not desire a hearing for such purpose. He further informed me that the companies in their presentation were not acting in concert, but that each company had presented its case on its individual merits. Of the result of this interview I advised you by telegraph as follows:

OLNEY, *Secretary, Washington:*

Adelson, representative New York Life here, informs me he has nothing more to present to Prussian ministry of state, either in the form of statement or argument.

UHL.

During the past seven months I have had frequent interviews with the local representatives of the Mutual Life and New York Life insurance companies, and more than once, while the examination was proceeding before the ministry of the interior, asked such representatives whether their several companies wished to make any presentation beyond that already submitted, urging that if upon any point their cause could be supplemented or strengthened it should be done at once. In each instance their reply was that the case made was full and perfect, to which nothing could be added.

It thus appearing from my interview with Mr. von Adelson that there was no occasion to make application for a hearing as suggested before the Prussian ministry, the remaining question, i. e., whether such request would in any event be entertained, became unimportant. I understand, however, that without a doubt it would not be met with favor.

The Prussian ministry of state is composed at present of the following officials:

His Highness Prince zu Hohenlohe-Schillingsfürst, chancellor of the

Empire, president of the Prussian ministry of state, minister of foreign affairs, etc.

His Excellency Dr. von Boetticher, vice-president of the ministry of state, imperial German secretary of state for home affairs, etc.

His Excellency Dr. von Miquel, minister of finance.

His Excellency Thielen, minister of public works.

His Excellency Dr. Bosse, minister for spiritual, educational, and medicinal affairs.

His Excellency Baron Marschall von Bieberstein, minister of state, actual privy councillor, imperial secretary of state for foreign affairs.

His Excellency Baron von Hammerstein-Loxten, minister of agriculture, etc.

His Excellency Schnöstedt, minister of justice.

His Excellency Baron von der Recke von der Horst, minister of the interior.

His Excellency Brefeld, minister of trade and commerce.

His Excellency Lieutenant-General von Gossler, minister of war.

The deliberations of this collective body are not public. They are confidential and not disclosed. No oral arguments are permitted nor appearances granted to parties interested in questions pending before it. Hearings are not refused by the several members of the ministry, and they have been granted to myself, to the secretary of the embassy, and to the representatives of the companies in the matter of their pending applications whenever requested.

I have, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Sherman.

No. 326.] EMBASSY OF THE UNITED STATES,
Berlin, April 21, 1897. (Received May 7.)

SIR: Referring to my dispatch No. 257, of January 28 last, I have the honor to inform you that I took occasion yesterday, when calling upon Baron von Marschall at the foreign office, to inquire as to the present status of the long-pending application of the American life insurance companies for readmission into Prussia, and was informed by him that the records in each case had been considered in the Prussian ministry of state, but that owing to the differences in the opinions of the experts no conclusion had been reached upon the merits, and it had consequently been determined to refer the entire records in each case to another insurance expert, who is considered an especially learned authority in treating the question involved in the inquiry. He further said that the ministry would await a report from this expert before taking final action.

I have, etc.,

EDWIN F. UHL.

Mr. Sherman to Mr. White.

No. 5.] DEPARTMENT OF STATE,
Washington, May 25, 1897.

SIR: I inclose for your information copy of a letter of the 18th instant, from the Hon. Cushman K. Davis, chairman of the Committee on Foreign Relations of the Senate, in relation to American insurance com-

panies, and particularly the Mutual Life Insurance Company of New York. A copy of the Department's reply is also inclosed, together with a copy of Senate Ex. Doc. No. 140, Fifty-fourth Congress, second session.

It would be well for you to apprise yourself fully of the present status of the matter by conferring with Mr. Uhl as soon as you reach Berlin.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure 1 in No. 5.]

Mr. Davis to Mr. Sherman.

UNITED STATES SENATE,
Washington, May 18, 1897.

DEAR SIR: I have the honor to transmit herewith a letter from an esteemed constituent of mine, Mr. E. W. Peet, of St. Paul, respecting the action of the German Government in regard to American insurance companies, and particularly respecting the Mutual Life Insurance Company of New York.

I also inclose Senate Doc. No. 140, Fifty-fourth Congress, second session, in which many of the facts in this matter are presented in convenient form. I have the honor to request the attention of your Department to this subject. I shall take early opportunity of conferring upon it with you personally.

Yours, truly,

C. K. DAVIS.

[Subinclosure in No. 5.]

Mr. Peet to Mr. Davis.

THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
St. Paul, Minn., May 15, 1897.

MY DEAR SENATOR: May I ask your kind offices in the matter of the pending application of the Mutual Life Insurance Company of New York for readmission into the Kingdom of Prussia.

Since my interview with you on this subject in March last there has been no material change in the situation. The long-pending application of the American life insurance companies for readmission into Prussia was considered by the Prussian ministry, but no conclusion reached.

The concession to the Mutual Life Insurance Company of New York to do business in Prussia was granted in November, 1886, but was canceled by decree of that Government in 1892, although they had in the meantime complied with all of the requirements of the Prussian Government and spent a geat deal of money in establishing their business there, and erected a building in Berlin and invested in a great many of the Prussian securities, relying upon the continuance of the concession (which was unlimited in time), and they are now and always have been willing to comply with all reasonable conditions that the Prussian Government may impose.

As you are aware, the only avenue of approach to the Prussian Government open to the company is through the State Department and its ambassador to the German Government.

I now especially request that at your earliest convenience you will personally bring the subject before the honorable Secretary of State, and urge him to request the present ambassador, Mr. White, to use his good offices in furthering the interests of American life insurance companies in Germany and in obtaining favorable action upon the pending application for readmission to transact business in Prussia.

The entire history of this subject and all the correspondence between the State Department and the German Government will be found in Senate Doc. No. 140, the publication of which you so kindly procured, copy of which I inclose. The letter of the president of the Mutual Life Insurance Company of New York, commencing on page 4 of that document, gives the history of the entire case, and many cogent reasons why the concession should not have been canceled.

The American life insurance interests are of great importance and the action of the Prussian Government in canceling the concession of the three largest companies, the Mutual Life of New York, the New York Life, and the Equitable Life, has already done great damage to these interests, and the continued refusal or delay in acting upon the question of renewing the concessions is a serious matter, and you will be conferring a great favor not only upon me personally, but upon the officers of the Mutual Life and its policy holders throughout the world, by assisting in obtaining through the State Department the renewal of this concession by the Prussion Government, as their refusal to grant permission to do business there not only prevents doing business in that country, but unfavorably affects the business throughout the whole of Europe.

Thanking you in advance for this great favor, and hoping that you will find it consistent with your duties to give the matter your personal attention, I beg to remain,

Very sincerely, yours,

E. W. PEET.

[Inclosure 2 in No. 5.]

Mr. Day to Mr. Davis.

DEPARTMENT OF STATE,
Washington, May 21, 1897.

SIR: By direction of the Secretary of State I have the honor to acknowledge the receipt of your communication, inclosing a letter addressed to you by Mr. E. W. Peet, of St. Paul, Minn., in regard to the interests of American life insurance companies in Prussia, and particularly respecting the Mutual Life Insurance Company of New York.

In reply I have to inform you that the important subject in question has had the Department's constant attention, and considerable correspondence has been exchanged with Ambassador Uhl since Senate Ex. Doc. No. 140 was printed, but without materially altering the situation. When the lately commissioned ambassador, Mr. Andrew D. White, was recently in this city receiving the instructions of the Department touching the duties of his office, particular consideration was given to this question of the revocation of the license of American life insurance companies to do business in Prussia, and Mr. White fully understands that he will be expected to continue the urgent representations made since 1895 against this action of the Prussian Government.

Respectfully, yours,

WILLIAM R. DAY,
Assistant Secretary.

Mr. Jackson to Mr. Sherman.

No. 165.] EMBASSY OF THE UNITED STATES,
Berlin, November 1, 1897. (Received November 12.)

SIR: Referring to Mr. Uhl's dispatch No. 326, of April 21, 1897, I have the honor to inclose herewith a copy of a note to-day addressed by me to the Imperial foreign office, in regard to the pending applications of the American life insurance companies for readmission to Prussia.

During a recent conversation with Baron von der Recke, the Prussian minister of the interior, I learned that, as was to be expected, nothing had been done in this matter during the summer, and consequently it seemed to me to be proper to bring the subject to the attention of Mr. von Bulow, now that his appointment as Imperial secretary of state for foreign affairs has become definite, and to urge that final action be taken.

I have, etc.,

JOHN B. JACKSON.

[Inclosure in No. 165.]

Mr. Jackson to Mr. von Bulow.

F. O. 106.] EMBASSY OF THE UNITED STATES,
Berlin, November 1, 1897.

In the course of a conversation at the Imperial foreign office on April 20 last His Excellency Baron von Marschall informed Ambassador Uhl that the applications of the American life insurance companies for readmission into Prussia had been considered by the Royal ministry of state, but that owing to differences in the opinions of the experts by whom reports had been submitted no conclusion had been reached upon the merits of the case, and that it had consequently been determined to refer the entire records in each case to another insurance expert, who is considered an especially learned authority in treating the question involved in the inquiry. Baron von Marschall further said that the ministry would await a report from this expert before taking final action.

The undersigned, chargé d'affaires of the United States of America, now has the honor to request that His Excellency Mr. von Bulow, Imperial secretary of state for foreign affairs, will kindly cause him to be informed as to whether the report of this expert has been received and considered by the Prussian ministry, and, if it should be ascertained that such was not the case, to request that his excellency will kindly cause the necessary steps to be taken toward rendering a decision in this matter, which has been pending for about two years, and which, in the United States, is considered as one of much importance, where expedition is greatly to be desired.

The undersigned avails, etc.,

JOHN B. JACKSON.

RETURN OF NATURALIZED AMERICANS OF GERMAN BIRTH TO GERMANY.

Mr. Uhl to Mr. Sherman.

No. 307.] EMBASSY OF THE UNITED STATES,
Berlin, March 29, 1897. (Received April 16.)

SIR: I have the honor to transmit herewith a copy of certain correspondence, more particularly mentioned below, recently had with the German foreign office, in regard to the treatment of naturalized American citizens of German origin upon their return to their native country on business or pleasure. A copy of the circulars mentioned in my note of to-day's date was sent to the Department in the embassy's dispatch No. 316, of July 27, 1895, and the decision of the supreme court at Leipzig was referred to in the embassy's dispatches Nos. 502, of March 13, and 46, of May 19, 1896.

I have the honor, etc., EDWIN F. UHL.

[Inclosure 1 in No. 307.]

Mr. Uhl to Baron Marschall.

F. O. 198.] EMBASSY OF THE UNITED STATES,
Berlin, March 17, 1897.

The undersigned, ambassador, etc., of the United States of America, has the honor to inform His Excellency Baron Marschall von Bilberstein, Imperial secretary of state for foreign affairs, that it has been

brought to his attention that a statement has been made (in No. 119 of the Berliner Neueste Nochvichteu, of the 12th instant) that on February 6 last a circular regulation was made by the Prussian minister of justice, war, and the interior in regard to the action to be taken in the case of persons formerly Germans who had been sentenced for evasion of military duty and who had returned to Germany after having lost their German nationality, it being noted in the article above referred to that this applied to the cases of the so-called German-Americans, and to request that, if it should be found convenient and proper, his excellency would kindly cause him to be furnished with a copy of this regulation for transmission to his Government.

The undersigned avails, etc.,

EDWIN F. UHL.

[Inclosure 2 in No. 307.—Translation.]

Baron Marschall to Mr. Uhl.

FOREIGN OFFICE,
Berlin, March 27, 1897.

The undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Edwin F. Uhl, in reply to his note No. 198, of the 17th instant, that the circular regulations issued on the 6th instant by the Royal Prussian ministers of justice, the interior, and war deal with the formal treatment of the petitions for pardon sent in by persons who have been sentenced on account of their having evaded military service. These regulations direct the local officials to see that these petitions contain, at first instance, all that is worth knowing about the case in point, and everything in regard to it of a nature to influence the decision of the highest authority, in order that the delays which would result, if additional information had to be sought, may be avoided. No change is made by these regulations in the principles heretofore observed by the Royal Prussian Government in regard to the action of the police toward the persons in question, in particular to the treatment of former German subjects who have returned to Germany after naturalization in the United States of America.

The undersigned avails, etc.,

MARSCHALL.

[Inclosure 3 in No. 307.]

Mr. Uhl to Baron Marschall.

F. O. No. 203.] MARCH 22, 1897.

Referring to the esteemed note from His Excellency Baron von Marschall, Imperial secretary of state for foreign affairs, of the 27th instant, the undersigned, ambassador, etc., of the United States of America, has the honor to request that his excellency, if it be found convenient and proper, will kindly use his good offices to the end that the Royal Prussian Government may bring to the attention of the minor executive officials, Landräthe, Amtsvorsteher, etc., as suggested by Mr. Jackson in a conversation with His Excellency Baron von Rotenhan in July, 1895, the circular instructions of the Royal Prussian ministers of justice and of the interior—printed copies of which are inclosed herewith—which

were issued in 1868, immediately after the conclusion of the treaty on the subject of naturalization between the United States and the North German Confederation, as well as the decision of the Imperial supreme court at Leipzig of January 20, 1896 (Entsch. d. R. G. in Strafs., Bd. 28, S. 127), in order that naturalized American citizens of German origin may not be subjected to unnecessary annoyance and molestation by local authorities, on account of their having emigrated without permission or before performing military service in Germany, while sojourning in Germany upon their legitimate business, or while temporarily visiting their parents or relatives at their former homes.

The undersigned avails himself, etc.

EDWIN F. UHL.

Mr. Uhl to Mr. Sherman.

No. 311.] EMBASSY OF THE UNITED STATES,
Berlin, April 3, 1897. (Received April 16.)

SIR: Referring to my dispatch No. 307, of the 29th ultimo, I have the honor to transmit herewith a copy and translation of a note which has just been received from the German foreign office, in reply to my note of that date, in regard to the treatment of naturalized American citizens of German origin upon their return to their native country, and to be, sir, etc.,

EDWIN F. UHL.

[Inclosure in No. 311.—Translation.]

Baron Marschall to Mr. Uhl.

FOREIGN OFFICE,
Berlin, April 1, 1897.

In response to the note of the 29th ultimo, F. O. 203, the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, returning the inclosures therein transmitted, that the appropriate authorities have already, in 1868, received instructions in regard to the carrying out of article 2 of the decrees of the ministers of justice of July 5 and of the interior of July 6, of that year of the so-called Bancroft treaty. Later on the contents of these decrees were again brought to their attention. As the decision of the Imperial court of January 20, 1896 (Penal Cases, vol. 28, p. 127), referred to by the ambassador, coincides with the principles laid down in the decrees in question, and also with the carrying out of the same, and as no case wherein these principles have been violated has lately been brought to the attention of this office, there does not seem to be sufficient reason to again call the attention of the appropriate authorities to the instructions heretofore given. If naturalized German-Americans were at different times sentenced for the violation of military duty, and these cases were made the subject of discussion, this was caused by the fact that the authorities did not know that those persons were naturalized in America, and the sentence was at all times revoked wherever this fact was established.

The undersigned permits himself to add that these decrees do not affect the rights of the local authorities to expel, for state police considerations, former German subjects who emigrated to America at or

shortly before reaching the military age, and who, after naturalization there, returned to their native land, whenever they make themselves obnoxious or their presence seems undesirable for other reasons.

The undersigned avails himself, etc.

MARSCHALL.

Mr. Sherman to Mr. Uhl.

No. 372.] DEPARTMENT OF STATE,
Washington, April 23, 1897.

SIR: I have to inform you that your dispatch No. 307, of March 29 last, in regard to the treatment of naturalized American citizens of German origin, upon their return to their native country on business or pleasure, has been received.

The Department fully approves your note of March 29, 1897, to the German foreign office on the subject in question.

Respectfully, yours, JOHN SHERMAN.

Mr. Uhl to Mr. Sherman.

No. 329.] EMBASSY OF THE UNITED STATES,
Berlin, April 23, 1897. (Received May 7.)

SIR: I have the honor to transmit herewith a report, with accompanying schedules and note by Mr. Squiers, second secretary of the embassy, showing the operation in detail of the treaty of February 22, 1868, between the United States and the North German Confederation, as well as of the naturalization treaties made with other German states at about the same time, which is self-explanatory and which I am quite confident the Department will find of value.

It is the result of a careful examination in detail of the embassy's records during the period embraced and a classification as indicated.

I have, etc.

EDWIN F. UHL.

[Inclosure in No. 329.]

Mr. Squiers to Mr. Uhl.

EMBASSY OF THE UNITED STATES,
Berlin, April 17, 1897.

SIR: In accordance with your verbal instructions, I beg to hand you a report on the working of the treaty of February 22, 1868, between the United States and the North German Confederation. Naturalization treaties were made with other German States at about the same time. All cases coming under any of the various treaties are included.

For your convenience I have drawn the report in a tabulated form showing: (1) Name; (2) age at emigration; (3) date of emigration; (4) date of naturalization; (5) date of return to Germany; (6) date of intervention; (7) ground for intervention; (8) result of intervention.

In further tables I have consolidated the data collected under each of the above heads.

You will find a total of 447 cases presented between the 23d of April, 1868, and the 7th of April, 1897, a period of nearly twenty-nine years. Of these, 48 were Alsace-Lorraine and 88 Schleswig-Holstein cases. (Inclosures Nos. 1 and 2.)

The age at emigration is significant. Under the German law the names of all those who have passed their seventeenth year are placed on the military list, where they remain until the twenty-eighth year is passed. Of the 447 cases, 316 emigrated between the ages of 16 and 22. (Inclosure 3.)

The length of residence in the United States before naturalization, and in many cases the almost immediate return thereafter to Germany, is also very significant. Two hundred and five cases out of 375 whose records are known were naturalized within six years after emigration, while 212 out of 381 returned to their native country within two years after naturalization. (Inclosure 4.)

Of the 447 cases presented, 325 were decided favorably. Many expulsion cases were decided unfavorably, and especially those expelled from Schleswig-Holstein. In cases 5, 6, 7, 15, and 319 I have been unable to find any reply to note of intervention. (Inclosures 5 and 6.)

Many of the dates are missing. In cases of arrest or of compulsory service the certificate of naturalization was generally taken up by the authorities and, when the case was finally decided, returned direct. For this reason the details were not recorded.

I have, etc.,

H. C. SQUIERS,
Second Secretary.

[Subinclosure 1 in No. 329.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
1	Espen, S	.....	.....	Sept. 29, 1860	.....	Apr. 23, 1868	Fine	Successful.
2	Bromberger, S	16	June 23, 1853	July 14, 1859	Mar. —, 1868	May 1, 1868	.....do	Do.
3	Schneider, S	14	1856	Apr. 19, 1866	1868	June 16, 1868	.....do	Do.
4	Winter, A	.....	.....	.....	.....	June 30, 1868	.....do	Do.
5	Fuchs, P. J	.....	.....	.....	.....	Aug. 6, 1868	.....do	
6	Driessen, J	.....	.....	.....	.....	Aug. 11, 1868	.....do	
7	Remssel, H. A	16	1859	.....	Nov. —, 1868	Nov. 6, 1868	Expulsion	
8	Braden, G	17	1861	.....	(*)	Sept. 15, 1869	Fine	Refused. Emigrated to avoid military service.
9	Blanck, B	.....	Aug. —, 1863	Oct. —, 1868	Dec. —, 1868	Dec. 10, 1869	.....do	Refused. Had not lived in United States 5 years uninterruptedly at date of naturalization.
10	Schaar, G	21	Apr. 10, 1865	Nov. 30, 1869 (Soldier.)	Dec. —, 1869	Feb. 1, 1870	.....do	Successful.
11	Schultz, C. F	.....	.....	.....	1869	Mar. 19, 1870	Compulsory service	Do.
12	Etschmann, S. G. O	16	1849	.....	(*)	June 3, 1870	Fine	Do.
13	Stern, M	16	Apr. 24, 1866	Mar. 27, 1869	June 10, 1870	Sept. 8, 1870	Compulsory service	Refused. Had not lived in United States 5 years uninterruptedly at date of naturalization.
14	Person, W	.....	1852	1860	July 20, 1870	Aug. 13, 1870	.....do	Successful.
15	Davis, G	.....	.....	.....	July 18, 1870	Aug. 25, 1870	Fine	
16	Fink	17	1860	.....	1869	Jan. 25, 1871	Compulsory service	Successful.
17	Haase, A. H	17	Oct. —, 1863	Jan. 28, 1871	Feb. —, 1871	Mar. 13, 1871	Fine	Do.
18	Davidsohn, E	16	1859	.....	1871	Apr. 20, 1871	.....do	Do.
19	Schneider, A	18	1854	May 24, 1862	May 15, 1771	July 1, 1871	.....do	Do.
20	Goslinski	16	Aug. —, 1858	.....	May 25, 1871	Aug. 25, 1871	.....do	Do.
21	Angerer, A. W. (born Feb. 7, 1832)	.....	.....	Sept. 12, 1859	(*)	July 29, 1871	.....do	Do.
22	Kielgast, T	16	Aug. 14, 1864	June 31, 1871	July 15, 1871	Oct. 23, 1871	.....do	Do.
23	Pieper, F	.....	1866	.....	.....	May 13, 1872	Arrest	Do.
24	Kuhn, E	17	1852	May 27, 1872	(*)	Aug. 9, 1872	Fine	Do.
25	Friedmann, L	17	1865	Sept. —, 1871	Dec. —, 1871	Aug. 22, 1872	Compulsory service	Do.
26	Ludwig, O. J. C	20	1854	1860	1871	Sept. 9, 1872	Fine	Do.
27	Trautner, C	18	1856	Sept. —, 1868	1872	.....do	Compulsory service	Do.
28	Law, H	18	Aug. 5, 1865	Aug. —, 1870	Nov. —, 1872	Nov. 29, 1872	Fine	Do.
29	Klein, B	17	Mar. 12, 1868	Mar. 15, 1873	(*)	Apr. 30, 1873	.....do	Do.
30	Holhausen	1	1854	Through his father.	1858	May 2, 1873	Compulsory service	Do.
31	Hartwig, A	17	May 18, 1867	Sept. 19, 1872	Apr. 18, 1873	May 27, 1873	.....do	Do.
32	Brandt, L	15	1865	1871	Mar. —, 1873	May 28, 1873	Fine	Do.
33	Klas, H	19	Sept. 7, 1866	.....	June —, 1872	June 7, 1873	Expulsion	Do.
34	Fischer, J	20	May 4, 1867	.....	1873	June 17, 1873	Fine	Do.
35	Falk, N	16	Dec. 15, 1863	Apr. 20, 1870	Apr. 15, 1873	July 7, 1873	.....do	Do.
36	Boetzkes, E	18	1865	Mar. 13, 1872	June 18, 1873	July 30, 1873	.....do	Do.

*Had not returned to Germany up to date of intervention.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
37	Spranger, E	19	1868	June 6, 1873	July —, 1873	Aug. 7, 1873	Arrest	Successful.
38	Lippert, P	27	1865	Oct. 12, 1872	July 12, 1873	Aug. 15, 1873	Fine	Do.
39	Lenk, A	17	Mar. 17, 1867	Mar. 27, 1872		Aug. 20, 1873	Compulsory service	Do.
40	Stillman, H	20	1867	June 25, 1873	July —, 1873	Sept. 9, 1873	Fine	Do.
41	Koch, E	20	Sept. 14, 1866	Sept. 1, 1873	Oct. 21, 1873	Nov. 25, 1873	do	Do.
42	Brauns, W		1851	Aug. 21, 1856		Jan. 2, 1874	Compulsory service	Do.
43	Barztop, M		1867		1874	Apr. 9, 1874	do	Refused. A deserter from the German army or navy.
44	Jost, W	17	Apr. 27, 1868	Sept. 5, 1873	Oct. —, 1873	Apr. 25, 1874	Fine	Successful.
45	Cohn, M	17	July —, 1864	Sept. 19, 1870	Jan. —, 1872	Apr. 28, 1874	Compulsory service	Do.
46	Bachmann, J. (born 1849)			Mar. 27, 1871	1873	May 15, 1874	do	Do.
47	Mendel, S	18	Jan. —, 1863	Mar. —, 1868	Apr. 29, 1874	June 2, 1874	Arrest	Do.
48	Kater, H	18	Mar. —, 1868	Nov. 6, 1873	Jan. —, 1874	June 8, 1874	Fine	Do.
49	Grossart, F. W					June 24, 1874	do	Do.
50	Guth, H	17	Feb. —, 1867		May —, 1874	July 29, 1874	do	Do.
51	Weidel, R	17	Sept. 10, 1868	Sept. 22, 1873	Mar. —, 1874	Aug. 5, 1874	Compulsory service	Do.
52	Asch, H	17	June —, 1860		1874	Aug. 6, 1874	Fine	Do.
53								
54	Arndt, F. A	33	1868	Dec. 11, 1873	Dec. 23, 1873	Sept. 11, 1874	Fine and compulsory service.	Do.
55	Gewecke, R	18	Jan. —, 1869	Mar. 25, 1874	Apr. —, 1874	Sept. 17, 1874	Fine	Do.
56	Selback, C. F		1867	June 16, 1872	1874	Sept. 28, 1874	Compulsory service	Refused. A deserter from the German army or navy.
57	Gruppenberger, L	17	1867	Aug. —, 1873	Aug. —, 1874	Sept. 30, 1874	Fine	Successful.
58	Grubel, E	17	1867	1874	Dec. 25, 1874	Jan. 6, 1875	do	Do.
59	Weich, J		June —, 1869	Oct. 8, 1874	1874	Feb. 4, 1875	do	Refused. A deserter from the German army or navy.
60	Mumbour, H		Apr. —, 1869	June 25, 1874	Sept. —, 1874	Feb. 8, 1875	Arrest	Do.
61	Vopel, T	23	Aug. —, 1864	1873	Oct. —, 1874	Feb. 11, 1875	Fine	Successful.
62	Gerding, C. H	20	Mar. 18, 1869		June 23, 1874	Feb. 18, 1875	Compulsory service	Do.
63	Wohlgemuth, L	18	1868	Mar. 20, 1875	Apr. 21, 1875	Apr. 29, 1875	Fine	Do.
64	Kahl, A. (Schleswig-Holstein)	18	July 26, 1866		Mar. —, 1875	Apr. 30, 1875	Compulsory service	Do.
65	Trojanowski, F	19	1868	1874	1875	May 4, 1875	do	Do.
66	Blumenthal, B	18	1867		Feb. —, 1875	May 7, 1875	Fine	Do.
67	Beckman, M	19	1869	Nov. 17, 1874		May 18, 1875	Compulsory service	Do.
68	Neumarch, M. A	14	July —, 1864	Sept. 5, 1871	Apr. —, 1874	do	Fine	Refused. Had not lived in the United States 5 years uninterruptedly at date of naturalization.
69	Weil, S	15	1868	June 19, 1874	July 18, 1874	Mar. 6, 1875	Compulsory service	Successful.
70	Schuman, H	14	1862	Dec. —, 1872	Apr. —, 1874	June 17, 1875	Fine	Do.
71	Wust, D	19	1866	Oct. 30, 1872	Apr. 22, 1873	July 12, 1875	Compulsory service	Do.
73	Bamberg, M		1867		July 23, 1873	Aug. 21, 1875	do	Successful. Will be discharged from military service provided he agrees to leave Germany.

72	Jantzen, C. H. F	18	1868	Apr. 24, 1875	Apr. 27, 1875	July 15, 1875	do	Successful.
74	Ottinger, C	21	June 26, 1866	May 27, 1875	July 14, 1875	Aug. 21, 1875	Fine	Do.
75	Weyna, S	16	1863	June 2, 1874		Oct. 5, 1875	do	Refused. Had not lived in the United States 5 years and become a citizen thereof when fine was collected.
76	Weyna, A	19	1863	Oct. 3, 1868		do	do	Successful.
77	Neef, M	18	Sept. —, 1868	Jan. 24, 1873	Sept. 8, 1875	Oct. 15, 1875	do	Refused. Had not lived in the United States 5 years and become a citizen thereof when fine was collected.
78	Henning, W. H	19	Sept. 1, 1868	June 15, 1874	Aug. —, 1875	Nov. 2, 1875	do	Successful.
79	Kuhl. H. (Schleswig-Holstein)	18	1868	July 19, 1875	do	Nov. 4, 1875	Compulsory service	Do.
80	Noack, J. B	18	1850	Oct. 13, 1874	Oct. 1, 1875	do	Fine	Do.
81	Behrmann		1870	June 23, 1875	July —, 1875	Dec. 31, 1875	do	Do.
82	Thiemke, I		1868	Nov. —, 1874	Nov. —, 1874	Jan. 3, 1876	do	Do.
83	Schatz, G	20	May —, 1863	May 31, 1873	Nov. 27, 1875	Jan. 10, 1876	do	Do.
84	Fieber, C	16	May —, 1871	Sept. 8, 1875	Oct. —, 1875	Jan. 15, 1876	do	Refused. Had not lived in United States 5 years and become a citizen thereof when fine was collected.
85	Falck, A		1868	Aug. 9, 1875	Dec. —, 1875	Jan. 26, 1876	Compulsory service	Refused. Still a German subject.
86	Gallek, A	17	1865	June 2, 1875	June —, 1875	Jan. 27, 1876	Fine	Successful.
87	Goppinger, G	18	1868	Dec. 14, 1875		Jan. 31, 1876	Compulsory service	Do.
88	Stern, S. M	15	Sept. 15, 1868	May 28, 1874	July 1, 1874	Feb. 10, 1876	Expulsion	Do.
89	Oelkers, C	22	Sept. —, 1869	Nov. 29, 1875	Dec. —, 1875	Feb. 16, 1876	Fine	Do.
90	Stadelmann, W	20	Jan. —, 1870	Sept. 20, 1875	Jan. 14, 1876	Mar. 8, 1876	do	Do.
91	Fedderson, F. (Schleswig-Holstein)	18	Mar. 6, 18.0	Mar. —, 1875	Dec. 4, 1876	Mar. 10, 1876	do	Do.
92	Weiss, L	18	1865	Mar. 27, 1871	May —, 1871	Apr. 1, 1876	Expulsion	Do.
93	Thoma, L. P	15	1866	1874		May 23, 1876	do	Do.
94	Schwaner, C	18	Nov. 22, 1868	Jan. 19, 1876	Feb. 6, 1876	do	Fine	Do.
95	Muller, R	18	Sept. —, 1868	May 8, 1876	June 10, 1876	July 14, 1876	do	Do.
96	Bens, J. F	27	June 15, 1847	Aug. 2, 1852	Sept. —, 1866	Sept. 30, 1876	do	Do.
97	Oldsen, J. D. (Schleswig-Holstein)†					Nov. 23, 1876	do	Do.
98	Baab, A. F	15	Oct. 9, 1868	Apr. 7, 1874	May —, 1874	Dec. 19, 1876	Compulsory service	Refused. Facts of the case not as presented to the foreign office.
99	Finkenstein, J	18	May —, 1870	July 12, 1876	Aug. —, 1876	Feb. 1, 1877	Fine	Successful.
100	Heidt, J	17	Aug. 26, 1871	Sept. 15, 1876	Apr. 10, 1876	Apr. 6, 1877	Compulsory service	Do.
101	Stahlman, P	20	1869		1877	May 9, 1877	do	Do.
102	Will, P	17	May 1, 1857	Sept. 10, 1864	Dec. 20, 1870	May 25, 1877	Fine	Do.
103	Hanfe, A. L. F	17	Oct. 20, 1871	Nov. 20, 1876	June 30, 1877	Aug. 9, 1877	do	Do.
104	Klein, E. F. O	18	June —, 1869	Apr. 3, 1877	Apr. 26, 1877	Aug. 17, 1877	do	Do.
105	Zimmer, M	14	Oct. 18, 1868	Mar. 28, 1877	Aug. —, 1877	Oct. 5, 1877	Compulsory service	Do.
106	Becker, B. (Alsace-Lorraine)	18	1872	Oct. 30, 1877	Nov. —, 1877	Dec. 19, 1877	Expulsion	Do.
107	Labischunsky, H	17	May 3, 1871	Sept. 20, 1876	Aug. 22, 1877	Dec. 28, 1877	Fine	Do.
108	Eggers, E. A	21	May —, 1867	Feb. 1, 1878	(*)	Feb. 27, 1878	do	Do.
109	Kowalski, J	19	Apr. 13, 1869	Sept. 2, 1877	(*)	Mar. 26, 1878	do	Do.
110	Klagges, F	17	Nov. —, 1864	1874	1875	Apr. 5, 1878	Compulsory service	Successful. Had become a German subject.
111	Flatau, P	18	Sept. 1, 1872	Oct. 15, 1877	Feb. 15, 1878	Apr. 15, 1878	do	Successful.
112	Ganzenmuller, C	18	May 17, 1869	July 12, 1875	July 17, 1875	Apr. 30, 1878	Expulsion	Refused. Had become a German subject.

* Had not returned to Germany up to date of intervention.

† Passport, State Department, No. 51127, Sept. 26, 1876.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
113	Baumer, J. (Alsace-Lorraine)	20	Feb. —, 1868	Nov. 6, 1876	1877	May 18, 1878	Compulsory service or expulsion.	Successful.
114	Wackermann, J	16	Sept. 1, 1872	Mar. 8, 1877	May 19, 1877	May 29, 1878	Expulsion	Refused. An undesirable subject.
115	Berude, J. G	21	Aug. —, 1870	1877	Apr. 29, 1878	June 6, 1878	Compulsory service and fine.	Successful.
116	Weil, G	17	Sept. 20, 1872	Feb. 18, 1878	Apr. 23, 1878	June 14, 1878	Expulsion	Do.
117	Wallner, A. F	23	Sept. 16, 1871	Oct. 6, 1876	Oct. —, 1876	June 18, 1878	Fine	Do.
118	Henkes, C	16	Mar. 10, 1869	Nov. 28, 1874	(*)	....do	....do	Do.
119	Folte, G. J. O	18	Mar. 9, 1873	Apr. 9, 1878	Apr. —, 1878	July 13, 1878	....do	Do.
120	David, E	21	July 9, 1864	Feb. 13, 1871	Apr. 25, 1878	July 16, 1878	....do	Do.
121	Wehrung, G. (Alsace-Lorraine)	17	1871	Oct. 7, 1876	(*)	Aug. 19, 1878	....do	Do.
122	Kehr, J	21	June —, 1868	Nov. —, 1876	Aug. —, 1877	Oct. 11, 1878	Compulsory service	Do.
123	Block, E. (Alsace-Lorraine)	21	Oct. 5, 1872	June 27, 1878	Sept. 11, 1878	Oct. 23, 1878	Fine	Do.
124	Krotz, W	23	Sept, —, 1865	Oct. 15, 1872	(*)	Nov. 26, 1878	....do	Do.
125	Lutz, F. (Alsace-Lorraine)	18	Apr. 5, 1873	May 4, 1878	Aug. 1, 1878	Dec. 21, 1878	Compulsory service	Refused. Had **not** lived in United States five years uninterruptedly at date of naturalization. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine.
127	**Inverson, I**	20	1869	June —, 1875	June —, 1878	Jan. 6, 1879	....do	Refused. A deserter from the German army or navy.
128	Margonier, S. †					Jan. 7, 1879	Fine	Successful.
129	Klein, E. (Alsace-Lorraine)	18	May —, 1872	July 17, 1878	Aug. 1, 1878	Jan. 21, 1879	Expulsion	Do.
130	Kunz, A	25	1870	Oct. 12, 1878	Dec. —, 1878	Jan. 29, 1879	Arrest	Do.
131	Koernicke, C. J	25	Sept. 2, 1861	July 15, 1874	Oct. 21, 1878	Feb. 10, 1879	Fine	Do.
132	Rasch, J. A	17	Mar. 12, 1873	Feb. 5, 1879	(*)	Feb. 21, 1879	....do	Do.
133	Pacquet (Alsace-Lorraine)	17	Jan. 18, 1872	Sept. 17, 1878	Sept. 25, 1878	Feb. 27, 1879	....do	Refused. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine.
134	Grzechwoiak, A	21	Feb. —, 1872	Nov. 20, 1878	Dec. —, 1878	Feb. 28, 1879	....do	Successful.
135	Hess, F. (Alsace-Lorraine)	20	Aug. —, 1872	Oct. 16, 1878	(*)	Mar. 10, 1879	....do	Refused. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine.
136	Hess, T. (Alsace-Lorraine)	17	....do	....do	(*)	....do	....do	Do.
137	Brandt, W. A. E	13		Jan. 27, 1879	(*)	Apr. 3, 1879	....do	Successful.
138	Huber, J	19	June 17, 1872	Mar. 1, 1878	Feb. 29, 1879	May 6, 1879	....do	Do.
139	Dettmar, J	19	July 14, 1859	Oct. 18, 1865	(*)	June 7, 1879	....do	Do.
140	Steig, G. (Alsace-Lorraine)	15	Sept. 16, 1873	Mar. 5, 1879	(*)	Aug. 1, 1879	....do	Do.
141	Flade, A	18	Sept. 23, 1873	Mar. —, 1879	July —, 1879	Aug. 15, 1879	....do	Do.
142	Richter, E	18	June —, 1874	June 23, 1879	....do	Aug. 19, 1879	....do	Do.
143	Hellrung, E. G	21	June 18, 1871	Oct. 23, 1876	June 18, 1878	Sept. 9, 1879	....do	Do.
144	Rorden, A. A. (Schleswig-Holstein)	16	1872	Sept. 13, 1877	June —, 1879	Sept. 15, 1879	Expulsion	Do.
145	Yessen, H. P. (Schleswig-Holstein)	18	May 13, 1873	Sept. 6, 1878	Oct. 2, 1878	Sept. 25, 1879	....do	Do.
146	Schmidt, P. C. (Schleswig-Holstein)	17	....do	....do	....do	....do	....do	Do.
147	Hansen, H. (Schleswig-Holstein)	17	Apr. 23, 1872	Feb. 12, 1878	Oct. 17, 1878	....do	....do	Do.
148	Schehr, J. (Alsace-Lorraine)	18	Oct. 28, 1873	Sept. 3, 1879	Sept. —, 1879	Oct. 13, 1879	Fine	Refused. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine.

149	Lauber, J. (Alsace-Lorraine)	19	Nov. —, 1872	Sept. 16, 1878	Oct. —, 1879	Nov. 21, 1879	.....do	Do.
150	Eick, O	16	May 1, 1872	May 16, 1879	Sept. —, 1879	Dec. 5, 1879	Arrest and fine	Successful.
151	Jons, P. (Schleswig-Holstein)	20	May 8, 1869	Jan. 18, 1878	Dec. —, 1879	Jan. 20, 1880	Fine	Do.
152	Lester, A. (Alsace-Lorraine)	17	May —, 1871	July 29, 1879	(*)	Feb. 9, 1880	.....do	Do.
153	Fisher, A. (Alsace-Lorraine)	18	Aug. —, 1872	Sept. 16, 1878	(*)	Feb. 12, 1880	.....do	Refused. Still a German subject.
154	Esmuller, W	22	Jan. 27, 1871	Dec. 1, 1877	Nov. —, 1879	Mar. 10, 1880	.....do	Successful.
155	Schang, J. P. Q. (Alsace-Lorraine)	15	June 1, 1868	Jan. 26, 1880	(*)	Mar. 20, 1880	.....do	Do.
156	Schwarz, G	17	1871	Nov. 15, 1876	1877	Apr. 30, 1880	Expulsion	Do.
157	Rosenwald, L	18	Aug. 20, 1872	Nov. 14, 1878	July 1, 1879	May 20, 1880	.....do	Do.
158	Schmidt, F. R	16	Mar. 20, 1869	Feb. 1, 1878	(*)	May 22, 1880	Fine	Do.
159	Fruch, W	20	July 15, 1872	Oct. 23, 1878	May 9, 1880	June 4, 1880	.....do	Do.
160	Gehres, A. (Alsace-Lorraine)	16	July 30, 1872	Sept. 4, 1877	(*)	June 11, 1880	.....do	Do.
161	Zadik, A	17	May —, 1863	Sept. 17, 1868	June 4, 1880	June 28, 1880	.....do	Do.
162	Weill, A. (Alsace-Lorraine)	17	Aug. 22, 1872	Dec. —, 1879	Jan. 1, 1880	.....do	Compulsory service	Do.
163	Gabriel, N. V. (Alsace-Lorraine)	19	Sept. 10, 1872	June 10, 1880	(*)	July 2, 1880	Fine	Refused. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine.
164	Reinsch, F	20	May —, 1872	Nov. 27, 1878	Dec. 31, 1879	July 3, 1880	.....do	Successful.
165	Bloch, S. (Alsace-Lorraine)	19	July —, 1872	Apr. 21, 1879		Aug. 11, 1880	.....do	Successful. Had not lost his Alsatian citizenship.
166	Holscher, W	23	1872	1877	(*)	Aug. 2, 1880	Military service‡	Refused. A deserter from the German army or navy.
167	Eggers, C	17	1873	June 16, 1880	(*)	Aug. 17, 1880	Fine	Successful.
168	Meller, C. R. (28 years old)			June 5, 1874	May 11, 1876	Aug. 23, 1880	Expulsion	Do.
169	Loeb, J. (Alsace-Lorraine)	17	Aug. —, 1872	June 30, 1879	1880	Nov. 4, 1880	Fine	Do.
170	Engellandt, I. (Schleswig-Holstein)	20	Aug. 9, 1871	1879	Oct. —, 1880	Nov. 13, 1880	.....do	Refused. A deserter from the German army or navy.
171	Guerold, A. (Alsace-Lorraine)	13	Sept. —, 1875	Sept. 18, 1880	(*)	Dec. 7, 1880	.....do	Successful.
172	Hagedorn, J. C. (Schleswig-Holstein)	14	June —, 1868	May 18, 1880	July 10, 1880	Dec. 30, 1880	.....do	Do.
173	Gherson, B. (Davis, B.)	16				May 9, 1881	Expulsion	Do.
174	Lewin, M	16	July 10, 1872	Oct. 22, 1878	Apr. —, 1881	May 33, 1881	Fine	Do.
175	Eger, E	15	June 17, 1871	Oct. 24, 1878	May 19, 1881	June 2, 1881	.....do	Do.
176	Brink, W	14	1872	(Through father.)	June 4, 1881	June 21, 1881	Compulsory service	Do.
177	Oehlrich, A. F. H	15	Nov. —, 1871	Feb. 20, 1877	June 14, 1881	June 23, 1881	Fine	Do.
178	Boettcher, G. E. R	20	Mar. —, 1871	Nov. 4, 1878	Aug. —, 1881	Sept. 1, 1881	.....do	Do.
179	Bruns, J. B. B	15	§1868	Oct. 27, 1876	July —, 1881	Sept. 15, 1881	.....do	Do.
180	Singruen, H	20	1872	Sept. 7, 1877	July 19, 1881	Oct. 26, 1881	.....do	Do.
181	Cordes, E	19	Nov. 28, 1872	Jan. 4, 1878	Apr. —, 1878	Nov. 26, 1881	Compulsory service	Do.
182	Buder, W	27	May 28, 1872	Oct. 14, 1878	Nov. 11, 1881	.....do	Fine and arrest	Do.
183	Blum, J	16	May —, 1872	July 18, 1881	(*)	Dec. 20, 1881	Fine	Do.
184	Gruzzynski, J	18	Sept. 16, 1873	Sept. 25, 1880	Oct. —, 1881	Jan. 16, 1892	.....do	Do.
185	Walntig, C. R	18	1873	Sept. 28, 1880	1881	Mar. 15, 1882	.....do	Do.
186	Sins, J. (Alsace-Lorraine)	16	Mar. 22, 1874	Oct. 14, 1879	(*)	Mar. 24, 1882	.....do	Do.
187	Unterseh, A. (Alsace-Lorraine)	21	June 15, 1872	Oct. 20, 1880	July —, 1881	Apr. 13, 1882	Compulsory service	Refused. Had become a German citizen.
188	Koernig, A	19	Feb. 17, 1876	Nov. 9, 1881	Nov. 16, 1881	Apr. 22, 1882	Fine and arrest	Successful.
189	Horstman, B	21	Nov. 10, 1872	1881	Feb. —, 1882	May 1, 1882	Fine	Refused. A deserter from the German army or navy.
190	Schatz, O	18	July —, 1872	Aug. 24, 1877	June —, 1879	May 24, 1882	Compulsory service	Do.
191	Schumann, G	17	1870	1878	May —, 1882	June 17, 1882	Fine	Successful.

* Had not returned to Germany up to date of intervention.
† Held State Department passport.
‡ Name on list of those who are liable for military service.
§ Two years at sea.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
192	Lewin, L	17	May —, 1873	Apr. 10, 1882	May 25, 1882	July 24, 1882	Fine	Successful.
193	Klam, A. (Alsace-Lorraine)	21	Jan. —, 1874	Oct. 7, 1880	(*)	Aug. 9, 1882	do	Refused. Treaty of Feb. 22, 1868, does not extend to Alsace-Lorraine. Elected to become a French citizen in 1872, and served in the French army.
194	Schwartz, A	15	May —, 1873	1879 or 1880	July 1, 1882	Aug. 31, 1882	do	Successful.
195	Petersen, J. H. (Schleswig-Holstein)	22	Sept. 2, 1872	Mar. 23, 1878	(*)	Sept. 7, 1882	do	Do.
196	Salzer, P. T	14	July —, 1866	Oct. 14, 1874	(*)	Oct. 7, 1882	do	Do.
197	Witowiak, V	15	Sept. —, 1873	Oct. 17, 1879	Oct. 26, 1882	Nov. 29, 1882	do	Do.
198	Grau, J. J	24	Sept. 20, 1872	Oct. 11, 1881	Nov. 23, 1881	Dec. 15, 1882	Fine or expulsion	Do.
199	Ehret, X. (Alsace-Lorraine)	17	Oct. —, 1874	Oct. 7, 1879	(*)	Apr. 5, 1883	Fine	Do.
200	Winkelhausen, M	20	May 7, 1876	Aug. 28, 1882	Jan. —, 1883	Apr. 21, 1883	do	Do.
201	Broom, M	16	Oct. 24, 1870	Oct. 9, 1880	Apr. 20, 1882	May 18, 1883	do	Do.
202	Bendixon, H	19	July —, 1873	Nov. —, 1882	May 5, 1883	June 23, 1883	do	Do.
203	Geiler, C. W	20	Feb. 27, 1876	Apr. 21, 1881	(*)	do	do	Do.
204	de le Roy, G	16	Oct. —, 1872	Oct. 14, 1878	May —, 1881	July 19, 1883	do	Do.
205	Lang, L	23	Apr. 10, 1876	Apr. 27, 1881	Sept. 7, 1883	Sept. 18, 1883	do	Do.
206	Friedrichsen, K. H	21	Feb. 20, 1878	Mar. 28, 1883	May —, 1883	Oct. 22, 1883	do	Do.
207	Brodersen, P. B. (Schleswig-Holstein)	18	Mar. 28, 1873	June 18, 1880	Aug. —, 1883	Dec. 4, 1883	do	Do.
208	Held, G	23	Mar. —, 1874	Feb. 17, 1883	July 30, 1883	Dec. 13, 1883	do	Do.
209	Gerson, A	18	Sept. —, 1873	May 26, 1880	May 26, 1883	Apr. 12, 1884	do	Do.
210	Kubis, J	25	Apr. 1, 1876	Dec. 29, 1881	Mar. 26, 1884	Apr. 21, 1884	do	Do.
211	Nagel, C	20	Aug. 20, 1874	Apr. 30, 1883	June 9, 1883	May 5, 1884	do	Refused. A deserter from the German army or navy.
212	Reupert, C	17	1878	June 30, 1884	July —, 1884	July 30, 1884	Compulsory service	Successful.
213	Wientzcs, G	13	1874	Aug. 5, 1884	Sept. 1, 1884	Sept. 9, 1884	do	Do.
214	Meniger, C	12	1872	June 3, 1884	(*)	Sept. 29, 1884	Compulsory service	Do.
215	Petersen, T. (Schleswig-Holstein)	18	Oct. 23, 1878	Nov. 27, 1883	Jan. —, 1884	Oct. 7, 1884	Expulsion	Refused. An undesirable subject.
216	Heitmuller, E. F	18	Jan. —, 1878	Nov. 10, 1884	1884	Jan. 29, 1885	Fine and arrest	Successful.
217	Austin, F	19	1871 or 1872		Jan. —, 1885	Mar. 24, 1885	do	Do.
218	Golly, C. A.* (Alsace-Lorraine)	17	Jan. —, 1875		Jan. —, 1884	Apr. 6, 1885	Expulsion	Refused. Had become a German citizen.
219	Buddack, F	18	June —, 1877	Feb. 6, 1885	Apr. —, 1885	Apr. 30, 1885	Fine	Successful.
220	Lieffert, R	2	1869	Mar. 1, 1883 (through father).	1877	May 6, 1885	Arrest	Do.
221	George, C. L. (Alsace-Lorraine)	16	May —, 1875	May 10, 1884	June 2, 1884	Aug. 13, 1885	do	Refused. Still a German subject.
222	Tappert, H	20	do	Oct. 30, 1880	June 30, 1885	Oct. 3, 1885	Fine	Successful.
223	Boyson, S. M. (Schleswig-Holstein)	17	May —, 1864	July 21, 1869	Sept. 3, 1885	Nov. 2, 1885	Expulsion	Do.
224	Jessen, H. P. (Schleswig-Holstein)	18	May 13, 1873	Sept. 6, 1878	Oct. 2, 1878	Nov. 9, 1885	do	Refused. Emigrated in order to avoid military service.
225	Andresen, P. C. (Schleswig-Holstein)	17	Aug. —, 1874	Aug. 18, 1880	Sept. —, 1885	Nov. 11, 1885	do	Do.
226	Riewerts, M. H. (Schleswig-Holstein)	17	May —, 1879	July 25, 1884	do	do	do	Do.
227	Jappen, I. G. (Schleswig-Holstein)	17	May 22, 1878	Oct. 9, 1884	Sept. 15, 1885	do	do	Do.

228	Nickelsen, O. E. (Schleswig-Holstein)	17	May 28, 1879	June 24, 1885	Sept. 5, 1885	....do	....do	Do.
229	Rohlffs, C. H. (Schleswig-Holstein)	19	Nov. 19, 1879	July 22, 1885	Sept. 2, 1885	Nov. 13, 1885	....do	Do.
229a	Rohlffs, F. (Schleswig-Holstein)	19	....do	....do	....do	....do	....do	Do.
230	Jepsen, P. (Schleswig-Holstein)	17	Aug. 9, 1880	Aug. 29, 1885	Sept. 23, 1885	Nov. 23, 1885	....do	Do.
231	Nichelsen, H. O. (Schleswig-Holstein)	16	May 14, 1879	Sept. 3, 1884	Sept. 29, 1885	Nov. 28, 1885	....do	Do.
232	Horther, C. E. (Schleswig-Holstein)	18	July —, 1880	Oct. —, 1885	(*)	Dec. 5, 1885	Fine	Successful.
233	Jappen, J. T. (Schleswig-Holstein)	17	Apr. 7, 1878	Sept. 15, 1884	Oct. 6, 1885	Dec. 7, 1885	Expulsion	Refused. Emigrated in order to avoid military service.
234	Jappen, R. M. (Schleswig-Holstein)	16	May 12, 1880	Sept. 18, 1885	....do	....do	....do	Do.
235	Petersen, C. S. (Schleswig-Holstein)	16	Apr. 16, 1877	May 3, 1882	Sept. 3, 1885	Dec. 21, 1885	....do	Do.
236	Hansen, C. N. (Schleswig-Holstein)	18	Oct. 21, 1875	July 19, 1884	Oct. 22, 1885	Dec. 26, 1885	....do	Do.
237	Hoeck, L. (Schleswig-Holstein)	20	Aug. 21, 1876	Sept. 27, 1884	Aug. —, 1885	....do	....do	Do.
238	Lutzen, H. (Schleswig-Holstein)	20	June 8, 1880	Aug. 4, 1885	Nov. —, 1885	Dec. 30, 1885	....do	Do.
239	Bodenschatz, N	17	Apr. —, 1879		....do	Dec. 31, 1885	....do	Successful.
240	Niesen, N. C. (Schleswig-Holstein	15	Mar. 16, 1876	Oct. 21, 1885	Nov. 16, 1885	Jan. 5, 1886	Expulsion	Refused. Emigrated in order to avoid military service.
241	Jurgensen, J. (Schleswig-Holstein)	16	Sept. 1. 1871	Oct. 10, 1876	Nov. 18, 1885	Jan. 9, 1886	....do	Do.
242	Geib, M	20	Apr. 30, 1880	Sept. 7, 1885	Oct. 16, 1885	Jan. 12, 1886	Fine	Successful.
243	Hansen, S. (Schleswig-Holstein)	17	Aug. —, 1879	Oct. 14, 1884	July —, 1885	Jan. 25, 1886	Expulsion	Refused. Emigrated in order to avoid military service.
244	Christensen, A. (Schleswig-Holstein)		1879	Oct. 21, 1885	Dec. 23, 1885	....do	....do	Do.
245	Jappen, J. M. (Schleswig-Holstein)	16	June 12, 1880	July 6, 1885	July 25, 1885	Jan. 26, 1886	....do	Do.
246	Henrichsen, H. P. (Schleswig-Holstein)	17	June —, 1873	Apr. 3, 1882	May —, 1885	....do	....do	Do.
247	Braren, A. V. (Schleswig-Holstein)	16	Mar. 13, 1877	Sept. 1, 1884	Feb. —, 1885	Jan. 28, 1886	....do	Do.
248	Tschernisch, O. H. E	11	1870	Oct. 16, 1876 (through father).	Aug. —, 1884	Jan. 29, 1886	Fine	Successful.
249	Espen, J. M. (Schleswig-Holstein)	17	July 2, 1870	Apr. 2, 1877	Dec. 3, 1885	....do	Expulsion	Refused. Emigrated in order to avoid military service.
250	Close, F	20	May —, 1868	Oct. 30, 1882	Nov. —, 1884	Feb. 2, 1886	Fine	Successful.
251	Burmeister, C. H. J. G. F. (Schleswig-Holstein).	20	Aug. —. 1880	Sept. 3, 1885	Oct. 2, 1885	Feb. 8, 1886	Expulsion	Refused. Emigrated in order to avoid military service.
252	Emmerich, E. (Schleswig-Holstein)	20	1870	June 14, 1882	Dec. 9, 1885	Feb. 16, 1886	....do	Successful.
253	Kundsen, K. N. (Schleswig.Holstein)	19	July 23, 1878	Oct. 18, 1884	Dec. —, 1885	Mar. 8, 1886	....do	Refused. Emigrated in order to avoid military service.
254	Schlegel, A	22	Sept. —, 1873	Jan. 2, 1879	May 26, 1886	June 21, 1886	Fine	Successful.
255	Wolf, J. (Schleswig-Holstein)	18	Feb. —, 1872	Aug. 5, 1884	May 25, 1886	June 30, 1886	Expulsion	Do.
256	Stuht, J. N. (Schleswig-Holstein)	16	Feb. —, 1871	Mar. 1, 1876	Aug. 31, 1886	Oct. 19, 1886	....do	Do.
257	Schmidt, J. J. (Schleswig-Holstein)	16	June 11, 1876	June 3, 1882	....do	....do	....do	Do.
258	Wiener, J	19	1872	Aug. 7, 1886	Sept. —, 1886	Oct. 20, 1886	Arrest	Do.
259	Hartmann, F. (Alsace-Lorraine)	19	Sept. 6, 1872	Oct. 28, 1884	(*)	Oct. 29, 1886	Fine	Do.
260	Fredrickson, F. (Schleswig-Holstein)	17	July 2, 1871	Nov. 1, 1878	Sept. —, 1886	Nov. 13, 1886	Expulsion	Refused. Emigrated in order to avoid military service.
261	Biss, H. (Schleswig-Holstein)	16	Mar. 24, 1881	Sept. 13, 1886	Sept. 27, 1886	Nov. 15, 1886	....do	Do.
262	Schaach, P	15	1880	Sept. 28, 1886	Oct. 25, 1886	Nov. 25, 1886	Fine and arrest	Successful.
263	Petersen, N. P. (Schleswig-Holstein)	19	May —, 1873	Oct. 7, 1879	Dec. 20, 1886	Jan. 16, 1887	Expulsion	Refused. Emigrated in order to avoid military service.
264	Levy, G. (Alsace-Lorraine)	20	1874	Nov. —, 1883	(*)	(‡)	Fine	Successful.
265	Phillips, J	15	July —, 1873	May 5, 1884	May —, 1884	Apr. 5, 1887	....do	Refused.

* Had not returned to Germany up to date of intervention.

† State Department passport.

‡ No intervention made in this case. The legation first heard of it through the foreign office.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
266	Wagner, J	17	1880	Mar. 12, 1887	(*)	Apr. 15, 1887	Fine	Statements all untrue.
267	Homburg, M. (Schleswig-Holstein)	18	1873	Oct. 21, 1881	Dec. 23, 1886	June 6, 1887	Expulsion	Successful.
268	Brumer, J. A. (Alsace Lorraine)	17	Sept. 18, 1878	Mar. 28, 1884	Sept. —, 1887	Oct. 24, 1887	Fine and arrest	Do.
269	Byczek, A	15	Nov. —, 1881	Jan. 30, 1888	(*)	Mar. 2, 1888	Fine	Do.
270	Nielsen, G. (Schleswig-Holstein)	19	Apr. 4, 1881	Sept. 23, 1887	Nov. 28, 1887	Apr. 3, 1888	.....do	Do.
271	Diamond, I. †	14	1857	.....	May —, 1888	June 7, 1888	Expulsion	Do.
273	Oertel, H	17	Apr. —, 1882	Dec. 29, 1887	June 10, 1888	July 3, 1888	Fine	Do.
274	Klein, A	8	1870	Oct. 10, 1884	May 29, 1888	July 12, 1888	.....do	Do.
275	Goldschmidt, I. (Alsace-Lorraine)	16	Nov. —, 1873	Mar. 10, 1887	(*)	Aug. 7, 1888	.....do	Do.
276	Jessen, H. F. (Schleswig-Holstein)	17	Aug. —, 1880	Oct. 21, 1885	June 27, 1888	Aug. 15, 1888	Expulsion	Do.
277	Goetz, V	18	Nov. —, 1880	Oct. 15, 1886	1888	Aug. 23, 1888	Fine	Do.
278	Goldschmidt, M	19	Oct. —, 1882	Nov. 22, 1887	July 13, 1888	Aug. 28, 1888	.....do	Do.
279	Muller, G. C	19	1879	May 21, 1886	Oct. 23, 1888	Nov. 3, 1888	.....do	Do.
280	Fink, G	16	Aug. —, 1883	Sept. 17, 1878	(*)	Nov. 5, 1888	.....do	Do.
281	Schachne, S	14	Mar. —, 1874	Oct. 28, 1881	July —, 1888	Nov. 7, 1888	.....do	Do.
282	Grosbol, P. P. † (Schleswig-Holstein)	.....	1873	.....	.....	Nov. 17, 1888	Expulsion	Do.
283	Greenberg, L. B	16	May —, 1882	July 2, 1888	Aug. 1, 1888	Nov. 26, 1888	.....do	Do.
284	Gastiger, F	13	Dec. —, 1881	Jan. 27, 1887	Sept. 1, 1888	Nov. 29, 1888	Fine	Do.
285	Lippold, H. G	16	Sept. 5, 1876	Mar. 20, 1882	Nov. 9, 1888	Dec. 28, 1888	.....do	Do.
286	Peters, N. † (Schleswig-Holstein)	.....	.....	Nov. —, 1876	Repeated visits.	Feb. 11, 1889	Expulsion	Do.
287	Ries, M	16	1882	Sept. 14, 1888	(*)	Feb. 16, 1889	Military service ‡	Do.
288	Skow, F. H. (Schleswig-Holstein)	16	1872	Oct. 4, 1877	Jan. 12, 1889	Feb. 22, 1889	Expulsion	Do.
289	Abraham, H	15	1872	Jan. 2, 1888	Jan. —, 1889	Apr. 29, 1889	Fine	Do.
290	Schroeder, A. P	18	June —, 1873	Sept. 2, 1878	Aug. 9, 1889	Aug. 28, 1889	Expulsion	Do.
291	Hansen, L. (Schleswig-Holstein)	17	1872	July 9, 1881	Sept. 11, 1889	Oct. 16, 1889	.....do	Refused. Emigrated in order to avoid military service.
292	Mikkelsen, M. J. (Schleswig-Holstein)	23	1882	Nov. 12, 1888	Jan. 1, 1889	Oct. 23, 1889	.....do	Do.
293	Vogensen, H. P. (Schleswig-Holstein)	17	1883	June 11, 1888	Sept. 13, 1889	.....do	.....do	Do.
294	Greenbaum, J	14	1880	Jan. 23, 1888	Jan. 5, 1889	Nov. 5, 1889	.....do	Successful.
295	Pahnus, N. (Schleswig-Holstein)	18	1882	Apr. 29, 1887	Oct. 4, 1889	Nov. 6, 1889	.....do	Refused. Emigrated in order to avoid military service.
296	Meyer, H	17	1870	Oct. 2, 1876	Sept. —, 1889	Nov. 22, 1889	.....do	Successful.
297	Kirchheimer, T	16	Oct. 28, 1877	Apr. 9, 1883	Oct. —, 1888	Dec. 10, 1889	.....do	Refused. Emigrated in order to avoid military service.
298	Elholm, A. H. (Schleswig-Holstein)	18	1878	Sept. 1, 1887	Oct. —, 1889	Jan. 8, 1890	.....do	Do.
299	Simonsen, F. A. (Schleswig-Holstein)	16	Apr. 15, 1880	Nov. 14, 1889	Nov. 28, 1889	Jan. 18, 1890	.....do	Successful.
300	Matzen, C. (Schleswig-Holstein)	15	May 12, 1883	May 15, 1889	Dec. 9, 1889	Jan. 22, 1890	.....do	Do.
301	Kleinhenz, J	16	Dec. 20, 1881	.....	May 13, 1889	Mar. 8, 1890	.....do	Refused. An undesirable subject.
302	Harwig, A. F. H	15	Sept. 23, 1883	May 19, 1890	May —, 1890	June 17, 1890	Compulsory service	Successful.
303	Goldbaum, A	17	1873	1878	May 9, 1890	June 23, 1890	Fine and expulsion	Do.
304	Goldbaum, S	21	1866	Aug. 1, 1871	.....do	June 30, 1890	Expulsion	Do.
305	Henoch, M	21	Feb. —, 1878	July 16, 1887	Apr. —, 1890	July 18, 1890	.....do	Do.
306	Steiner, P	12	Aug. —, 1880	June 18, 1889	(*)	July 22, 1890	Fine	Do.

307	Barrach, B	17	May —, 1880	Oct. 9, 1886	June 23, 1890	Sept. 4, 1890	Expulsion	Do.
308	Haberacker, J. (born Aug. 18, 1869)	14	1883	(through step-father, with mother).	June —, 1890	Sept. 23, 1890	Compulsory service	Refused. Still a German subject.
309	Stein, H	17	June 6, 1880	Nov. 30, 1887	Aug. —, 1888	Jan. 14, 1891	do	Refused. Had lived in Germany more than two years.
310	Paulsen, H. † (Schleswig-Holstein)					Jan. 19, 1891	Expulsion	Refused. Emigrated in order to avoid military service.
311	Schulte, A	17	Mar. 25, 1882	July 24, 1888	June —, 1890	Feb. 5, 1891	Fine	Successful.
312	Nissen, L. (Schleswig-Holstein)	17	Apr. 10, 1881	Oct. 20, 1890	Nov. 28, 1890	Feb. 11, 1891	Expulsion	Do.
313	Fink, C. P. (Schleswig-Holstein)	17	Apr. —, 1882	Sept. 26, 1888	do	do	do	Do.
314	Petersen, C. L. (Schleswig-Holstein)	15	Apr. 1, 1883	Oct. 21, 1890	Dec. 24, 1890	Feb. 19, 1891	do	Do.
315	Christiansen, E. W. (Schleswig-Holstein)	15	Apr. 28, 1872	July 29, 1884	Dec. 12, 1890	Feb. 23, 1891	do	Refused. Emigrated in order to avoid military service.
316	Mattes, C	13	1881	Oct. 9, 1889	(*)	Mar. 6, 1891	Fine	Successful.
317	Gerstner, C. J	17	1882	Nov. 3, 1888	(*)	Apr. 9, 1891	do	Do.
318	Schmidt, J	20	1876	1885	1889	Apr. 20, 1891	do	Refused. Had lived in Germany more than two years.
319	Mathias, M	20	1875	Feb. 23, 1881	Mar. 27, 1891	Apr. 23, 1891	do	
320	Brown, M. D	16	1883	Mar. 31, 1891	Apr. —, 1891	May 30, 1891	do	Successful.
321	Trick, J	19	1881	Oct. 18, 1886	Jan. —, 1891	June 1, 1891	Compulsory service and fine.	Refused. Emigrated in order to avoid military service.
322	Brachmann, M	17	Sept. 12, 1883	Oct. 18, 1890	May 28, 1891	June 12, 1891	Fine	Successful.
323	Trettin, E	13	May —, 1883	Jan. 20, 1891 (through father).	Apr. —, 1891	June 17, 1891	Compulsory service	Do.
324	Schmidt, H. A. (Schleswig-Holstein)	17	Mar. 3, 1881	Oct. 22, 1886	May 26, 1891	July 13, 1891	Expulsion	Refused. Emigrated in order to avoid military service.
325	Petersen, N. (Schleswig-Holstein)	15	Aug. —, 1884	Jan. 10, 1891	May —, 1891	July 16, 1891	do	Successful.
326	Rosenberger, C. (Schleswig-Holstein)	17	Apr. 30, 1874	Sept. 2, 1879	June 22, 1891	Aug. 3, 1891	do	Refused. Emigrated in order to avoid military service.
327	Bask, H. L. (Schleswig-Holstein)		May 5, 1884	May 29, 1891	Aug. 23, 1891	Sept. 22, 1891	do	Do.
328	Wegner, A. H	17	June —, 1881	Apr. —, 1888	Apr. —, 1891	Sept. 24, 1891	Fine	Successful.
329	Heinxman, C. K. (Alsace-Lorraine)	13	1881	Oct. 4, 1889	(*)	Nov. 27, 1891	do	Successful. Must first be released from German allegiance.
330	Schmitz, J. B	13	Nov. —, 1867	1891	Sept. —, 1891	Dec. 29, 1891	Arrest	Successful.
331	Schmidt, H. C. L	18	Aug. 12, 1858	Jan. 25, 1884	(*)	Dec. 31, 1891	Fine	Do.
332	Treber, J	21	Apr. 30, 1874	Apr. 29, 1880	Oct. —, 1891	Jan. 12, 1892	Arrest	Do.
333	Jeppensen, J. (Schleswig-Holstein)	16	Jan. 16, 1876	Dec. 3, 1891	Dec. 18, 1891	Jan. 16, 1892	Expulsion	Do.
334	Danielsen, C. (Schleswig-Holstein)	16	May 13, 1885	Sept. 19, 1891	Dec. 10, 1891	do	do	Refused. Emigrated in order to avoid military service.
335	Hennenfent, B. (Alsace-Lorraine)	18	Nov. 25, 1883	Nov. 3, 1890	(*)	Jan. 26, 1892	Fine	Successful.
336	Ganzberg, J	14	1868	July 29, 1880	Mar. —, 1891	Feb. 25, 1892	do	Do.
337	Walter, L. (Alsace-Lorraine)	16	May —, 1880	Oct. 6, 1888	(*)	Mar. 21, 1892	do	Refused. Still a German subject.
338	Kohler, O	18	July —, 1884	Oct. 2, 1891	Oct. 19, 1891	May 2, 1892	do	Successful.
339	Ernst, C. J	13	1867	Dec. 15, 1873 (through father).	(*)	May 12, 1892	do	Do.
340	Heismeyer, F	19	May —, 1882	Oct. 27, 1890	(*)	May 26, 1892	do	Do.
341	Hain, A	18	June 29, 1884	Apr. 19, 1892	(*)	June 3, 1892	do	Do.

*Had not returned to Germany up to date of intervention. †State Department passport. ‡Name on list of those who are liable for military service.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
342	Strauch, A	16	Feb. 15, 1882	Mar. 4, 1889	Mar. 5, 1892	June 18, 1892	Fine and compulsory service.	Successful.
343	Heitmann, J. T	18	1884.	May 7, 1892	May 31, 1892	July 4, 1892	Fine and arrest	Do.
344	Coffee, J	15	Aug. 27, 1873	Jan. 9, 1884	Apr. 13, 1892	July 22, 1892	Fine	Do.
345								
346	Laegeler, G	19	Aug. —, 1872		(*)	Aug. 18, 1892	Fine	Do.
347	Haak, B	16	May —, 1884	May 5, 1892	May —, 1892	do	do	Do.
348	Kirchberg, J	17	Oct. —, 1883	Nov. 30, 1891		Aug. 25, 1892	do	Do.
349	Kretsch, E	17	Nov. 5, 1881	Mar. 7, 1887	July 15, 1892	Sept. 3, 1892	do	Do.
350	Volker F	20	1881	Mar. 10, 1888	May 13, 1892	Oct. 4, 1892	do	Do.
351	Henz, J	15	Nov. —, 1884	May 12, 1891	Aug. 13, 1892	Nov. 8, 1892	do	Do.
352	Weidlich, F. E	15	1885	Sept. 16, 1892	(*)	Nov. 22, 1892	do	Refused. Had not lived in the United States five years and become a citizen thereof when fine was collected.
353	Fuchs, J	17	1879	Oct. 18, 1884	Dec. —, 1892	Jan. 11, 1893	do	Successful.
354	Wolf, W. G	16	1880	Oct. 17, 1887	(*)	Feb. 13, 1893	do	Do.
355	Blumenthal, C	19	Dec. 22, 1872	July 26, 1880	(*)	Mar. 13, 1893	do	Do.
356	Hansen, C. M. (Schleswig-Holstein)	20	1872	Sept. 14, 1877	(*)	Mar. 20, 1893	do	Refused. A deserter from the German army or navy.
357	Schippereit, G	18	1885	Oct. 25, 1892	Nov. 22, 1892	Apr. 22, 1893	Fine and arrest	Successful.
358	Ruff, A	14	1880	Oct. 12, 1891	(*)	Apr. 25, 1893	Military service†	Do.
359	Wegner, W	16	May —, 1884	Oct. 2, 1891	(*)	June 3, 1893	Fine	Do.
360	Bruck, P	15	Mar. —, 1882	Nov. 5, 1888	May —, 1893	June 8, 1893	do	Do.
361	Kanjorski, P	13	1879		July —, 1893	Aug. 12, 1893	do	Do.
361a	Benn, A. J. E. (Schleswig-Holstein)	15	June —, 1884	May 23, 1890	(*)	Aug. 18, 1893	do	Do.
362	Juhl, C. (Schleswig-Holstein)	18	Nov. 17, 1880	Aug. 20, 1886	July 19, 1893	Aug. 23, 1893	Fine and expulsion	Refused. Emigrated in order to avoid military service.
363	Uftring, F. H	16	Sept. 14, 1884	Oct. 25, 1889	Mar. —, 1890	Sept. 28, 1893	Expulsion	Successful.
364	Cohn, M	21	Nov. —, 1879	Oct. 26, 1885	Mar. —, 1892	Sept. 30, 1893	Fine	Do.
365	Schneider, P	14	1882	Aug. 27, 1889	Aug. 1, 1893	Nov. 10, 1893	Arrest	Do.
366	Christensen, A. M. (Schleswig-Holstein)	20	Mar. 18, 1885	Oct. 9, 1891	Dec. 7, 1893	Jan. 29, 1894	Expulsion	Refused. An undesirable subject.
367	Apt, S	15	1886		Jan. 10, 1894	Feb. 28, 1894	Compulsory service	Successful.
368	Carl, C	17	1884	Oct. 25, 1893	Feb. 23, 1894	Mar. 19, 1894	Fine	Do.
369	Wilzin, A	21	1883	Through father.		Mar. 30, 1894	Military service†	Refused. Still a German subject.
370	Gerstner, C. J	17	1882	Nov. 3, 1888	(*)	June 12, 1894	Fine	Successful.
371	Meyerstein, H	18	Aug. 10, 1887	May 9, 1894	May 31, 1894	Aug. 2, 1894	do	Do.
372	Lenz, H	16	Apr. 12, 1881	Apr. 27, 1884	(*)	Aug. 8, 1894	do	Do.
373	Lohmann, J. H	13	June 4, 1882	Oct. 9, 1891	July 24, 1894	Aug. 18, 1894	do	Do.
374	Wilke, E	16	Jan. —, 1888	June 17, 1893	May —, 1894	Sept. 11, 1894	Expulsion	Do.
375	Schlernitzauer, F. (Alsace-Lorraine)	17	1880	Mar. 15, 1891	(*)	Sept. 20, 1894	Fine	A portion of the fine remitted.
376	Schlernitzauer, L. (Alsace-Lorraine)	15	1880	June 30, 1890	(*)	do	do	Do.
377	Sauer, F. (Alsace-Lorraine)	18	Feb. —, 1880	Mar. 28, 1885	Aug. 2, 1894	Sept. 25, 1894	do	Do.

378	Aichmann, C	20	1872	Oct. 12, 1877	(*)	Oct. 5, 1894	.....do	Refused. A deserter from the German army or navy.
379	Junge, A	20	1887	Sept. 11, 1894	Sept. 13, 1894	Oct. 30, 1894	Fine and arrest	Do.
380	Liebmann, L. (Alsace-Lorraine)	11	Dec. —, 1881	June 24, 1892	Oct. —, 1893	Nov. 28, 1894	Expulsion	Refused. An undesirable subject.
381	Burgdorf, K	19	Dec. —, 1890	Mar. 13, 1888	June —, 1894	Nov. 29, 1894	Fine	Successful.
382	Dietrich, G. P. H	17	Oct. —, 1882	Nov. 2, 1891	Nov. —, 1894	Dec. 7, 1894	Fine and arrest	Do.
383	Seifried, F	17	Apr. —, 1881	June —, 1889	Oct. —, 1894	Dec. 11, 1894	.....do	Do.
384	Liebmann, I. (Alsace-Lorraine)	17	1882	Sept. 7, 1888	July —, 1894	.....do	Fine	Refused. An undesirable subject. Emigrated in order to avoid military service.
385	Loos, L	18	May —, 1881	Sept. 23, 1886	Apr. —, 1894	Jan. 7, 1895	.....do	Successful.
386	Pfaff, V	19	Oct. —, 1883	Oct. 24, 1892	1894	Jan. 23, 1895	.....do	Do.
387	Wohlfort, J. T	17	Apr. 4, 1889	Apr. 16, 1894	Nov. 17, 1894	Feb. 14, 1895	Compulsory service	Do.
388	Ketelsen, F. (Schleswig-Holstein)	19	June —, 1882	June 28, 1890	Jan. —, 1895	Feb. 18, 1895	Expulsion	Refused. Emigrated in order to avoid military service.
389	Kort, F	15	1888	Apr. 16, 1894	Sept. —, 1894	Mar. 25, 1895	Fine	Successful.
390	Kort, Fritz	17	1888	.....do	.....do	.....do	.....do	Do.
391	Barton, P. C	16	May —, 1888	Aug. —, 1893	Mar. —, 1894	Apr. 12, 1895	Arrest	Do.
392	Bertelsen, A. (Schleswig-Holstein)	18	Aug. 10, 1884	Oct. 24, 1893	Nov. 12, 1894	Apr. 23, 1895	Compulsory service	Do.
393	Brand, G	22	1869	.....	May —, 1894	July 9, 1895	Arrest	Refused. A deserter from the German army or navy.
394	Schweichler, A	24	Apr. —, 1886	Mar. 25, 1892	June —, 1895	July 22, 1895	Fine	Successful.
395	Sievers, J. R. (Schleswig-Holstein)	15	1884	Oct. 19, 1894	.....do	July 31, 1895	Expulsion	Refused. Emigrated in order to avoid military service.
396	Muller, E. T	17	1884	.....	Various visits.	Aug. 6, 1895	Fine	Successful.
397	Boschen, N. ‡	17	1885	.....	July —, 1895	Aug. 10, 1895	Expulsion	Do.
398	Mannheim, A	20	1883	May 3, 1889	May —, 1895	Aug. 23, 1895	Fine	Do.
399	Freidmann, E	16	1874	May 17, 1882	1882–1890 Mar. —, 1895	Oct. 3, 1895	Expulsion	Do.
400	Glaser, S. §	.....	.....	Dec. 12, 1887	.....	Oct. 25, 1895	.....do	Do.
401	Oberlin, J. (Alsace-Lorraine)	16	May 9, 1887	Oct. 18, 1892	Sept. 21, 1895	Oct. 26, 1895	.....do	Do.
402	Scherer, H. (Alsace-Lorraine)	16	Mar. 2, 1889	Oct. 22, 1894	.....do	.....do	.....do	Do.
403	Rothschild, M. ‖	.....	.....	.....	May —, 1895	Oct. 30, 1895	Fine	Do.
404	Naderhoff, J. A	25	1882	Dec. 5, 1893	Nov. 30, 1895	Dec. 16, 1895	.....do	Do.
405	Kauffman, E. R. (Alsace-Lorraine)	17	.....	Sept. 25, 1893	.....do	.....do	Fine and arrest	Do.
406	Koop, F	14	June 18, 1884	Oct. 12, 1891	Oct. 8, 1894	Dec. 30, 1895	Fine	Do.
407	Brandt, C. H	21	1883	Jan. 3, 1894	1894	Jan. 2, 1896	Compulsory service	Do.
408	Behrendt, C. A	30	1879	Jan. 2, 1886	1895	Jan. 3, 1896	Expulsion	Do.
409	Grassboll, J. P. (Schleswig-Holstein)	17	1878	Oct. 19, 1892	1895	Jan. 13, 1896	.....do	Do.
410	Christiansen, A. (Schleswig-Holstein)	.....	1889	Oct. 8, 1895	.....	.....do	.....do	Refused. Emigrated in order to avoid military service.
411	Bialon, A	16	1888	Jan. 5, 1894	Mar. —, 1894	Feb. 1, 1896	Fine	Successful.
412	Newmann, N. ¶	.....	.....	.....	.....	Feb. 17, 1896	Expulsion	Do.
413	Barth, R. J	22	1883	1888	(*)	.....do	Fine	Do.
414	Schwaeder, W. C. J	.....	1889	Apr. 1, 1895	July —, 1896	Feb. 22, 1896	Compulsory service	Do.
415	Engel, S. L	16	1878	May 15, 1888	May, 1890 (for 5 mos. Dec. 1895).	Apr. 9, 1896	Expulsion	Refused. Emigrated in order to avoid military service.

* Had not returned to Germany up to date of intervention.
† Name on list of those who are liable for military service.
‡ State Department passport.
§ State Department passport, Sept. 26, 1893.
‖ Ins. 444, Oct. 14, 1895.
¶ Passport, London, Mar., 1895, No. 315.

[Subinclosure 1 in No. 329—Continued.]

No.	Name.	Age at emigration.	Date of emigration.	Date of naturalization.	Date of return to Germany.	Date of intervention.	Ground for intervention.	Result of intervention.
416	Litzenberger, C.	16	June 4, 1890	Jan. 2, 1896	Feb. 22, 1896	Apr. 29, 1896	Expulsion	Successful.
417	Brender, J. B. (Alsace-Lorraine)	33	Oct. —, 1889	May —, 1895	(*)	May 4, 1896	Fine	Refused. A deserter from the German army or navy.
418	Schaeffer, G	16	1873		Apr. —, 1896	May 9, 1896	Expulsion	Successful.
419	Bernhardt, I	20	1862	Nov. 25, 1869	Apr. 10, 1898	May 28, 1896	do	Do.
420	Johnsen, N. (Schleswig-Holstein)	16	1880	Mar. 31, 1887	May —, 1896	June 19, 1896	do	Do.
421	Brodersen, D. (Schleswig-Holstein)	15	1889	Sept. 7, 1895	June —, 1896	July 16, 1896	do	Refused. Emigrated in order to avoid military service.
422	Nissen, N. C	16		Oct. 21, 1885	1896	July 31, 1896	do	Successful.
423	Nissen, S. P	16		Mar. 27, 1889	1896	do	do	Do.
424	Berchen, A	19		1884	June—, 1896	Sept. 2, 1896	do	Do.
425	Weller, E	19	1882	June 11, 1896	(*)	Sept. 10, 1896	Fine	Do.
426	Tomby, N. H. B. (Schleswig-Holstein)	16	1890	May —, 1896	1896	Sept. 12, 1896	Expulsion	Do.
427	Gellen, W	19	1889	Feb. 27, 1896	Aug. —, 1896	Sept. 14, 1896	Fine	Do.
428	Seyller, E. (Alsace-Lorraine)				Sept. —, 1896	Oct. 1, 1896	Expulsion	Do.
429	Henenfent, J. (Alsace-Lorraine)	20	1887	Mar. 28, 1892	(*)	Oct. 15, 1896	Fine	Refused. Had emigrated without permission of German Government.
430	Nachtigall, F	15	1891	June 27, 1896	July —, 1896	Oct. 17, 1896	do	Successful.
431	Juda, H	18		June 14, 1894	May 2, 1896	Nov. 20, 1896	Expulsion	Do.
432	Schaas, J. D	14	1888	July 30, 1896	Aug. —, 1896	Nov. 30, 1896	do	Refused. Emigrated in order to avoid military service.
433	Tieljen, J. H	18	1882	Jan. 4, 1895	Nov. —, 1896	Dec. 4, 1896	Fine	
434	Goldschmidt, L					Jan. 8, 1897	do	Successful.
435	Hartmann, C. (Alsace-Lorraine)	15	May —, 1886		July —, 1896	Jan. 13, 1897	Compulsory service	Do.
436	Ahrenkiel, L. L. (Schleswig-Holstein)	17	1883		Dec. 10, 1896	Jan. 18, 1897	Expulsion	Refused. Emigrated in order to avoid military service.
437	Helmke, J. D					Jan. 28, 1897	do	Successful.
438	Krause, H. †					Jan. 29, 1897	do	Refused. An undesirable subject.
439	Eickhoff, F	16	Feb. 27, 1889	Oct. 24, 1896	Dec. 3, 1896	Feb. 2, 1897	do	Successful.
440	Ahrenkiel, J. J. (Schleswig-Holstein)	20	Mar. 28, 1883		Feb. 1, 1897	Feb. 15, 1897	do	
441	Goken, H	18	1883	Aug. 5, 1891	Jan. 14, 1897	do	Fine	Do.
442	Allenstein, I	15	1889	Mar. 27, 1896	Jan. 10, 1897	Feb. 20, 1897	Expulsion	Refused. Emigrated in order toavoid military service.
443	Mossler, F. (Alsace-Lorraine)				Dec. —, 1896	Feb. 24, 1897	do	Successful.
444	Lippmann, J. (Alsace-Lorraine)	16		1879	1880	do	Fine	
445	Poulsen, C	17	Apr. —, 1891	Oct. —, 1896	Dec. —, 1896	Feb. 26, 1897	Expulsion	
446	Pfeiffer, H	14	1881	Sept. 6, 1888	1896	Mar. 1, 1897	do	
447	Schiffer, C	21	1891	Feb. 1, 1897	Mar. 17, 1897	Mar. 25, 1897	Fine	
448	Iversen, A. (Schleswig-Holstein)		1881	Apr. 9, 1889	Feb. 30, 1897	Mar. 26, 1897	Expulsion	
449	Theen, A. J	11	Oct. 23, 1879	Jan. 30, 1889	Jan. 29, 1897	Apr. 7, 1897	do	

* Had not returned to Germany up to date of intervention.

† State Department passport No. 44430, Oct. 4, 1892.

A total of 447 cases (Nos. 53 and 345 being blank).

[Subinclosure 2 in No. 329.]

Record of cases according to year of intervention.

Year.	Number of cases.	Year.	Number of cases.	Year.	Number of cases.
1868	7	1879	24	1890	11
1869	2	1880	22	1891	23
1870	6	1881	11	1892	20
1871	7	1882	15	1893	14
1872	6	1883	10	1894	19
1873	13	1884	7	1895	22
1874	15	1885	25	1896	27
1875	24	1886	23	1897 (April 7)	16
1876	17	1887	6		
1877	9	1888	16	Total	447
1878	18	1889	12		

[Subinclosure 3 in No. 329.]

Age at emigration.

Cases in which there is no record as to age at date of emigration	40
Cases 14 years of age and under	36
Cases 15 years of age	35
Cases 16 years of age	66
Cases 17 years of age	86
Cases 18 years of age	64
Cases 19 years of age	36
Cases 20 years of age	38
Cases 21 years of age	20
Cases 22 years of age and over	26
Total cases	447

[Subinclosure 4 in No. 329.]

Residence in the United States before naturalization.

Number of cases where residence in the United States before naturalization was five years	99
Was six years	106
Was seven years	61
Was eight years or more	104
Cases in which there is no record	72
Cases where there was not a five-year residence in the United States before naturalization (Nos. 13, 77, 84, 114)	4
Less than five years' residence on account of service in the United States Army during the war	1
Total	447

Return to Germany after naturalization.

Number of cases where the return to Germany was within one year after naturalization	173
Within two years	39
Within three years	21
Three years or more after naturalization	81
Cases which did not return and in most of which a legacy had been attached to secure the payment of a fine	67
Cases in which there is no record	66
Total	447

[Subinclosure 5 in No. 329.]

Result of intervention.

Number of cases in which the records show that no reply has been made by the foreign office		5
Cases in which result was partially favorable		3
Cases in which intervention was successful		326
Cases in which intervention was not successful		104
For the following reasons:		
Had not lived in the United States five years uninterruptedly at date of naturalization	4	
A deserter from the German army or navy	15	
Had not lived in the United States five years and become a citizen thereof when fine was collected	4	
Conduct such as to have a bad influence on the community	7	
Treaty of February 22, 1868, does not extend to Alsace-Lorraine	7	
Facts of the case not as presented to the foreign office	1	
Had become a German citizen	5	
Emigrated to avoid military service	53	
Still a German subject	7	
Had lived in Germany more than two years	2	
Had emigrated without permission	1	
	106	
Including cases Nos. 242 and 336, in which, while the fine was remitted, the expulsion was insisted upon	2	
	104	
Number of cases still pending		8
		446
Case No. 266		1
Total cases		447

[Subinclosure 6 in No. 329.]

Grounds for and result of intervention.

Grounds.	Number of cases.	Successful.	Refused.	Pending.	Alsace-Lorraine.			Schleswig-Holstein.		
					Successful.	Refused.	Pending.	Successful.	Refused.	Pending.
Compulsory service	52	40	12	.....	2	1	.....	3	.....	.....
Arrest	13	10	3	.....	.....	.....	.....	.....	.....	.....
Compulsory service and fine	4	3	1	.....	.....	.....	.....	.....	.....	.....
Fine and arrest	13	12	1	.....	2	.....	.....	.....	.....	.....
Name on military list	4	2	2	.....	.....	.....	.....	.....	.....	.....
Fine	*229	†192	26	7	21	9	1	10	2	.....
Expulsion	126	63	‡59	6	6	4	.....	23	47	2
Fine or expulsion	1	1	.....	.....	.....	.....	.....	.....	.....	.....
Fine and expulsion	4	2	2	.....	.....	.....	.....	.....	.....	1
Compulsory service or expulsion	1	1	.....	.....	.....	.....	.....	.....	.....	.....
Total	447	326	106	13	32	15	1	36	50	4

* Including cases Nos. 266, 375, 376, and 377.
† Not including cases Nos. 266, 375, 376, and 377.
‡ Includes Nos. 242 and 336.

Mr. Sherman to Mr. Uhl.

No. 386.] DEPARTMENT OF STATE,
Washington, May 3, 1897.

SIR: Your dispatches, Nos. 233 and 241, of the respective dates of January 8 and 14 last, communicated the result of inquiries made by you concerning a publication in a local newspaper touching the reported issuance by the "Regierungs-Präsident," at Potsdam, of an order limiting the sojourn in his district of returning naturalized American citizens of German origin. It then appeared that the regulations which had been issued by the Prussian Government in this regard were not intended to be made public and that they contained nothing more than a declaration of the policy which has frequently been indicated in the correspondence between the embassy and the foreign office.

Within a few days past another press notice, apparently based on telegraphic intelligence, has circulated, reading as follows:

> The Prussian minister of the interior has issued a new decree, permitting only a brief stay here of any German naturalized in America who returns to this country. They were formerly allowed to remain here permanently, provided no questions of military dereliction on their part were involved. The liberal press points out that this decree amounts to a nullification of the treaty stipulations of 1868, whereby the permanent return of naturalized German-Americans was specially guaranteed. The liberal leaders, Herren Richter and Ricken, and others, will question the Government on the subject in the Reichstag, and that body will thoroughly discuss the decree.

This notice appears to have been recently current in the German papers, for it is reported in a dispatch from the United States consul at Annaberg, dated April 13 last, of which a copy is appended for your information.

These several statements may simply reproduce the publication of November last, to which you have heretofore referred, but there is nothing to indicate that they may not relate to some new and formal notification. However this may be, it has naturally attracted attention, and the Department has had several inquiries on the subject.

The notoriety attaching to the reported circular, the reference thereto in widely separated districts of Germany, and the foreshadowed discussion of the subject in the Imperial Parliament, coupled with the virtual admission of the foreign office that something of the kind had in fact been issued by the Prussian Government, although not intended for publicity, suggests that the text of such order may now be known or may not now be inaccessible to you. If a copy can be procured the Department would like to have it, as it may afford a convenient summary of the views of the Prussian Government on a subject which has occasioned extensive correspondence between the two countries for many years past.

In this relation I send, for your more convenient information, copy of a dispatch[1] from Mr. Louis Stern, the United States commercial agent at Bamberg, reporting the adverse verdict of a lower court of Bavaria, fining the defendant Hirnheimer 200 marks for imputed evasion of military service, and the reversal of that judgment by the imperial supreme court at Leipsic on appeal.

Respectfully, yours, JOHN SHERMAN.

[1] Not printed.

Mr. Uhl to Mr. Sherman.

No. 345.] EMBASSY OF THE UNITED STATES,
Berlin, May 11, 1897. (Received May 28.)

SIR: I have the honor to inform you that in last night's issue of the Berliner Correspondenz, No. 93, a news sheet published by the Prussian ministry of the interior, the report, as referred to, which has recently appeared in the press, that new regulations have been issued by that ministry, according to which the provisions in regard to the sojourn in Prussia of naturalized Americans who were formerly German subjects are made considerably more severe, and the statement is made that this report is entirely without foundation, and that the regulations in regard to the temporary residence in Prussia of these so-called German Americans which were issued several years ago still remain in force without change.

It will be remembered that information similar to that contained in this article was communicated to me by the German foreign office in January last, in reply to an inquiry from the embassy on the subject (see my dispatch No. 233, of January 8, 1897), and that I was informed that the regulations (see dispatch No. 241, of January 14) referred to were issued between 1880 and 1890, and were not intended to be made public.

I have, etc., EDWIN F. UHL.

Mr. Uhl to Mr. Sherman.

No. 364.] EMBASSY OF THE UNITED STATES,
Berlin, May 25, 1897. (Received June 11.)

SIR: In acknowledging the receipt of your instruction No. 386, of the 3d instant, in regard to the treatment in Germany of returning naturalized American citizens of German origin, I have the honor to respectfully refer to my dispatch No. 345, of May 11, 1897.

The origin of the press notice referred to in your instruction I am unable to ascertain, but it is my opinion that the Prussian Government has not changed its views on this subject, and that the circular mentioned merely calls the attention of local officials to the provisions of former regulations. What these views are is shown in a note from Count Hatzfeldt, dated May 16, 1885, which appears on page 417 of the Foreign Relations for 1885, and in which it is stated that—

> In the intercourse of the Empire with other States, the view has been heretofore always and quite universally adhered to that by treaty provisions of this character (Article 1 of the treaty between the United States and Prussia of 1828), the internationally recognized right of every State to remove foreigners from its territory when their further sojourn in the country appears to be undersirable, upon grounds of the welfare of the State, is not abolished. This applies in a peculiar measure to the sons born in America of former German subjects, when they live with their fathers permanently in Germany, participate like Germans in all arrangements for the protection and welfare of the subjects of the Empire, and only make use of their American citizenship to avoid the fulfillment of one of the most important duties of German subjects. Continued toleration of such endeavors would necessarily lead to the formation within the Empire of a numerous group of population who illustrate by their example how it is possible, under the covering mantle of a foreign nationality, held by name only, to evade in a whole succession of generations the military duty imposed upon all.

The same idea is contained in a note from Count Bismarck, dated January 6, 1886 (Foreign Relations, 1886, p. 316), in which he says:

If such persons [who emigrated, according to the opinion of the Prussian Government, for the purpose of avoiding military service] were permitted, after they have acquired American citizenship, and while appealing to this change of nationality to sojourn again, according to their pleasure, unhindered, for a shorter or longer period, in their native land, furtherance would thereby be given to similar endeavors and respect for those laws would be endangered upon which is based the general liability to military service.

The other press notice, referred to in your instruction, had also been seen by the embassy, but as no question had been asked in the Reichstag on this subject, and as it has not been referred to in any way in the debates of the several legislative bodies sitting in this city, no attention was paid to it.

The dispatch from Mr. Stern had also been seen here, as he sent a copy to the embassy, and in this respect I beg to refer to the embassy's dispatch 502, of March 13, 1896, and to inclose a copy of the embassy's letter to Mr. Stern of April 10 last. In this connection, as it may be of interest to the Department, although it has no direct bearing upon the subject in question, I inclose a copy of a compilation made from the official publications of the Imperial home office in regard to the frequency of cases of expulsion from the German Empire, and have the honor, etc.,

EDWIN F. UHL.

[Inclosure 1 in No. 364.]

Mr. Jackson to Mr. Stern.

M. No. 8946.] EMBASSY OF THE UNITED STATES,
Berlin, April 10, 1897.

SIR: The embassy acknowledges the receipt of your letter of the 9th instant and thanks you for the copy of your report to the State Department in the case of Baruch Hirnheimer, which was therein inclosed.

The decision of the supreme court at Leipzig is of interest in this case because it confirms former decisions and is in line with the policy of the executive officials of the various governments of Germany in similar cases. Had Mr. Hirnheimer applied to the embassy for assistance, instead of to the courts, the result would have been the same, and he would have been spared the trouble of a lawsuit.

I am, etc.,

JOHN B. JACKSON.

[Inclosure 2 in No. 364.]

EXPULSION CASES.

[Compiled from Nos. 1 to 20, inclusive, of the Central-Blatt fur das Deutsche Reich, the official weekly publication of the Imperial German home office, dated from January 8 to May 21, 1897.]

During the period covered 243 persons have actually been expelled from the German Empire. Of this number, 218 were males and 25 were females. Twenty-three persons were expelled on the strength of paragraph No. 39, of the Imperial penal code, after undergoing imprisonment for theft, etc., and 220 on the strength of paragraph No. 362, for vagrancy, begging, professional prostitution, and other so-called offenses.

Of these persons, 155 were of Austrian (including Hungarian, Bohemian, etc.) nationality, 19 were Russian, 19 were French, 17 were Dutch, 13 Swiss, 5 Belgian, 4 Italian, 4 from Luxemburg, 4 Swedish, 2 Danish, and 1 Norwegian.

Of these persons, 90 were expelled by Prussian authorities, 63 by Bavarian authorities, 43 by Saxon, 24 by Imperial (Alsace-Lorraine), 9 by Daben, 7 by Hamburg, 3 by Weimar, and 1 each by the authorities of Wurttemberg, Mecklenburg, Hesse, and Reuss.

J. B. J.

APPLICABILITY OF THE BANCROFT TREATIES TO ALSACE-LORRAINE.

Mr. Uhl to Mr. Olney.

No. 240.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897. (Received February 1.)

SIR: I have the honor to inclose herewith a copy of a note to-day addressed by me to the Imperial foreign office, intervening in behalf of Casimir Hartmann, a naturalized American of Alsatian birth, who has been impressed into German military service, and to be, sir, etc.,

EDWIN F. UHL.

[Inclosure in No. 240.]

Mr. Uhl to Baron von Rotenhan.

F. O. No. 154.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897.

The undersigned ambassador, etc., of the United States of America has the honor to invite the attention of his excellency Baron von Rotenhan, acting secretary of state for foreign affairs, to the case of Casimir Hartmann, a naturalized American citizen, born in Alsace.

The embassy is informed that when about 15 years of age, in May, 1886, Hartmann was taken by his mother to the United States, and that about five years ago he became naturalized as a citizen there. In July last the family returned to Alt-Lixheim, in Alsace, where Hartmann's mother owns property. On August 1, 1896, Hartmann was arrested and taken to Finstingen, where he was kept in prison for two days and then released. On November 9 he was again arrested and taken to Saarburg, but was almost immediately set free again. On December 28 he was for the third time arrested and was taken to Saargemund, from there to Gottingen, and eventually to Goslar, where he was impressed into the Prussian military service, and where he is now said to be serving as a soldier in the Seventh Company of the Second Hessian Infantry Regiment, No. 82, his American papers having been taken from him.

The undersigned has the honor to request that his excellency will kindly cause this case to be investigated at once, and that, if the facts therein are found to be substantially as stated, his excellency will further use his good offices to effect the immediate release of this American citizen from enforced military service in Germany, and to obtain the return to him of the certificate of his American naturalization.

The undersigned avails himself, etc.,

EDWIN F. UHL.

Mr. Uhl to Mr. Sherman.

No. 324.] EMBASSY OF THE UNITED STATES,
Berlin, April 21, 1897. (Received May 7.)

SIR: Referring to my dispatch No. 240, of January 13 last, I have the honor to inform you that Casimir Hartmann was discharged from enforced service in the German army on the 10th instant, and that he is now sojourning with his mother in Alsace-Lorraine.

This case was brought to the attention of the embassy by the United States consulate at Kehl, Baden, in a letter which was received on January 13 last, and, as the Department has already been informed, intervention, looking to the immediate release of Hartmann from military service, was at once made. As no reply had been received to my first note, I again addressed the foreign office on the subject on February 1, calling attention to the fact that, in addition to his having become an American citizen, Hartman had, according to German law, lost his German allegiance through a residence of more than ten years abroad. No reply still having been received, I addressed the foreign office again on February 11 and 20, and on or about February 26 I called in person on Baron von Marschall and urged the importance of an early reply in the case.

In explanation of the delay I was informed that the investigation of the case was being made by the Imperial Statthalter of Alsace-Lorraine, and that a reply would be sent as soon as his report was received. No reply still being forthcoming, I again wrote to the foreign office on March 5, and on the 14th I was informed in writing that one would soon be made. On the 10th instant his promised reply was received, in which it is stated that the authorities have recognized the fact that Hartmann is a foreigner, and that consequently his discharge from service in the German army had been ordered.

Through the consulate at Kehl I have to-day learned that on the 10th instant, after about three months' obligatory service in the Second Hessian Infantry Regiment, No. 82, Hartmann was set at liberty.

I have, etc.,

EDWIN F. UHL.

Mr. Sherman to Mr. Uhl.

No. 395.] DEPARTMENT OF STATE,
Washington, May 11, 1897.

SIR: I have to inform you that your dispatch No. 324, of the 21st ultimo, reporting that Mr. Casimir Hartmann, a naturalized American citizen of German birth, had been discharged from enforced service in the German army, has been received.

Your communication has been read with satisfaction, especially in view of the fact that this case establishes our contention as to the applicability of the principles of our naturalization treaties to the territory of the Reichland-Alsace-Lorraine.

Respectfully, yours, JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 20.] EMBASSY OF THE UNITED STATES,
Berlin, July 6, 1897. (Received July 23.)

SIR: Referring to previous correspondence, I have the honor to inform you that on May 22 last the embassy learned through the United States consul at Kehl that Casimir Hartmann, whose American citizenship had been recognized after certain correspondence between the embassy and the German foreign office, and who had been released from service in the German army in April last, after having been held thereto for about three months, had been ordered to leave the country by the "Bezirks-Prasident" of Lorraine.

Hartmann, whose two older brothers emigrated to the United States after having performed military service in Germany, and who at the time of his own emigration, more than ten years ago, was too young for such service, came back to Germany with his mother, in order to assist her to reestablish herself in Altlixheim, in Lorraine, and it is his intention to return to America when this is done, and, acting upon his request, the embassy at once applied for permission for him to remain with his mother for a year.

On May 31 a telegram was received from Mrs. Hartmann, to say that her son was being taken to the frontier, and renewed intervention was thereupon immediately made at the foreign office, with the result that a telegram was sent to the imperial statthalter at Strassburg, on the same day, asking him not to allow Hartmann to be molested before a final decision in his case had been made, and on June 3 this information was communicated to Mrs. Hartmann, from whom nothing has since been heard.

To-day I am in receipt of a note from the foreign office, in which it is stated that the statthalter has granted permission for Hartmann to remain in Altlixheim for one year.

I am, etc., AND. D. WHITE.

Mr. Uhl to Mr. Sherman.

No. 338.] EMBASSY OF THE UNITED STATES,
Berlin, May 4, 1897. (Received May 21.)

SIR: I have the honor to inform you that in February last a letter was received from a Mr. Jonas Lippmann, in which he asked that the embassy give its support to a petition which he had addressed to the Imperial statthalter of Alsace-Lorraine, asking for the removal of an attachment which had been put upon certain property coming to him from his deceased mother, in order to secure the payment of a fine of 600 marks, to which he had been sentenced on account of his failure to perform military service in Germany, and that on February 24 last I addressed a note to the German foreign office in the case, a copy of which is inclosed herein.

Mr. Lippmann was born in Alsace and emigrated, with the permission of the German authorities, from whom he obtained a certificate of release from allegiance, to the United States, where he duly became naturalized as a citizen. He subsequently returned to Europe, remained for a year or two in his former home, and then established himself in business in Brussels, where he at present resides. In 1888, after he had left Alsace for the second time. he was sentenced by the court

at Strassburg to pay the fine complained of, and later, upon the death of his mother, property left by her was attached.

A reply to my note has now been received, and I have the honor to transmit herewith a translation of the same, as well as a copy of a second note, which, after communicating with Mr. Lippmann, I have to-day sent to the Imperial foreign office in the case, and to be, sir, etc.,

EDWIN F. UHL.

[Inclosure 1 in No. 338.]

Embassy to Foreign Office.

NOTE VERBALE.

F. O. 184.] EMBASSY OF THE UNITED STATES,
Berlin, February 24, 1897.

The embassy of the United States of America has the honor to invite the good offices of the Imperial foreign office in behalf of Mr. Jonas Lippmann, who was born in Elsass, who emigrated to the United States after having obtained his release from German allegiance, and there became naturalized as a citizen in 1879, and who has recently addressed a petition to the Imperial statthalter, asking for the removal of an attachment which has been put upon certain property coming to him from his deceased mother at Weissenburg as security for the payment of a fine of 600 marks, to which he has been sentenced on account of his failure to perform military service in Germany.

[Inclosure 2 in No. 338.—Translation.]

Foreign Office to Embassy.

NOTE VERBALE.

FOREIGN OFFICE, *April 27, 1897.*

Referring to the note verbale of the 24th of February last (F. O. 184), the foreign office has the honor to inform the embassy of the United States of America that the Imperial statthalter of Alsace-Lorraine does not find it permissible to comply with the request of Jonas Lippmann to release a piece of property at Weissenburg which belonged to the estate of his mother, and which had been attached in order that the amount of the fine (600 marks and costs) be served, to which he had been sentenced by the landgericht at Strassburg on March 3, 1888, for avoidance of military duty. On a petition for pardon made by Lippmann he was, as early as the year 1892, asked to furnish authoritative proof that he still possesses American nationality and that he possessed this nationality in 1887. This demand he has not complied with. The following has been ascertained as to his private affairs:

Jonas Lippmann, born on April 15, 1858, was, on November 27, 1874, on a petition made by his father, released from Alsace-Lorraine nationality, and immediately thereafter emigrated to the United States of America, where he became naturalized in 1879; but as early as August, 1884, he returned to the place of his present residence, Strassburg, and has made it his permanent home. He held the position of a clerk in

the beginning, but after his marriage, which took place in 1887, he became a partner in the dry goods business of his mother-in-law. As it was to be assumed that he, in accordance with the spirit of article 4 of the treaty of February 22, 1868, after making Alsace his permanent home, had renounced his American citizenship, the possession of which it was impossible for him to prove, it was ordered in 1887, in accordance with legal regulations, that he be mustered into the army. But Lippmann neither presented himself for examination in the spring of 1887 nor to the special mustering out of the same year, but went off on a journey. In November, 1887, he made his home in Paris. After being asked to return to Germany he was, as stated above, sentenced, and measures have now been adopted to collect the fine and costs of said proceeding.

The foreign office regrets that under these circumstances the wish of the embassy can not be complied with.

[Inclosure 3 in No. 338.]

Mr. Uhl to Baron Marschall.

MAY 4, 1897.

Referring to the esteemed note verbale of the 27th ultimo, the undersigned, ambassador, etc., of the United States of America, has the honor to invite the attention of His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, to the statement made in the note from the Imperial foreign office, of January 25, 1896, in the case of the American citizen Johann (Emil) Baptiste Kauffmann, in regard to the extension of the treaty of February 22, 1868, to Alsace-Lorraine, and, while stating that it can hardly be expected for the United States Government to advance or admit the proposition that the existing treaties of naturalization are not applicable to the case of a former resident of these provinces, ventures to call attention to the apparent lack of consistency on the part of the Imperial Government in declining to apply these treaties in the one case, where benefit would result from such application to the American citizen, and in spontaneously applying them in the other case to the detriment of the person concerned.

According to the laws of the United States, American citizenship is lost only by a voluntary renunciation of the same or through the acquisition of another nationality, and not, except in cases which are governed by treaty provisions, through residence abroad for any given length of time; and that Jonas Lippmann in 1893 was still considered an American citizen is shown by the inclosed passport, which was issued to him by the United States minister at Brussels on January 16 of that year. From Mr. Lippmann the embassy learns that he never knew of any request by the authorities of Alsace-Lorraine in 1892, or at any other time, for him to furnish proof that he was still a citizen of the United States, and this statement seems credible, as it would have been a simple matter for him to have complied with such a request. Mr. Lippmann further states that since 1887 he has resided in Brussels, where he is engaged in business, and that he had already left Alsace-Lorraine—after his return and temporary residence there after his naturalization in the United States in 1884—before the sentence now complained of had been passed.

The undersigned therefore requests that his excellency will kindly

cause this case to be reopened and such measures to be taken, by telegraph if necessary, as may be required to prevent the execution of the order which has recently been served upon the father of Mr. Lippmann, at Weissenburg, to pay, "within eight days," the fine of 677 marks, under certain penalties in case of failure to do so; and in view of the fact that Mr. Lippmann had been released from German allegiance and had become an American citizen before the date of the sentence of the Landgerichs at Strassburg, and that he has not in the meantime reacquired German nationality and the consequent liability to military service, he further requests the good offices of the Imperial Government to the end that the attachment complained of may be removed and all proceedings against Mr. Lippmann may be brought to a close.

The undersigned avails himself, etc.,

EDWIN F. UHL.

Mr. Sherman to Mr. Uhl.

No. 405.] DEPARTMENT OF STATE,
Washington, May 26, 1897.

SIR: I have received and read with interest your dispatch No. 338, of the 4th instant, in relation to the military case of Jonas Lippmann, whose property in Alsace-Lorraine had been attached in order to secure the payment of a fine of 600 marks to which he had been sentenced on account of his failure to perform military service in Germany.

It appears from the statements of your dispatch and its accompaniments that Mr. Lippmann, having been born in Alsace-Lorraine, obtained from the German authorities a certificate of release from German allegiance and subsequently emigrated to the United States, where he duly became naturalized as a citizen. His case, therefore, stands not only on the rights accorded by our treaties with Germany so far as they may be claimed by us and allowed by the Imperial Government, but his express release from German allegiance is essentially in point.

The reply to your representations rests particularly upon the technical objection that Mr. Lippmann had failed to furnish authoritative proof that he still possesses American nationality and that he possessed this nationality in 1887; and partly on the assumed right of the Imperial authorities to apply to him the presumptions raised under article 4 of the treaty between the United States and the North German Union of February 22, 1868, respecting his return to and continued residence in the country of origin. You have met the allegation of Mr. Lippmann's failure to evidence his continued American citizenship by adducing his passport issued in 1893. I desire, also, to commend the point you make in calling attention to the apparent lack of consistency on the part of the Imperial Government in declining to apply the German treaties of naturalization with the United States in the one case where benefit would result from such application to the American citizen and in spontaneously applying them in the other case to the detriment of the person concerned.

Mr. Lippmann's case deserves continued, and it is hoped eventually successful, intervention of the embassy.

Respectfully, yours,

JOHN SHERMAN.

Mr. Uhl to Mr. Sherman.

No. 374.] EMBASSY OF THE UNITED STATES,
Berlin, June 7, 1897. (Received June 25).

SIR: Referring to instruction No. 561,[1] of March 3, 1896, from Mr. Olney to Mr. Jackson, upon the subject of the existing treaties in regard to naturalization between the United States and the German States, with particular reference to Alsace-Lorraine, I beg to say that not long after reaching my post I brought the matter to the attention of His Excellency Baron Marschall von Bieberstein, imperial German secretary of state for foreign affairs.

In an interview with him on the 23d day of December last I again referred to the subject, and requested that after consideration he would advise me of the views of his Government with reference to undertaking the negotiation of a new treaty. He, in general terms, expressed himself as favorable to a consideration of the question, and made a memorandum thereof, with the statement that after examining it he would confer with me further.

A few days since I again, at the foreign office, spoke with his excellency as to the matter, and was informed by him that he had not as yet been able to give the same such attention as he desired preparatory to a discussion thereof.

In this connection you have not failed to note my contention as to the attitude of the German Government with reference to the application of existing treaties to Alsace-Lorraine, in my note to the foreign office (F. O. 222) in the case of Jonas Lippmann, of the 4th ultimo, a copy of which was sent to the Department in my dispatch No. 338, of the same date.

I have, etc., EDWIN F. UHL.

Mr. Sherman to Mr. White.

No. 31.] DEPARTMENT OF STATE,
Washington, June 30, 1897.

SIR: I have to inform you that Mr. Uhl's dispatch No. 374, of the 7th instant, relative to his interviews with the German minister for foreign affairs in regard to the question of extending the existing treaties of naturalization with Germany to Alsace-Lorraine, has been received.

The precedents to which Mr. Uhl refers as having been adduced by him in Jonas Lippmann's case to show the admissions heretofore made by the Imperial Government that existing treaties are applicable to the territory of Alsace-Lorraine only serve to illustrate the inconsistent attitude of the imperial foreign office in regard to this important question during the twenty-seven years that have passed since the incorporation of the Reichsland.

Respectfully, yours, JOHN SHERMAN.

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[1] See Foreign Relations, 1896, p. 187.

Mr. White to Mr. Sherman.

No. 30.] EMBASSY OF THE UNITED STATES,
Berlin, July 13, 1897. (Received July 30).

SIR: Referring to the Department's instruction No. 405, of May 26 last, I have the honor to inform you that, although nothing more has as yet been received from the foreign office in regard to his case, a letter has been received from Mr. Jonas Lippmann, in which he states that he has had a letter from the first imperial state's attorney at Strassburg, saying that he had "been illegally considered by him as German citizen, and that it is by mistake" that he had been sentenced for not having served in the German army. Mr. Lippmann adds that he was informed in the same letter "that the seizure made on his motherly fortune is not legal and will not be maintained."

In reply to a question from Mr. Lippmann as to whether or not he was not entitled to obtain indemnity from the German Government for losses occasioned by its action in this matter, he has been informed that this question is one for the courts to decide, and one in which the embassy would not feel authorized to act without especial instructions from the Department to do so.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Sherman.

No. 49.] EMBASSY OF THE UNITED STATES,
Berlin, August 2, 1897. (Received August 20.)

SIR: Referring to my dispatch No. 30, of the 13th ultimo, I have the honor to inform you that I have now been officially notified by the German foreign office that Jonas Lippmann has been recognized by the authorities of Alsace-Lorraine as an American citizen, and the sentence passed in his case on March 3, 1888, on account of his not presenting himself for military duty, has been revoked, and his name taken from the list of those liable to be called upon for service in the army.

I am, etc.,

AND. D. WHITE.

DISCRIMINATION AGAINST AMERICAN WOODS.

Mr. Uhl to Mr. Olney.

No. 253.] EMBASSY OF THE UNITED STATES,
Berlin, January 25, 1897. (Received February 12.)

SIR: Referring to my dispatch No. 201, of the 4th ultimo, in regard to the alleged discrimination against American woods by railways in Germany under Government control, I have the honor to transmit herewith a copy, with a translation, of a note just received from the foreign office, in which an explanation is given, which the German Government hopes will convince the Government of the United States that there is no differential treatment of woods of American origin.

A copy of this note has been sent to Mr. Carl Gartner, of Hamburg, and it will in part depend upon the character of the reply received from

him in regard to it whether I shall take further action in the matter at once or whether I shall await instructions from the Department.

I also transmit a copy of my note, F. O. No. 153, of the 13th instant, on this subject, to which a further reply has been promised me, and have the honor to be, etc.,

EDWIN F. UHL.

[Inclosure 1 in No. 253.]

Mr. Uhl to Baron von Rotenhan.

F. O. 153.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897.

Referring to his note of the 1st ultimo, F. O. 128, on the subject of an alleged discrimination prejudicial to the commercial interests of the United States in the matter of freight tariffs on certain woods exported from the United States, imposed by the managements of the railroads under the control of the German governments, the undersigned, ambassador, etc., of the United States of America, has the honor to inform His Excellency Baron von Rotenhan, acting secretary of state for foreign affairs, that it has recently been brought to his knowledge that a decision favorable to the American interests has just been made by the "Kammer für Handelssachen" in Cassel, and that in a suit brought by the firm M. B. Bodenheim, of that place, [against] the Railway "Fiscus," it has been ordered that the excessive freight charged on American woods is to be returned. In two cases, however, in suits brought by Carl Gartner, of Hamburg, before the Oberlandesgericht at Karlsruhe, and the Amtsgericht at Erfurt, decisions (from which it is understood appeals have been taken) which it appears are grounded upon the difference in the botanical names of the woods in question have been rendered in favor of the railway authorities.

The undersigned avails himself, etc.,

EDWIN F. UHL.

[Inclosure 2 in No. 253.—Translation.]

Baron von Rotenhan to Mr. Uhl.

FOREIGN OFFICE,
Berlin, January 22, 1897.

Referring to the notes of the 1st ultimo and the 13th instant (128 and 153), the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Edwin F. Uhl, that he at that time acquainted the appropriate home authorities with the contents of General Runyon's note of the 9th of March, 1894, regarding the tariff rates placed on American woods on German state railways.

These authorities at that time had already considered, on account of complaints made by German importers of American woods, whether the German railway freight tariff of the state railways covering these points ought to be altered or applied differently than heretofore. These considerations, in which the contents of the aforesaid note were borne in mind, have, however, reached their termination in the conclusion to leave the wording and application of the tariff applied as heretofore. Such

kinds of wood will, therefore, as has heretofore been the case, whenever they are not subject to cultivation for commercial purposes in middle Europe, as for instance certain kinds of American oak and pine, be compelled to pay the higher rate according to Special Tariff I. The undersigned can not, however, find that there is a differential treatment in this, as is alleged in the note of March 9, 1894. Not the fact that the wood grew and was cut in America caused its falling under the higher freight rate of Special Tariff I, but the fact that it belongs to a special species of that class (genera) which is not cultivated for commercial purposes in middle Europe. For the rest, the difference between certain kinds of middle European and American oak and pine which have been considered in the various tariffs is not only as stated of a purely botanical but also of a financial nature, as it is well known that the different kinds of American as well as other foreign wood which genrally come into question and which pay a higher tariff are of a greater value than those growing in middle Europe. Moreover, it is just this ratio of value which at the time caused the classification of goods, for railway tariff purposes as for other reasons, which led to the creation of tariff "positions" for woods. Only on account of the difficulty of specifying the different kinds of valuable woods, and on account of the possibility that through continued introduction of new kinds this list might become incomplete, was it thought best that this general expression be chosen and maintained in this part of the tariff, which, it is true, might lead to the misconception that the different kinds of wood are treated differently, not on account of their species, but on account of the place from which they come.

The undersigned regrets that he can not under the circumstances give any assurance that there will be a change in the rates of tariff on the different kinds of American wood, but expresses the hope that the foregoing explanation will convince the Government of the United States that neither the existing tariff nor its execution carries with it a differential treatment of wood of American origin.

As nothing is known at this office regarding the decisions of the courts regarding tariff rates on American wood, as mentioned in the note of the 13th instant, the undersigned permits himself to reserve a further reply upon this point, after the necessary investigations have been made.

The undersigned avails himself, etc., ROTENHAN.

Mr. Olney to Mr. Uhl.

No. 319.] DEPARTMENT OF STATE,
Washington, February 19, 1897.

SIR: Referring to previous correspondence concerning the alleged discrimination against American woods in the freight tariff on railways in Germany under Government control, I inclose for your information and the files of your embassy a copy of a letter of the 4th instant from the Hon. N. C. Blanchard relative to the complaint of the Austro-American Stave and Lumber Company of Louisiana in regard to similar discriminations against it. A copy of the Department's reply to Mr. Blanchard's communication is also inclosed.

In this connection I have to acknowledge the receipt of your dispatch No. 253, of the 25th ultimo, inclosing a copy of a note of the 22d ultimo, to you from the German foreign office, giving an explanation which the

German Government hopes will convince the Department that there is no differential treatment of woods of American origin by the German authorities. A copy of Baron von Rotenhan's note has been sent to Mr. Blanchard for the information of the Austro-American Stave and Lumber Company.

The Department will await replies from Mr. Blanchard and from your embassy as to the views of Mr. Gartner before giving you further instructions on the subject.

I am, etc.,

RICHARD OLNEY.

Mr. Uhl to Mr. Olney.

No. 283.] EMBASSY OF THE UNITED STATES,
Berlin, February 27, 1897. (Received March 13.)

SIR: Respectfully referring to my dispatch No. 253, of the 25th ultimo, in which I transmitted a copy and translation of a note which had just been received from the German foreign office, in reply to a note addressed to it by me, in regard to an alleged discrimination against American woods in the freight tariff on railways in Germany under Government control, I have the honor to inform you that upon receipt of the reply from Mr. Gartner to my letter, to which reference was made in the dispatch above mentioned, and upon examination of certain documents furnished by him bearing upon the question agitated, I concluded to again address the secretary of state for foreign affairs on the subject, and did so in a note, a copy of which is inclosed herewith.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 283.]

Mr. Uhl to Baron Marschall.

F. O. 186.] EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1897.

The undersigned, ambassador of the United States of America, has the honor to again invite the attention of His Excellency Baron Marschall von Bieberstein, imperial secretary of state for foreign affairs, to the subject of an alleged discrimination adverse to the interests of citizens of the United States by the Prussian railway management in the matter of the collection of freight tariffs upon woods imported from the United States into Germany and transported over railways under Government control, and to inform his excellency that he has communicated the substance of the note of His Excellency Baron von Rotenhan, of the 22d ultimo, in relation thereto, to certain parties interested and engaged in shipping such American woods in Germany, and that after conference with these parties, and after a careful review and examination of the subject, including the opinions of German experts, the judgments of certain courts before which the question of such alleged discrimination has been raised and which have judicially passed upon the same, the undersigned is unable to agree with the conclusion reached by Baron von Rotenhan, as set forth in the said note, to wit, that neither the existing tariff, nor its execution, carries with it a differential treatment of wood of American origin. On the contrary, the

undersigned is convinced that the present interpretation of the tariff by the Prussian railway management does result in an adverse and unjustifiable discrimination against woods imported from the United States, to the pecuniary disadvantage and injury of American citizens.

The asserted right to collect higher tariff in the transportation of American oak and pine than is collected from the oak and pine grown in middle Europe seems to rest upon the following hypotheses:

First. That these American woods belong to a particular species of a general class or genus, which general class is common to America and middle Europe, but which particular species is not cultivated for commercial purposes in middle Europe, and that there is a refined botanical distinction or difference between the American oak and pine and those of middle Europe, detected only in the appearance of the blossoms, leaves, or needles of the living tree, but not apparent or discoverable in the log, plank, timber, or lumber cut from the same.

Second. That these woods of American origin are of greater value than those of middle Europe.

As to the "first" above, the undersigned is advised and persuaded that it can with positiveness be asserted that there is no material or substantial difference whatever between the American product and that of middle Europe, and that no expert can distinguish an American oak or pine plank or board from one cut from a tree which grew in middle Europe. The undersigned is informed that not long since Mr. Carl Gartner, who is and has been for several years extensively engaged in shipping American lumber over Prussian railways, consigned certain Galician oak from Hamburg to Lennep, and that the railway management caused a sample to be taken from the car containing such shipment and placed it in the hands of an expert for examination, who certified, as such expert, that the sample so examined was American oak, whereas in truth it was cut from oak grown in Galicia.

As to the "second" point, the undersigned is assured that the American oak, pine, and maple are not of a greater value than the corresponding woods of middle Europe and that they do not sell for a higher price in the market; that they are devoted to the same use and have the same appearance; that they are not heavier, and that both belong to the same family. Some American oak is inferior to that of middle Europe, some is of equal value, but none is more valuable. In certain instances, according to the opinions of German experts, American white oak has been found of equal value to that of middle Europe, but not of a higher grade, either in its technical quality or the uses to which it is devoted, while the great part of American oak has been pronounced of inferior value.

In many contested causes in the German courts, in which testimony has been received as to these woods, German experts have given it as their opinion that the American pine and oak are at best of equal value to the oak and pine of middle Europe, and this conclusion has been reached from technical examination as to durability, hardness, and elasticity, from the uses to which the woods are devoted, from the prices at which they sell, and from their specific weight. As to this, according to the authority of Forstmeister Dr. Jentsch, instructor in the Royal Academy of Forestry at Munden, American oak has a specific gravity of from 0.747 to 1.01, while that of German oak varies from 0.87 to 1.28.

The undersigned respectfully submits that it is entirely illogical and unjustifiable that in the application of the freight tariff a distinction should be made whereby, by reason of a refined and technical differ-

ence, apparent only upon examination of the living tree, American oak, pine, maple, and ash are required to pay a higher rate than the corresponding product of Russia, Austria, or Servia, because, forsooth, the leaves, blossoms, or needles of the living American trees differ slightly in appearance from those of middle Europe.

The undersigned has been informed that the proprietors of a large barrel factory, under the firm name of the M. B. Bodenheim Fassfabrik, at Cassel, has recently sued for and recovered the sum of about 8,000 marks, which represented the excess collected from him, according to the interpretation of the tariff hereby complained of, by the railway management upon certain American oak staves, which it was impossible to distinguish from the staves of middle Europe, the excess having been exacted upon the ground that the leaves or blossoms of the living American tree from which the staves were cut might have differed in appearance from the leaves or blossoms of the oak trees growing in middle Europe.

It is beyond doubt that, in formulating the tariff schedule in question, it was the intention of the framers thereof that only such woods as were used in the manufacture of valuable and expensive articles—for instance, mahogany, ebony, rosewood, etc.—should be subject to the imposition of the higher rate, upon the ground that, as the manufactured product represented a large valuation, it was but just that the raw material should be submitted to the payment of a higher rate than woods to be devoted to the manufacture of inexpensive articles. It will not for a moment be contended that oak and pine are employed in the manufacture of exceptionally rare or expensive articles.

The undersigned is informed that formerly these American woods were not subjected to the payment of the higher tariff rate now imposed, but that the present interpretation only obtained in recent years; and he is unable to comprehend upon what principle the exaction of a transportation rate upon a shipment of American oak or pine 50 per cent higher than upon a like shipment of Russian oak or pine of the same dimensions, the same weight, the same grade or quality, the same appearance, the same value, and devoted to the same uses, can be justified.

The undersigned has the honor to transmit herewith, with a request for their ultimate return, certain documents enumerated below, all bearing upon the question herein considered, and avails himself, etc.

EDWIN. F. UHL.

Mr. Olney to Mr. Uhl.

No. 323.] DEPARTMENT OF STATE,
Washington, March 1, 1897.

SIR: Referring to previous correspondence concerning the alleged discrimination against American woods in the freight tariff on railways in Germany under Government control, and particularly to the Department's instruction No. 319, of the 19th ultimo, relative to the complaint of the Austro-American Stave and Lumber Company, of Shreveport, La., on the subject, I inclose for your information copy of a further letter of the 23d ultimo for the above-named company, giving a full statement of the facts relating to the matter and supporting the complaint by certain important documents in the German language.

In order to expedite the prompt decision of the question all the original papers which accompanied the letter of the Austro-American Stave

and Lumber Company of the 23d ultimo are transmitted to you herewith, without retaining copies or translations thereof on the files of the Department.

You are instructed to make such use of the documents in question as you may deem necessary in support of any furthur representations which you may think proper to make to the German Government on the subject.

In reporting your action to the Department you may send hither translation of such documents as you may make use of in your correspondence with the Imperial foreign office in regard to the question.

I am, etc.,

RICHARD OLNEY.

Mr. Sherman to Mr. Uhl.

No. 343.] DEPARTMENT OF STATE,
Washington, March 15, 1897.

SIR: I have to inform you that your dispatch No. 283, of the 27th ultimo, inclosing copy of your note of the 26th ultimo to the German foreign office relative to the alleged discrimination against woods of American origin in the freight tariff upon railways in Germany under Government control has been received.

Your able presentation of the matter to the foreign office is fully approved by the Department.

Respectfully, yours,

JOHN SHERMAN.

Mr. Uhl to Mr. Sherman.

No. 296.] EMBASSY OF THE UNITED STATES,
Berlin, March 15, 1897. (Received April 2.)

SIR: I have the honor to acknowledge the receipt, on the 12th instant, of the Department's instruction of the 1st, No. 323, and to inclose herewith a copy of a note to-day addressed by me to the German foreign office, based upon the information contained therein, in regard to the treatment of American woods on railways in Germany under Government control. As for the reasons mentioned in my note, the original papers submitted by the Austro-American Stave and Lumber Company were transmitted to the foreign office, and in order to save time no translations of these papers were made.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 296.]

Mr. Uhl to Baron Marschall.

MARCH 15, 1897.

The undersigned, ambassador, etc., of the United States of America, referring to his note of the 26th ultimo, F. O. No. 186, on the subject of the alleged discrimination against American woods in the freight tariff on railways in Germany under Government control, has the honor to

transmit herewith, for the information of His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, certain original papers, which are requested to be ultimately kindly returned, which were sent to the United States State Department by the Austro-American Stave and Lumber Company, of Shreveport, La. Some of these papers have already been transmitted to the foreign office, or referred to in former correspondence had by the embassy on this subject, but it is now thought proper to submit them in their present condition, as they constitute the case which the company mentioned has put before the United States Government.

No. 1 of these papers, the Continentale Jolz-Zeitung, refers to the decrease of the American timber import and to the petition of the stave consumers in Germany to the Prussian minister of public works to abolish the difference in the freight rates for American staves.

No. 2, bill of lading for 12,500 kilograms American oak, shows an excess charged of 8 marks per 10,000 kilograms, in comparison to European oak.

No. 3, bill of lading for 12,420 kilograms oak staves, rough split, and so entered in the bill of lading, notwithstanding which 31 marks were charged in addition to the exceptional tariff rates.

No. 4 is a copy of the judgment upon statement by experts in the Royal Amtsgericht at Altona, by which the railway authorities are ordered to refund the excess charges collected.

No. 5 is copy of the judgment in the court of appeal by which the decision in the first court is reversed and judgment given against the plaintiff by the Royal Landgericht at Altona.

No. 6 is apparently wanting, but is referred to by the stave company in its letter to the State Department as the decision of the Amtsgericht at Dortmund against the railway authorities.

No. 7 is the opinion of the Forstmeister Jentsch about American timber.

No. 8 is the opinion of certain "Handlskommer" in regard to the use of American timber.

No. 9 is the decision of the Landgericht at Dortmund reversing the decision referred to as No. 6.

No. 10 is the opinion of the cooperage firm of M. B. Bodenheim, of Cassel.

No. 11 is a letter from the lawyer, Dr. B. L. Oppenheimer, of Hamburg, to Mr. Max Grünhut, of the same place, containing advice as to further legal proceedings.

From these and other papers, already submitted, it seems clearly to be shown that the opinions of experts and the decisions of the courts of first instance agree in regard to the similarity in the nature, and the uses to which they are applied, of American and European oak, and in the opinion also that there is very little, if any, difference in their value. The undersigned therefore ventures to express the hope that, as by far the greater part of the railways in Germany are under the control of the Government, and as the determination of freight charges is to a great extent an administrative act, it will be found possible to so interpret the freight tariff in this connection that the causes for complaint may soon be removed.

The undersigned avails himself, etc.,

EDWIN F. UHL.

Mr. Sherman to Mr. Uhl.

No. 360.] DEPARTMENT OF STATE,
Washington, April 5, 1897.

SIR: Referring to previous correspondence concerning the treatment of American woods on railways in Germany under Government control, I have to inform you that your dispatch No. 296, of the 15th ultimo, inclosing copy of your note of March 15, 1897, to the Imperial German foreign office on the subject, has been received.

Your course in regard to the matter is fully approved by the Department.

In this connection I inclose for your information a copy of a letter of the 27th ultimo, in regard to the case, from B. Kobler, manager of the Austro-American Stave and Lumber Company.

Respectfully, yours,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 82.] EMBASSY OF THE UNITED STATES,
Berlin, September 1, 1897. (Received September 17.)

SIR: Referring to previous correspondence, and in particular to Mr. Uhl's dispatch No. 296, of March 15 last, I have the honor to transmit herewith a copy, with translation, of a note which has to-day been received from the German foreign office in regard to the freight charges upon woods of American origin on railroads under Government control. A copy of this note has been sent to Mr. Carl Gartner, of Hamburg, upon whose complaint the original action in this matter was taken by the embassy.

I am, etc., ANDREW D. WHITE.

[Inclosure in No. 82.—Translation.]

Baron von Rotenhan to Mr. White.

FOREIGN OFFICE,
Berlin, August 30, 1897.

Referring to the notes of the late ambassador of February 26 and March 15 last, Nos. 186 and 197, in regard to the tariff levied on American woods on German state railways, the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Andrew D. White, that the appropriate home officials, who were at the time informed as to the contents of aforesaid notes and their inclosures, do not find themselves in a position, after a renewed investigation of the matter, to change the tariff rate in the manner desired by the American interested parties. The same reasons have prevailed in arriving at this decision which the undersigned had the honor to place before Mr. Edwin F. Uhl in the note of January 22 last. The larger number of the civil suits which were instituted by importers of American woods against the several railway managements, to which reference was made in the last notes of Mr. Edwin F. Uhl, have, thus far, terminated in favor of the defendants.

In regard to the shipment of oak wood, which was said to be of Galician origin, from Hamburg to Lennep, which was referred to, it is true

that the firm in question, C. Gartner, has won the first suit, but the Royal railway management of Altona, fortified by the opinion of an expert, will enter an appeal. That the wood came from Galicia would not of itself prove that it belonged to that class of oak which is the subject of cultivation for commercial purposes in Middle European forests, as is required by the tariff. The possibility still exists that it was oak of foreign origin, and, as the expert claims, of American origin, which had been planted as an experiment in Galicia.

The undersigned, under these circumstances, renews the expression of his regret that the request made can not be complied with. He also permits himself, in order to prove the incorrectness of Mr. Edwin F. Uhl's presumption, that the application of the German railway freight tariff discriminates against American woods, to call attention to the fact that poplar wood of American origin, for instance, is classified with the woods falling under Special Tariff II, and that the freight is calculated in accordance therewith, for the reason that American poplar wood is, according to expert opinion, the same as the poplar wood which is a subject of cultivation for commercial purposes in Middle European forests.

The inclosures which accompanied Mr. Edwin F. Uhl's last two notes are returned herewith.

The undersigned avails himself, etc.

ROTENHAN.

ADJOURNMENT OF THE REICHSTAG.

Mr. White to Mr. Sherman.

No. 237.] EMBASSY OF THE UNITED STATES,
Berlin, December 24, 1897. (Received January 15.)

SIR: Referring to my dispatches Nos. 187 and 211, of November 12 and December 4 last, respectively, I have the honor to inform you that the German Reichstag, on the 17th instant, adjourned over the holidays until the 11th of January next, on which date the Prussian Diet will assemble for its winter session.

As anticipated, the Government bills for increasing the navy and for the reform in military judicial procedure, and the appropriation bills were read once and referred to committees. Of action in regard to the army and navy, I presume the military and naval attachés of this embassy will keep our Departments fully informed.

As submitted by the Government, the estimated receipts and expenses for the fiscal year 1898–99 balance at 1,437,179,979 marks, as against 1,328,301,824 marks for 1897–98, and among the proposed new expenses are an increase of 18,000 marks in the amount (now 46,000 marks) allowed the chancellor of the Empire for entertaining, etc., and additional 300,000 marks on account of participation in the exposition to be held in Paris in 1900, 25,000 marks for continuing investigation as to the "foot and mouth" disease in cattle, and 300,000 marks for a deep-sea expedition which is to start from some German port in August next, and to investigate the bottom of the sea to the depth of 1,000 meters between Scotland and the Shetland Islands and then in the neighborhood of the Canaries and Cape Verde. An increase is also recommended in the personnel of the foreign office and of several missions and consulates, and it is proposed to send a professional vice-consul (in

addition to the consul already there) to Buenos Ayres, and to send out more professional officials than has been the case heretofore where new consular offices are to be established, to send a naval attaché for Eastern Asia, to reside in Tokyo or Yokohama, and to send special agents to South Brazil, in addition to the commissioners provided for in the emigration act (dispatch of June 10, 1897), to inspect such land as may be opened for settlement by German emigrants.

During the debate, which lasted for more than four days, duels in the army, the treatment of the Poles in Prussia, the recent uproar in the Austrian Parliament, the durability of the Triple Alliance and Italy's ability to perform her obligations under it, Haiti and China, bimetallism, and sugar, were among the subjects referred to, and the new American tariff came in for a good deal of abuse. Representatives of the Government stated that the tariff negotiations between Germany and the United States and England did not permit information in regard to them to be communicated to the Parliament at present, and they explained the nature of the work intended to be done by the "Zollbeirath" (dispatch No. 180, November 8, 1897), calling attention to the fact that all parties interested in tariff changes should take advantage of an early opportunity to be heard before this committee, or the appropriate subcommittee under it, in their own interest. The Radicals, as usual, charged the Agrarian members with raising the prices of the people's food in their own selfish interests, and they received the customary answer that the ever-wider extending prohibitions in regard to the importation of pork and other farm products were necessary upon sanitary grounds. Baron Thielmann stated that the sugar-tax law of last year had not produced the desired results, and that the negotiations which had previously been of no effect (see dispatch No. 311, of July 24, 1895, and note on "sugar bounties" in dispatch No. 469, of February 8, 1896), looking to the abolishing of export premiums upon sugar by all of the countries now paying such premiums, would probably soon be resumed, with more prospect of success, in view of the conditions prevailing at present.

Among the measures introduced by private members were the annual bill in regard to the return of the Jesuits, amendments to the law of April 20, 1892, in regard to trade in wine, etc., amendments to the customs tariff law of July 15, 1879, a bill looking to the introduction of representative governments in all of the federal states (Mecklenburg has as yet no parliament or legislature), a draft of a homestead law, a bill for a tax on saccharine and other sweet stuffs, and an interpellation in regard to trade in petroleum.

Of these the last was the only measure which came up for discussion. Its text was: "What means do the Federated Governments think of taking in order to counteract the efforts of the Standard Oil Company to monopolize the trade in petroleum in Germany?" and it was supported by members of the National Liberal and Conservative parties. In the arguments in favor of the Government taking action, attention was called to the fact that certain firms at Mannheim and elsewhere in Germany, which had heretofore been considered as rivals of the Standard Oil Company, had recently made terms with it, and the fear was expressed that that company would now soon increase the price of petroleum. It was urged that the Government should make all possible concessions in favor of Russian petroleum, and the Agrarians, not unselfishly, advised the Government to take vigorous action against the United States, to shut out American petroleum and to thereby do something for agriculture by promoting the use of illuminating

spirits. Count Possadowsky, the Imperial secretary of the interior, said that he was obliged to admit that the price of petroleum had gone down since the formation of the "Deutsche-Americanische Petroleum Gesellschaft" (Standard Oil Company) in Bremen, but he was afraid that this had been the case in order that competitors might be driven from the field, and that the price would at once go up if competitors were removed. Consequently the Government had (since 1895) done all it could to favor "outsiders," the importation of Russian petroleum had been favored by allowing it to pay duty according to volume instead of according to weight, and the Government would continue to do all in its power to increase the consumption of Russian petroleum, and to favor the "Pure Oil Company" in America. Count Possadowsky further said that since the 5th of October last, a special railway freight tariff (compare the embassy's correspondence upon the subject of American woods on German railways) had been in force giving low rates of transportation for refined Russian petroleum shipped from Alexandrowo to German stations, and that still lower rates would soon be made, and that an arrangement would soon be perfected by which a mixture of American and Russian petroleum could be imported, upon which the duty would be paid according to volume, and he added that he did not believe that the American and Caucasian petroleum producers had been able to make an arrangement in regard to a division of territory to be supplied, although it was frequently reported that they had.

I have, etc.,

AND. D. WHITE.

GREAT BRITAIN.

CELEBRATION OF THE SIXTIETH ANNIVERSARY OF QUEEN VICTORIA'S ACCESSION TO THE THRONE.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 30, 1897.

DEAR MR. SECRETARY: I have been requested to inquire, unofficially, whether it is the intention of the President of the United States to send a special mission of congratulation on the occasion of the celebration, in June next, of the sixtieth anniversary of the Queen's accession to the throne.

I should be greatly obliged if you could enable me to give Lord Salisbury the information desired.

I remain, etc., JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

DEPARTMENT OF STATE, *April 2, 1897.*

DEAR SIR JULIAN: I beg to inform you that the subject of your note of the 30th ultimo has received the attention of the Department, and that this Government will be represented on the occasion of the celebration, in June next, of the sixtieth anniversary of the Queen's accession to the throne.

The United States ambassador at the Court of St. James will be instructed at an early date to inform the British Government more fully on the subject.

I am, etc., JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 14, 1897.

DEAR MR. SECRETARY: It has been decided that a naval review shall be held as part of the festivities to commemorate the sixtieth year of Her Majesty's reign, and the Queen has intimated that it will give her pleasure if the maritime powers are represented on the occasion.

I have been requested by the Marquis of Salisbury to inform you, unofficially, that if your Government should find it convenient to send a ship of war flying an admiral's flag to attend the festivities the visit will be very welcome and everything will be done to show the officers proper attention.

I am, etc., JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

DEPARTMENT OF STATE, *April 29, 1897.*

DEAR SIR JULIAN: Referring to your communication of the 14th instant, relative to the pleasure it would afford Her Majesty to have this Government participate in the naval review which is to be held as part of the festivities to commemorate the sixtieth year of her reign, I beg to inform you that the Department has received a letter from the Acting Secretary of the Navy stating that it is the intention of his Department to order a United States naval vessel flying an admiral's flag to attend the festivities in question.

I am, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Hay.

No. 51.] DEPARTMENT OF STATE,
Washington, April 29, 1897.

SIR: Referring to the Department's instruction No. 4, of the 22d instant, relative to the intimation received by this Government from the British ambassador at this capital to the effect that Her Majesty would be pleased to have the United States take part in the naval review which is to be held as part of the festivities to commemorate the sixtieth year of her reign, I inclose herewith for your information and for informal communication to the foreign office a copy of a letter[1] from the Acting Secretary of the Navy stating that a United States naval vessel will be sent to take part in the ceremonies in question.

Respectfully, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 21, 1897.

Admiral Joseph N. Miller will represent the Navy and Gen. Nelson A. Miles the Army, and the President will send two eminent civilians to act as representatives of our Government at the ceremonial of the Jubilee. All will be associated with you as a special embassy, you being its head. Instructions will follow as soon as details can be settled.

SHERMAN.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 24, 1897.

The President desires you to convey to Her Majesty the sincere congratulations of himself and the American people upon the anniversary of Her Majesty's birthday.

SHERMAN.

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[1] Not printed.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 28, 1897.

President has decided to appoint Whitelaw Reid ambassador extraordinary on special mission. He will consult with you freely upon arrival. Mission's probable composition: General Miles and aid-de-camp, and Admiral Miller and staff.

SHERMAN.

Mr. Sherman to Mr. Hay.

No. 72.] DEPARTMENT OF STATE,
Washington, June 1, 1897.

SIR: I have to acknowledge the receipt of your No. 33, of the 12th ultimo, in regard to the Queen's Jubilee, which is to occur during the present month at London, and the part the Government of the United States is to take in the proposed ceremonies.

My instructions, Nos. 66 and 67, of the 28th ultimo, covering the telegrams which have been exchanged upon the subject, will have shown you the determination of the President to appoint a special embassy, as follows:

1. His Excellency Whitelaw Reid as ambassador extraordinary of the United States of America on special mission.
2. Maj. Gen. Nelson A. Miles, U. S. A., to represent the War Department.
3. Rear-Admiral Joseph N. Miller, U. S. N., to represent the Navy.
4. Mr. Ogden Mills as secretary and attaché.

It is understood that Major-General Miles will be attended by his aid-de-camp, Capt. M. P. Maus, U. S. A., and Rear-Admiral Miller by his staff.

I inclose for your information and for the files of your embassy copies of the necessary correspondence in relation to the matter.

It is unnecessary to assure you of the President's grateful appreciation of your courteous action in the matter of his suggestion to send a special embassy on so memorable an occasion. Your distinct telegraphic statement of the 25th ultimo that Her Majesty would receive only one special envoy from each country, coupled with your previous announcement that you could be of more service in your present capacity, prevented the President from including yourself in the special embassy. He doubts not, however, that it will be your pleasure to cooperate with Mr. Reid in all possible ways to insure harmony of action, and to promote the delicate and important task intrusted to Mr. Reid. He has been instructed to consult with you freely on all matters of detail, and thus the matter is confidently left to the judgment of Mr. Reid and yourself, since it is not possible at the present time to give him specific or detailed instructions. He will take his departure probably to-morrow for London.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Hay.

No. 114.] DEPARTMENT OF STATE,
Washington, July 2, 1897.

SIR: I inclose herewith for your information a copy of a letter of the 30th ultimo from the Acting Secretary of the Navy, stating that the Navy Department has authorized Rear-Admiral J. N. Miller, U. S. N., to remain with the *Brooklyn* at Portsmouth, England, during the continuance of the admiralty festivities; and has also advised him that on account of the illness of his daughter he need not return on that vessel to the United States.

I append on the overleaf a copy of a telegram of the 1st instant, founded on the letter above referred to.

Respectfully, yours, JOHN SHERMAN.

[Inclosure in No. 114.—Telegram.]

Mr. Sherman to Mr. Hay.

STATE DEPARTMENT,
Washington, July 1, 1897.

Answering your and Reid's telegrams, Secretary Navy authorizes admiral remain with *Brooklyn* at Portsmouth during admiralty festivities and advises him, owing illness of daughter, need not return on *Brooklyn* to United States.

SHERMAN.

William McKinley, President of the United States of America, to Her Majesty Victoria, Queen of Great Britain and Ireland, and Empress of India.

GREAT AND GOOD FRIEND: In the name and behalf of the people of the United States, I present their sincere felicitations upon the sixtieth anniversary of Your Majesty's accession to the Crown of Great Britain.

I express the sentiments of my fellow-citizens in wishing for your people the prolongation of a reign illustrious and marked by advance in science, arts, and popular well-being. On behalf of my countrymen, I wish particularly to recognize your friendship for the United States, and your love of peace, exemplified upon important occasions.

It is pleasing to acknowledge the debt of gratitude and respect due to your personal virtues. May your life be prolonged, and peace, honor, and prosperity bless the people over whom you have been called to rule. May liberty flourish throughout your Empire, under just and equal laws, and your Government continue strong in the affections of all who live under it.

And I pray God to have Your Majesty in His holy keeping.

Done at Washington, this 28th day of May, A. D. 1897.

Your good friend,

WILLIAM MCKINLEY.

By the President:
JOHN SHERMAN,
Secretary of State.

BLOCKADE OF CRETE.

Mr. Carter to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, March 21, (?) 1897.

Officially notified blockade of Crete by powers, March 21.

CARTER.

Mr. Carter to Mr. Sherman.

No. 887.] EMBASSY OF THE UNITED STATES,
London, March 21, 1897.

SIR: I have the honor to inclose herewith a copy of my telegram, sent from this embassy to-day, together with a copy of a note received from the foreign office under date of March 20, 1897, announcing the intended establishment, on the 21st of March, of a blockade of the Island of Crete by the combined British, Austro-Hungarian, French, German, Italian, and Russian naval forces, and transmitting three copies of notifications inserted in a supplement to the London Gazette of the 19th instant, two of which I have also the honor to inclose herewith, in order that they may become known to the citizens of the United States.

I have duly acknowledged the reception of the note above mentioned, and have informed Lord Salisbury that a copy thereof had been forwarded to my Government.

I have the honor, etc.

JOHN RIDGELY CARTER.

[Inclosure in No. 887.]

Mr. Villiers to Mr. Carter.

FOREIGN OFFICE, *March 20, 1897.*

SIR: I have the honor to transmit to you three copies of notifications inserted in a supplement to the London Gazette, of the 19th instant, announcing the intended establishment on the 21st March of a blockade of the Island of Crete by the combined British, Austro-Hungarian, French, German, Italian, and Russian forces.

I request that you will have the goodness to transmit copies of these notifications to your Government, in order that they may, through that channel, become known to the citizens of the United States.

I have the honor, etc.,

F. H. VILLIERS.
(In the absence of the Marquis of Salisbury.)

[Subinclosure in No. 887.—From Supplement to The London Gazette, of Friday, March 19, 1897.]

FOREIGN OFFICE, *March 19, 1897.*

It is hereby notified that the Marquess of Salisbury, K. G., Her Majesty's principal secretary of state for foreign affairs, has received a telegraphic dispatch from Rear-Admiral Harris, commanding Her Majesty's naval forces in Cretan waters, addressed to the lords commissioners of the admiralty, and dated the 18th of March, announcing that the admirals in command of the British, Austro-Hungarian, French, German, Italian, and Russian naval forces have decided to put the Island of Crete in a state of blockadë, commencing 21st of March, 8 a. m.

The blockade will be general for all ships under the Greek flag.

Ships of the six powers or neutral powers may enter into the ports occupied by the powers and land their merchandise, but only if it is not for the Greek troops or the interior of the island. These ships may be visited by the ships of the international fleets.

The limits of the blockade are comprized between 23° 24′ and 26° 30′ longitude east of Greenwich, and 35° 48′ and 34° 45′ north latitude.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 24, 1897.

SIR: On behalf of my Government and at the request of my colleagues, the representatives of Austria-Hungary, France, Germany, Italy, and Russia, I have the honor to transmit the inclosed communication relative to certain measures taken by the naval forces of the great powers, signatories of the treaty of Berlin, in the waters of the Island of Crete.

I desire to explain that this communication has not been delivered on the date which it bears owing to an accidental delay in the receipt of their instructions by some of my colleagues.

I avail myself, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

WASHINGTON, *March 20, 1897.*

The undersigned, under instructions from their respective Governments, have the honor to notify the Government of the United States that the admirals in command of the forces of Austria-Hungary, France, Germany, Great Britain, Italy, and Russia in Cretan waters have decided to put the Island of Crete in a state of blockade, commencing the 21st instant at 8 a. m.

The blockade will be general for all ships under the Greek flag. Ships of the six powers or neutral powers may enter into the ports occupied by the powers and land their merchandise, but only if it is not for the Greek troops or the interior of the island. The ships may be visited by the ships of the international fleets.

The limits of the blockade are comprised between 23° 24′ and 26° 30′ longitude east of Greenwich, and 35° 48′ and 34° 45′ north latitude.

JULIAN PAUNCEFOTE, *H. B. M. Ambassador.*
PATENÔTRE, *Ambassadeur de la Republique Francaise.*
FAVA, *Ambaseiatore d'Italia.*
THIELMANN, *Etc., Etc., Etc.*
VON HENGELMULLER, *Etc., Etc., Etc.*
KOTZEBUE, *Etc., Etc., Etc.*

Mr. Sherman to Sir Julian Pauncefote.

No. 623.] DEPARTMENT OF STATE,
Washington, March 26, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 24th instant, transmitting to me a communication under date of March 20, 1897, signed by yourself and the representatives of France, Italy, Germany, Austria-Hungary, and Russia at this capital, relative to certain measures taken by the naval forces of the great powers, signatories of the treaty of Berlin, in the waters of the Island of Crete.

As the United States is not a signatory of the treaty of Berlin, nor otherwise amenable to the engagements thereof, I confine myself to taking note of the communication, not conceding the right to make such a blockade as that referred to in your communication, and reserving the consideration of all international rights and of any question which may in any way affect the commerce or interests of the United States.

I have, etc., JOHN SHERMAN.

RESTRICTION OF THE LIQUOR TRAFFIC IN ZANZIBAR.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 6, 1897.

SIR: I have the honor, by direction of the Marquis of Salisbury, to transmit to you, herewith, a copy of the draft ordinance for restricting the importation of alcoholic liquors for the use of the native population in Zanzibar, which has been prepared in communication with the German Government, and has received their concurrence, subject to the reservations contained in the note of which a copy is inclosed.

In communicating the draft ordinance to the United States Government, I am directed to express the hope of Her Majesty's Government that you will be able to favor me with an early expression of their acquiescence in its terms.

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure 1.]

Baron Marschall to Mr. Lascelle.

FOREIGN OFFICE,
Berlin, February 12, 1897.

The undersigned has the honor to inform Sir F. C. Lascelle, with reference to his excellency's note of August 15, last year, respecting restriction on the importation of spirits into Zanzibar, that the draft ordinance having been again submitted to the acting Imperial consul at Zanzibar for his opinion, the Imperial Government no longer have any objections to offer to the issue of a decree in the sense proposed, on the condition that, under the term "spirits," wine, beer, and vermuth are not to be understood, and that the period of six months provided by section 1 of the draft ordinance shall only date from the publication of the decree in the official newspaper which appears in Zanzibar. For

the rest, the Imperial Government proceed on the assumption that those spirits which, being destined for reexportation, lie sealed up at the custom-house, shall hereafter, as formerly, be regulated by the provisions of Article VII, section 3, of the treaty of commerce and navigation between Germany and Zanzibar.

The assent of the Imperial Government is subject to the reservation, already stated in the note of April 10, of last year, that the other power concerned shall also have concurred in the draft of the decree, and that the compulsory execution of the provisions of the decree against German subjects and protected persons by judicial or administrative process shall only take place through the Imperial consulate at Zanzibar, and in accordance with the legal provisions which apply to the same.

The undersigned, etc.,

C. T. MARSCHALL.

[Inclosure 2.—Confidential.]

Draft ordinance for the restriction of the importation of alcoholic liquors into Zanzibar.

Whereas it is provided by Article XCI of the general act of the conference of Brussels, to which both Her Majesty the Queen and His Highness the Sultan of Zanzibar are parties, that the importation of distilled liquors shall be prohibited by the several powers having possession of protectorates situated within the region of the zone defined in Article XC of that general act, whenever, either on account of religious belief or from other motives, the use of distilled liquors does not exist or has not been developed; and

Whereas it is further provided by the same article that each power shall determine the limits of the zone of prohibition of alcoholic liquors in its possessions or protectorates, and shall be bound to notify the limits thereof to the other powers within the space of six months, and also that the above prohibition can only be suspended in the case of limited quantities destined for the consumption of the nonnative population, and imported under the system and conditions determined by each Government; and

Whereas notice was given by Her Majesty's Government to the several powers signatory to the Brussels act by a circular dated London, the 6th April, 1892, that Her Majesty's Government had decided that the British protectorate of Zanzibar, including all the dominions of the Sultan, both on the islands and on the mainland, should be placed under the terms of Article XCI of the act of Brussels from that date; and

Whereas by the same notice it was stated that Her Majesty's agent and consul-general had been directed to notify, in accordance with the terms of Article XCI, the system and conditions determined by the protecting power under which limited quantities might be imported for the consumption of the nonnative population; and

Whereas it has been found necessary to impose further restrictions in order to regulate the introduction and sale of the limited quantities of alcoholic liquors which may be so introduced, it is hereby enacted as follows:

1. From and after six months from this date no distilled or alcoholic liquors shall be imported, whether by land or sea, into any of the territories administered by or for His Highness the Sultan of Zanzibar otherwise than in accordance with this ordinance.

2. For the use of the nonnative population only there shall be admitted a limited quantity of distilled or alcoholic liquors imported in bottles, packed in cases, and of a declared value, supported by invoice or other documentary evidence as required, of not less than 18 rupees per dozen reputed quarts, or 9 rupees per dozen reputed pints, and so in proportion if bottles of other sizes be used; or if imported in casks, of a declared value of not less than 5 rupees per liquid gallon and bearing the brands of well-known European producers of the higher kinds of spirituous liquors.

With each consignment the consignee shall give a written guaranty that none of the liquor shall be sold to any native by him—that is to say, any person born in Africa, not being of European race or parentage—and no person, whether he is the possessor of a license or not, shall sell any imported, distilled, or alcoholic liquor to any native as herein defined.

Special exceptions may be made at the discretion of the first minister, or director of customs acting on his behalf and under his sanction, in favor of respectable natives of European colonies in Africa in which the importation of spirituous liquors is permitted.

3. Not more than 500 cases, containing 12 quarts or 24 pints in each case, or in casks a total quantity not exceeding 1,000 gallons, shall be withdrawn by any firm or individual in any one period of six months, unless in virtue of a special permit granted by the Government.

4. All liquors admitted shall be deposited in the custom-house, and only be withdrawn as actually required, on application in writing being made to the collector of customs. The casks and cases containing them shall, before their withdrawal from the custom-house, be stamped with the Government mark, "H. H. G." They will be stored free of rent for a period of six months. Duty will be taken only when they are actually removed, save in the case of liquors awaiting transshipment, which are free if shipped for their original port of destination within six months of their arrival, and in the interval have not changed owners.

5. No importer of, or trader in, such liquor shall be permitted to withdraw more than twenty-four hours, and, on making an application to do so, he shall, if so required, make a declaration stating that he has not at that moment within his warehouses more than 100 cases in addition to those which he wishes to withdraw.

6. Should any doubt arise as to the interpretation of any of the above provisions, the question shall be submitted to a commission consisting of three independent merchants nominated by Her Majesty's agent and consul-gederal, and their decision shall be final.

7. Nothing in the above provisions shall be held to repeal any provision of the ordinance of the 31st May, 1892, respecting licenses for the sale of liquors, which is is and remains in full force.

8. Any person who imports or sells distilled or alcoholic liquor in breach of this ordinance shall be guilty of an offense, and on conviction liable to a fine not exceeding 1,000 rupees, and any liquor in respect of which the offense is committed shall be forfeited; and if the offender is the holder of a license for the sale of alcoholic liquor, his license shall be liable to forfeiture.

9. Any person who makes a false declaration in regard to the value and description of liquors imported under this ordinance shall, on conviction, be liable to a fine not exceeding 400 rupees.

Mr. Sherman to Sir Julian Pauncefote.

No. 634.] DEPARTMENT OF STATE,
Washington, April 9, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, transmitting to me a copy of a draft ordinance for restricting the importation of alcoholic liquors for the use of the native population in Zanzibar, which has been prepared in communication with the German Government. In communicating the proposed measure to this Government, you express, on behalf of Her Majesty's Government, the hope that you may receive early information on the acquiescence of the United States in its terms.

The subject of the stringent regulation of injurious liquor traffic with the natives of Africa received earnest attention on the part of this Government at the time of the Brussels conference, and strongly expressive measures were then advocated by the representatives of the United States. It therefore gives me pleasure to view, in the communication now made to me, a further application of the beneficent principle for which this Government has contended.

I have, etc., JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 13, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 634, of the 9th instant, in which you inform me of the acquiescence of your Government in the proposed draft ordinance for restricting the

importation of alcoholic liquors for the use of the native population in Zanzibar.

I have had much pleasure in transmitting a copy of your note to my Government.

I have, etc., JULIAN PAUNCEFOTE.

PROTECTION OF FUR SEALS IN BERING SEA.[1]

To the Senate of the United States:

I transmit herewith, in answer to the resolution of the Senate of May 25, 1897, a report from the Secretary of State, accompanied by copies of correspondence of record in the Department of State touching the protection of fur seals in Bering Sea and the North Pacific Ocean.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, December 18, 1897.

The PRESIDENT:

The Secretary of State, to whom was referred the resolution passed in the Senate of the United States May 25, 1897, requesting the President, "if in his opinion it is not incompatible with the public interests, to send to the Senate the correspondence in the Departments of State and of the Treasury, not heretofore printed, relating to the fur seals in Bering Sea and the North Pacific Ocean," has the honor to lay before the President, to the end that they may, if not incompatible with his judgment, be transmitted to the Senate, copies of the correspondence of record in the Department of State relative to the fur seals in Bering Sea and the North Pacific Ocean.

Under date of the 6th instant the Secretary of the Treasury replied as follows:

Acknowledging the receipt of your letter of the 2d ultimo, wherein, referring to Senate resolution of May 25 ultimo, by which the President is requested to transmit to the Senate copies of correspondence in the Treasury and State Departments relative to fur seals in Bering Sea and the North Pacific Ocean, you suggest, to avoid duplication, that this Department transmit you copies of such correspondence as it may have pertinent to the subject of said resolution, I have the honor to inform you that there is no correspondence in this Department on the subject of said resolution except that had with your Department, the originals of which are in your possession.

Respectfully submitted.

JOHN SHERMAN.

DEPARTMENT OF STATE,
Washington, December 17, 1897.

Mr. Olney to Sir Julian Pauncefote.

No. 557.] DEPARTMENT OF STATE,
Washington, December 15, 1896.

EXCELLENCY: With reference to the Department's note of October 13 last, proposing the temporary postponement of the correspondence concerning the regulation of pelagic sealing in Bering Sea and the

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[1] Reprinted from Senate Doc. No. 40, Fifty-fifth Congress, second session.

North Pacific Ocean, I have now the honor to observe that the suspension of the discussion left two unsettled questions pending; first, as to permitting seal skins landed at British ports to be examined by American inspectors for the purpose of determining their sex and whether or not said skins had been shot in violation of the Paris award and the British law; and, second, the proposal for amending the regulations on the subject of the use of firearms by pelagic sealers.

In reopening the subject I wish to say that the Department assumes that Her Britannic Majesty's Government, in suggesting that the certificates of search and the sealing up of arms (see Lord Gough's note of September 21, 1896) shall be accepted by patrolling officers as conclusive evidence that no firearms are concealed on board, in effect proposes that, under such circumstances, there shall be no search whatever of such vessels. The Government of the United States does not think that the arrangement ought to be made on that line. It considers a search useful for two purposes; first, it discloses whether firearms or other implements are on the vessel during any prohibited time in violation of law, and, second, whether there are on board any seal skins, if in a close season, and whether there are any skins which have been shot, if the vessel has been engaged in sealing in Bering Sea where the use of firearms is prohibited.

While the suggestion of Her Majesty's Government, if adopted, might properly be accepted as satisfactory evidence that there were no firearms or implements forbidden to be used concealed on board the vessel, there would still remain the second question, as to whether or not in the close season there were on said vessel skins freshly killed, or, if in Bering Sea, shot. As regards American vessels, this latter question is settled by a careful inspection of each skin landed by an expert inspector. This precaution, however, although adopted by the United States upon the broad ground that it is absolutely essential for preventing the unlawful destruction of fur seals, Her Majesty's Government refuses to adopt and declines to afford the United States an opportunity to make this inspection for itself by its duly appointed inspectors.

Under the circumstances it will readily appear that if the United States were to accept the suggestion of Mer Majesty's Government above referred to it would result in discrimination against American vessels in favor of those of Great Britain. At this time the mere fact of the sealing up of arms does not protect American vessels from being searched; on the contrary, they have been searched as thoroughly and as rigidly as have the British vessels. The sealing up of arms is merely a part of the evidence from which the boarding officer knows that said arms could not have been used in killing seals. To accept the suggestion of Her Majesty's Government and cease to search British vessels, especially in consideration of the fact above stated, that United States vessels are rigidly searched, and that no examinations of skins are made at British ports, would be to discriminate doubly against American vessels.

It is believed by this Government to be practicable to discover by an examination of skins landed whether the seals have been shot or speared; also as to their sex, except in the case of pups. This method, I may observe, has been in practice for the past two years by the Government of the United States with most satisfactory results, and I take pleasure in transmitting herewith for the information of Her Majesty's Government copies of a Treasury circular, No. 75, dated April 12, 1895, giving full instructions respecting the pelagic catch of fur seals.

The sole object of the proposals heretofore made by this Government concerning these subjects was to prevent the unlawful destruction of the fur seals, an object clearly within the purview of the Paris award, and which seems plainly indispensable under existing circumstances to the proper execution of the respective laws enacted by the United States and Great Britain to carry that award into effect. Nor am I able to perceive that the proposed regulations would interfere with any lawful business carried on by Her Majesty's subjects.

In view of the fact that the time is nearly at hand when the regulations for the season of 1897 should be agreed upon, it is hoped that Her Majesty's Government will find it convenient to give the subject early attention, and to afford this Department the benefit of any suggestions it may have to present.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 587.]

DEPARTMENT OF STATE,
Washington, January 3, 1897.

EXCELLENCY: Referring to the Department's note of the 15th ultimo, concerning the regulation of pelagic sealing in Bering Sea and the North Pacific Ocean, and particularly as to the unsettled questions relative to the inspection of skins and the use of firearms, I have the honor to acknowledge the receipt of your note of the 16th instant, stating that the former regulation can not be made compulsory without legislation by the Canadian Parliament, and that until the views of the Canadian Government have been received, that of Her Majesty can not go beyond the offer made in Viscount Gough's note to Mr. Rockhill of September 26, 1896.

In reply I beg to say that the Department would be much pleased, in view of the near approach of the sealing season, to be informed as to when the Canadian Government will probably be prepared to take action in regard to the question of the inspection of seal skins.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 16, 1897.

SIR: In your note No. 557, of the 10th ultimo, concerning the regulation of pelagic sealing in Bering Sea and the North Pacific Ocean, you observed that the suspension of the discussion left two unsettled questions pending: First, as to permitting seal skins landed at British ports to be examined by American inspectors for the purpose of determining their sex and whether or not such skins have been shot in violation of the Paris award and the British law; and, second, the proposal for amending the regulations on the subject of the use of firearms by pelagic sealers.

I have the honor to state that I communicated a copy of your note to my Government, and that I have been instructed by the Marquis of Salisbury to explain in reply thereto that the compulsory examination of skins by experts on landing at British ports would require legisla-

tion in Canada, and that until the views of the Canadian Government have been received Her Majesty's Government can not go beyond the offer made in Viscount Gough's note to Mr. Rockhill of September 21, 1896.

I have, etc.,

JULIAN PAUNCEFOTE.

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r. Sherman to Sir Julian Pauncefote.

No. 613.] DEPARTMENT OF STATE,
Washington, March 12, 1897.

EXCELLENCY: Adverting to the Department's note of December 16 last, in regard to the proposed adoption of amended regulations for pelagic sealing in Bering Sea and the North Pacific Ocean, particularly as to those concerning the inspection of skins and the use of firearms, and to your note of the 16th of January last, stating that the proposed regulations in so far as the same relate to the inspection of skins can not be made compulsory without legislation by the Canadian Parliament, I have the honor, in view of the near approach of the opening of the sealing season, to recall your attention to Mr. Olney's note of January 23 last, asking to be informed of the date when the Canadian Government would take action in regard to the question of the inspection of seal skins.

The urgency of this matter must be apparent to Her Majesty's Government, for which reason I trust that you will do all that lies in your power to expedite a reply upon this subject.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 23, 1897.

SIR: With reference to an inquiry made by your predecessor on January 4 last, respecting the report of Prof. D'Arcy W. Thompson, British commissioner in charge of the fur-seal investigations for 1896, I have the honor to inform you, by the direction of the Marquis of Salisbury, that no formal record of proceedings has yet been received from Professor Thompson, but that Her Majesty's Government will be happy to furnish the United States Government with a copy of his definite report, which is in a forward state of preparation, as soon as it has been printed.

From such information as has hitherto been furnished by Professor Thompson, and the facts as to the present condition of the seal herd set forth in Dr. Jordan's report, there is apparently no reason to fear that the seal herd is threatened with early extermination.

Her Majesty's Government, however, believe that some modification of the sealing regulations will be required at the expiration of the five years' term which was named by the Arbitration Tribunal of 1893. That period expires at the close of the season of 1898, and it would be desirable that the discussion of the modifications which may be found necessary should take place in the course of that year, in order that the revised regulations may be ready for adoption before the sealing season of 1899. And with this object in view, Her Majesty's Govern-

ment are very desirous of sending out special agents again in June next to carry on further inquiries and observations in the Pribilof Islands.

Professor Thompson has stated to Her Majesty's Government his views as to the various points in regard to seal life, which require further investigation to enable Her Majesty's Government to consider the question of revising the regulations.

The statistics of former observers were found to afford no evidence on which an accurate estimate of the diminution in the number of seals could be based, but the careful count of the seals which was made last summer forms a valuable standard for comparison. It is very essential to ascertain as far as possible what has been the result of last season's operations on land and at sea, and also to obtain the latest information as to the number of seals frequenting the islands.

The result of the joint investigations showed that no great difficulty was found in taking 30,000 seals on land in 1896; and whatever number it may be decided to kill this year, it is important to observe with what degree of facility the total is reached.

For these reasons Professor Thompson is anxious that British agents should again be appointed with the same powers and the same freedom of action as they enjoyed last year.

In communicating the above I am directed by my Government to express the hope that the facilities and accommodations which were last year provided for the British agents may be likewise afforded on this occasion.

I may add that agents will be sent to the Commander and Robben islands, and that an application has been made to the Russian Government on this subject.

I am informed by telegraph by the Marquis of Salisbury that Professor Thompson is desirous of starting on April 8 via Japan, and to visit the Russian islands in the first instance.

In view of the very short time which remains, I venture to ask you to be good enough to favor me with a reply to this note at your earliest convenience in order that I may be able to report by telegraph to Lord Salisbury whether the United States Government are willing to afford the facilities to which I have above alluded to the British agents.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 24, 1897.

SIR: With reference to your note, No. 613, of the 12th instant, in regard to the proposed adoption of amended regulations for pelagic sealing in Bering Sea and the North Pacific Ocean, particularly as to those concerning the inspection of skins and the use of firearms, I have the honor to inform you that I am in receipt of a dispatch from the Marquis of Salisbury stating that Her Majesty's Government are still in correspondence with the Canadian Government respecting the regulations desired by the United States Government providing for the examination of seal skins at Canadian ports and for the sealing up of firearms on board British vessels, and that a further communication will be made on these subjects as soon as possible.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Carter to Mr. Sherman.

No. 902.] EMBASSY OF THE UNITED STATES,
London, March 31, 1897.

SIR: I have the honor to inclose herewith clippings from the London Times of to-day containing a question and answer in the House of Commons yesterday with reference to the existing regulations in relation to the seal fisheries in Bering Sea, from which it will be observed that it is thought some modification in the regulations may be found desirable at the end of 1898, but that no revision of the same will be adopted without reference to the Dominion Government.

I have, etc.,

JOHN RIDGELY CARTER.

[Inclosure in No. 902.—Extract from the Times, Wednesday, March 31, 1897.]

Bering Sea fisheries.

In answer to Mr. Seton-Karr (St. Helens)—
Mr. CURZON (Lancashire, Southport) said: The reports of the British commissioners have been received and are under examination. It is thought that some modification of the existing regulations may be found desirable at the end of 1898, the period fixed by the arbitration tribunal for their reconsideration. No revised regulations will be adopted without previous communication with the Dominion Government.

Mr. Sherman to Mr. White (chargé).

[Telegram.]

DEPARTMENT OF STATE.
Washington, April 8, 1897.

The President is greatly concerned as to the present depleted condition and the prospective early extinction of the Alaskan seal herd. In the midst of the cares attending organization of his Administration the subject has forced itself on his attention, and he is convinced that it is indispensable that immediate steps be taken to stop indiscriminate slaughter through pelagic sealing.

This is result of Jordan's investigation and believed confirmed by Thompson. You are instructed to bring subject to immediate attention of British Government, communicate President's concern and urgent expectation that effective measures be at once adopted by the respective Governments. He deems it requisite that a modus vivendi should be agreed upon with equitable provision for interests involved suspending all killing for the season '97 in Bering Sea, taking modus of '91 as basis. This is to be accompanied by an arrangement for a joint conference at an early day of Powers concerned to agree upon measures necessary to preserve the seals of the North Pacific from extermination and to restore them to their normal conditions for insuring continued existence. It will not satisfy the President to be informed that the British Government proposes to take up the subject at the close of next year's season, as contemplated in the Paris award. If destruction goes on meanwhile, there will be no occasion for conference then. Action as indicated must be taken now if herd is to be saved. If modus agreed to, full liberty will be given Professor Thompson and assistants to visit islands. You will urge an early answer to proposal,

as President desires to know whether he can rely upon friendly cooperation with Great Britain. In case of refusal, he must early consider what measures independent of that Government he shall adopt

It is suggested that you communicate to Russian ambassador purport of this instruction, with a view to securing his cooperation on assurance that modus should, in opinion of President, include waters of Russian islands and conference embrace his Government.

SHERMAN.

Mr. Sherman to Sir Julian Pauncefote.

No. 636.] DEPARTMENT OF STATE,
Washington, April 9, 1897.

EXCELLENCY: Circumstances beyond my control have delayed an answer up to this time of the note which you did me the honor to address me under date of the 23d ultimo, wherein you advise me of the desire of your Government that Professor Thompson should revisit the seal islands in Bering Sea, and that the same facilities and accommodations which were last year provided for the British agents may be afforded on the comtemplated visit.

The Government of the United States has always cheerfully welcomed the visit to the Pribilof Islands of duly authorized British agents who were desirous of making an impartial and scientific study of the seal herd which has its home on those islands, and if your note had been confined to this request, it would have received the prompt and favorable reply for which you expressed a desire. But it contained statements of fact and conclusions reached by Her Majesty's Government of such a serious character that I felt it my duty to lay the note before the President for his consideration and instructions. Notwithstanding the many and absorbing questions which demand his time in the inauguration of his Administration, he has given to the subjects suggested by your note the preferential attention which their importance demanded, and though he has as promptly as possible devoted his time to the examination and consideration of the facts and correspondence, I have not until the present been able to make the response to your note which a due regard for its tenor required.

The President instructs me to say that he is greatly concerned as to the present depleted condition and the prospective early extinction of the Alaskan seal herd. He can not agree with your note as to the conclusions reached by Dr. Jordan in his report. Unfortunately for the Government of the United States, it does not have the information contained in Professor Thompson's report possessed by Lord Salisbury. Feeling that the result of the investigation made in 1896 by the scientists of the two Governments should be respectively made known to each other at the earliest practicable date, my predecessor caused Dr. Jordan's report to be promptly prepared, and copies of it have been in the hands of the British Government for some time past. It is much regretted that a similar course was not pursued as to the report of Professor Thompson, and peculiarly unfortunate that another season of pelagic sealing should be entered upon without any opportunity on the part of my Government to examine that report.

The President is therefore forced to reach his conclusion on the points treated of in your note by a careful study of Dr. Jordan's report and

other ascertained facts and statistics. Dr. Jordan's report shows conclusively that there has been a distinct and steady decrease both in the total number of breeding seals and in the number of breeding cows in the season of 1896 as compared with that of 1895. It further appears from said report conclusively that this diminution has been caused by pelagic sealing, the most destructive effects of which are manifested in Bering Sea in August, at which time at least two-thirds of the catch consists of females, who are then leaving the islands for food for their pups. It is further shown that the number of pups thus dying from starvation, their mothers having been killed at sea, amounts, for the season of 1896, to 14,473. It is further apparent from said report that it was as easy in 1880 to procure on land 100,000 skins of the same quality as those taken during the season of 1896 as it was to obtain the catch of last year, namely, 30,000. The number of breeding females is not over one-fourth as many now as in 1880. These facts lead Dr. Jordan to the positive conclusion that pelegic sealing will ultimately result in the practical extinction of the herd.

Turning to the statistics of the catch in Bering Sea, it appears that 37 vessels in 1894 killed 31,585 seals, while in 1896 67 vessels only secured 29,500. The average catch per vessel in Bering Sea in 1894 was 853 as compared with 440 in 1896. It may be claimed that the land catch increased in 1896, as compared with 1895, from 15,000 to 30,000, and that this may have had some influence upon the decrease of the pelagic catch of 14,669 in 1896 as compared with 1895. It should be remembered, however, that the average percentage of females to males in the Bering Sea catches of both British and American vessels was about two-thirds females to one-third males. At the utmost, therefore, the increased catch on the islands would have affected the pelagic catch a little more than 4,000 skins, leaving a decrease of at least 10,000 unaccounted for except by a falling off in the female seals. It should further be remembered that the catch on the islands was increased in 1896 to 30,000, because it was plain, upon scientific investigation, that the dangerous mortality among female seals brought about by pelagic sealing has left the number of bulls greatly in excess of the due proportion between the sexes, and to properly care for the herd it became necessary to remove, as far as possible, this menacing excess of male life upon the islands.

The further startling fact appears that in Bering Sea the total catch decreased from 44,169 in 1895 to 29,500 in 1896, a decrease of 33 per cent in the herd's capacity to yield a pelagic catch, and if allowance is made for the seals which the pelagic sealer was prevented from taking by the increased land killing of 1896, the percentage of decrease in the capacity of the herd for such a yield is still found to be about 25 per cent in one year. When it is further considered that the present number of breeding seals (a little over 143,000 in 1896) is but little more than one-half of the number (280,000) computed to be on said islands in 1890, it must become evident that before arrangements can be concluded for the new regulations for the season of 1899 there is grave reason to fear that the herd will have reached a stage so low that recuperation can be secured only with great difficulty, if at all.

From the foregoing and other facts which might be cited, the President is forced to express his strong dissent from the conclusions which seem from your note to have been reached by Her Majesty's Government, that there is no such imminent danger of the early extermination of the seal herd as to call for any action by the two Governments

before the close of the season of 1898. On the contrary, he feels that if the destruction goes on meanwhile there will be little occasion for action then, as the herd will be so far reduced as to render its further protection fruitless. The expression "no reason to fear that the seal herd is threatened with early extermination" is noted with surprise. Is it the intention of the British Government to delay action until the verge of extinction is reached? Does that course commend itself to its sense of justice and humanity? Is it right that the great interests of a friendly power and the existence of a useful race of animals should be exposed by the continual practice of a means of slaughter which it is conceded will ultimately result to their destruction?

The Paris Tribunal reached the conclusion, upon the facts before it, that a certain amount of pelagic sealing could be carried on without serious danger to the continued existence of the herd, and upon this conviction it authorized the practice of pelagic sealing under certain restrictions as to time and methods. But the experience of the past years since the decision at Paris has shown that the conclusion there reached is not sustained by the facts, and that pelagic sealing, if persisted in, will sooner or later result in practical extermination. Such being the ascertained fact, it seems to the President just and right that the practice authorized by the tribunal under a fallacious conclusion should be abandoned or modified in such a way as to accomplish the declared purpose of the Paris arbitration—the continued existence and preservation of the herd.

In view of the foregoing conclusions, the President has directed me to communicate by cable to the embassy in London his desire that the subject be brought at once to the attention of Lord Salisbury, with his urgent request that a modus vivendi should be agreed upon, with equitable provision for the interests involved, suspending all killing for the season of 1897, and that this should be accompanied by an arrangement for a joint conference at an early day, of the powers concerned, to agree upon measures necessary to preserve the seals of the North Pacific Ocean from extermination and to restore them to their normal condition for insuring continued existence. Our representative in London was instructed to urge an early answer to the proposal, as the President desired to know whether he could rely upon the friendly cooperation of Great Britain.

In communicating to you, Mr. Ambassador, the foregoing action of the President, I invoke your good offices with your Government at London to secure from it such favorable action as will tend to cement our relations of cordial cooperation and friendship.

I have, etc.,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

[Telegram.]

LONDON, *April 12, 1897.*

On the receipt of your instructions by cable relative to seals last Friday I at once saw Russian ambassador, who promised to telegraph to his Government. I addressed a note embodying your instructions to foreign office on the 10th, and presented matter personally also same day. Lord Salisbury is absent, but prompt attention promised.

WHITE.

Mr. White to Mr. Sherman.

No. 914.] EMBASSY OF THE UNITED STATES,
London, April 13, 1897.

SIR: I have the honor to inclose herewith the translation of a telegram which I received from you on the 9th instant, relative to the Alaskan seal question, and of the reply which I sent you yesterday.

I also inclose a copy of a note which I thereupon addressed to Her Majesty's Government, and which I handed at the foreign office, in the absence on the Continent of the Marquis of Salisbury, to the Hon. Francis Villiers, the assistant under secretary, who has charge of the American department.

Mr. Villiers at once read the note, but was not in a position, of course, to make any reply to the proposal therein made. He said, however, that it should receive the prompt attention of Her Majesty's Government. I have since received a note from him to the same effect, of which I inclose a copy herewith, together with two telegrams from the American correspondent of the Times, and a leading article from that newspaper on the subject.

I had previously seen the Russian ambassador, to whom I communicated the views of the President and yourself relative to the seal question. His excellency said that the matter is one in which his Government takes much interest, and he promised to telegraph at once on the subject to St. Petersburg.

I shall lose no time in communicating to you by telegraph the substance of any answer which I may receive from the ambassador or from the foreign office prior to the arrival of Mr. Hay.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 914.]

Mr. White to the Marquis of Salisbury.

EMBASSY OF THE UNITED STATES,
April 10, 1897.

MY LORD: I have the honor to inform your lordship that as a result of the investigations made last year in Alaskan waters by Dr. Jordan, with whose views Professor Thompson, who was sent by Her Majesty's Government to make similar investigations, is believed to concur, the present state of the Alaskan seals has forced itself, in the midst of the many cares attending the organization of his Administration, upon the attention of the President of the United States, to whom the depleted condition and prospective early extinction of the herd are a matter of grave concern.

I have received urgent telegraphic instructions, therefore, to bring the subject to the immediate attention of Her Majesty's Government, and to communicate the President's earnest hope and expectation that effective measures may at once be adopted by the respective Governments with a view to putting a stop to the indiscriminate slaughter of the seals through pelagic sealing.

I am instructed to suggest to Her Majesty's Government that, in the opinion of the President, a modus vivendi based upon that of 1891, with equitable provision for the various interests involved, suspending all killing of seals during the season of 1897 in Bering Sea, should

be agreed upon without delay, and that this should be accompanied by an arrangement for a joint conference, at an early day, of the Powers concerned, for the purpose of agreeing upon the measures necessary for the preservation of the seals in the North Pacific from extermination and of restoring them to their normal condition, with a view to their continued existence.

To defer taking up the subject until after the termination of the season of 1898, as contemplated by the award of the Tribunal of Arbitration at Paris, would, in the opinion of my Government, be fatal to the object in view, as, should the destruction continue during two more seasons, there will be no occasion, owing to the disappearance of the seals, for a conference.

The President sees, therefore, no escape from the conviction that there is urgent necessity for prompt action, such as I now have the honor to propose in his behalf, and in so doing I am instructed to say that if Her Majesty's Government should see their way to agreeing to the modus vivendi herein suggested my Government will have pleasure in giving full opportunity to Professor Thompson and his assistants to visit the seal islands in accordance with the request to that effect which has been made by the British ambassador at Washington.

In view of the approach of the sealing season and of the consequent importance that the President should be in a position to know as soon as possible whether he may count, as he hopes, upon the friendly cooperation in this matter of Her Majesty's Government, I have the honor, in accordance with instructions from the Secretary of State, to ask your lordship to be so good as to cause a reply to be sent to this note at the earliest date which may be practicable.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 914.]

Mr. Villiers to Mr. White.

FOREIGN OFFICE, *April 12, 1897.*

SIR: I had the honor to receive the note which you were good enough to leave at this office on the 10th instant, conveying proposals from the United States Government for a fresh "modus vivendi," similar to that of 1891, with regard to seal fisheries in Bering Sea, and for an arrangement for a joint conference of the Powers concerned, to discuss the measures necessary for the preservation of the seals.

Your communication will receive the immediate consideration of Her Majesty's Government.

I have, etc.,

F. H. VILLIERS.
(For the Marquis of Salisbury).

Mr. Sherman to Sir Julian Pauncefote.

No. 643.] DEPARTMENT OF STATE,
Washington, April 16, 1897.

EXCELLENCY: I have pleasure in confirming and repeating the oral assurance heretofore given you, that the Government of the United States will welcome the visit of Professor Thompson to the Pribilof

Islands, and that orders will at once be issued to the authorities on the islands to extend to him the same facilities granted him during his visit last year.

I have, etc. JOHN SHERMAN.

Mr. White to Mr. Sherman.

[Telegram.]

LONDON, *April 17, 1897.*

Have obtained at this moment advanced copy of report. Forwarded by the dispatch bag leaving to-day by the *Umbria.*

Minister for foreign affairs not yet heard from, nor Russian Government, relative to proposed modus. I was informed at foreign office to-day that British ambassador had cabled you had assented to request of British Government for Thompson and assistants to visit islands this year.

WHITE.

Mr. White to Mr. Sherman.

No. 918.] EMBASSY OF THE UNITED STATES,
London, April 17, 1897.

SIR: Referring to your instruction numbered 1479, of the 9th instant, which reached this embassy to-day, and to your cablegram of yesterday's date, of which I inclose a copy, I have the honor to transmit herewith an advance copy of Prof. D'Arcy Thompson's report on his mission to the Bering Sea in 1896, which I have just succeeded in obtaining at the foreign office at 2 o'clock, and which I hasten to send off by the dispatch bag, leaving in a few minutes.

It is dated March 4 last, but the inclosed copy is, I understand, the first which has been completed, and it was brought to me while I waited at the foreign office.

While there I ascertained from the under secretary that my note on this subject of the 10th instant had been sent to the Marquis of Salisbury, who is still in the south of France, by the first available messenger, after I left it at the foreign office, but that, up to the present moment, no communication has been received from his lordship in reference thereto.

I was further informed that a telegram had been received from the British ambassador at Washington, stating that you had assented, in behalf of our Government, to the request of Her Majesty's Government that Prof. D'Arcy Thompson and others should again visit the Pribilof Islands this summer for the purpose of carrying on further investigations relative to the seal herd. It is apparently understood by the ambassador, and certainly by the foreign office, that this assent is not conditional upon that of Her Majesty's Government to our proposal for a modus vivendi. * * *

I have, etc., HENRY WHITE.

Mr. White to Mr. Sherman.

[Telegram.]

LONDON, *April 20, 1897.*

Daily Mail newspaper states to-day Dr. Jordan has announced that we shall brand female seals if the British Government refuses our proposals for their protection. Am I authorized under the circumstances to inform foreign office verbally informally the statement is true? Infer from your instruction 1479 branding not then positively decided upon. If it is I think suggested communication might be advantageous.

WHITE.

Lord Salisbury to Sir Julian Pauncefote.

[Personally handed to the Secretary of State by British ambassador.]

FOREIGN OFFICE, *April 21, 1897.*

SIR: I transmit to your excellency herewith a copy of a note from the United States chargé d'affaires, stating that he has received instructions to bring the question of the fur-seal fishery in the North Pacific to the immediate attention of Her Majesty's Government, and to express the earnest hope of the President that effective measures may be at once taken by the respective Governments in order to put a stop to the indiscriminate slaughter of the seals through pelagic sealing.

It is suggested that a "modus vivendi" similar to that of 1891 should be agreed to, to be followed by a joint conference of the powers concerned, with a view to the necessary measures being adopted for the preservation of the seals in the North Pacific.

It is further stated, in the event of Her Majesty's Government concurring in these proposals, full opportunity will be given to Prof. d'Arcy Thompson to visit the seal islands in accordance with the request which was made to the United States Government through your excellency.

Her Majesty's Government were convinced that the United States Government did not intend to refuse all further opportunity for investigation unless these proposals were accepted, and I have accordingly been glad to receive your excellency's telegram No. 42 of the 14th instant, stating that the requisite facilities will be accorded to Professor Thompson to enable him to visit the islands again this season, and that Dr. Jordan will, it is hoped, join him in his tour.

The above urgent application is reported to be based on the result of Dr. Jordan's investigations last year, in which it is stated Professor Thompson is believed to concur.

I am now able to inclose, for communication to the United States Government, copies of Mr. Thompson's report, from which it will be seen that the President is mistaken in supposing that in the opinion of the British agent there is any immediate cause for alarm. Dr. Jordan's report, moreover, has been carefully examined and does not appear to contain any facts which would warrant the statement made in Mr. White's note as to the "depleted condition and prospective early extinction of the herd." On the contrary, both reports are generally to the effect that the number of seals in 1896 show no evidence of any measurable diminution as compared with 1895, and that no immediate danger is to be apprehended to the herd, which appears to be in a much better condition than was reported in 1894 and 1895.

For instance, in commenting on the statistics of 1895–96 for St. George Island, Mr. Thompson states, at page 7 of his report, that although the figures may not afford any positive evidence of an actual increase of the herd between the seasons of 1895 and 1896, on the other hand it is abundantly clear that there is no evidence at all to show a decrease during that period, and that the state of the herd on the island is at least very much better than it was believed to be from the reports of the American agents in 1896. He further observes (page 17) that had the decrease in the rookeries been as great and evident as it was reported to be up to 1895 the next twelve months would surely have shown signs still more unequivocal of continued impoverishment of the stock.

The photographs, however, show, with very few exceptions, an identical record. The harems were counted in both years by the same agents, and all the rookeries but one show a large increase in the latter year.

Owing to the stormy weather prevailing during last sealing season the pelagic catch was much reduced, the catch in Bering Sea having only been about two-thirds of that of 1895. The low prices, moreover, realized for last year's skins are likely to lead to a smaller number of vessels fitting out for the fishery this season, and there is therefore no information before Her Majesty's Government to warrant the belief of the United States Government that to defer taking up the subject until after the season of 1898 would be fatal to the preservation of the herd.

Similar statements as to the immediate disappearance of the herd have been made in previous years, but experience has shown that the fears then expressed were groundless, and Her Majesty's Government are convinced that they will prove to be equally so on the present occasion.

The small catch and low prices obtained for the skins last year brought many of the owners of the sealing vessels to the verge of bankruptcy, and were Her Majesty's Government to prohibit pelagic sealing altogether for this year it would mean the probable ruin of a considerable number of British subjects engaged in a lawful industry. Of course, if the United States Government are prepared to give adequate compensation to the sealing fleet on account of its enforced abstention from the fishery this season, Her Majesty's Government would have no reason for refusing their assent to the proposal for a "modus vivendi," but they do not gather that such is the case, and it would be impossible for them to submit a note to Parliament for the purpose, holding, as they do, that no sufficient reason has been shown for its necessity.

As regards the proposed conference, Her Majesty's Government are of opinion that further investigation is necessary on many points connected with seal life before the questions at issue could be discussed with the hope of attaining any satisfactory result.

Dr. Jordan and Professor Thompson are agreed that it is most important that an accurate count of seals on the principal rookeries should be made during several seasons, in order to ascertain the changes from year to year, and there are other important points mentioned in the conclusion of Mr. Thompson's report, on which, pending further inquiry, he finds it desirable to suspend judgment.

It is admitted that the investigation carried out last year afforded for the first time any really reliable statistics in regard to the condition of the herd, and that all previous reports received on the subject are practically valueless for purposes of comparison.

To estimate accurately the effect on the herd of the various agencies now at work, reliable statistics extending over a sufficient period to enable accidental circumstances to be eliminated should be available, and Her Majesty's Government must adhere to the view set forth in my dispatch, No. 42, of the 6th ultimo—that further investigation is required before the question of revising the regulations can be considered.

Your excellency will read this dispatch to the Secretary of State, and leave a copy of it with him should he desire it.

I am, etc., SALISBURY.

Mr. Sherman to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 24, 1897.

Our patrol fleet sails May 1. Sealing vessels returning with spring catch will also put to sea about same time. Modus, to be effective, should be agreed upon without delay. Explain situation and renew effort for answer from British Government.

SHERMAN.

Mr. Hay to Mr. Sherman.

No. 12.] AMERICAN EMBASSY,
London, April 27, 1897.

SIR: I have the honor to inform you that I have received your cipher telegram, dated the 24th, on Sunday, the 25th, a copy of which I inclose.

To-day, at the earliest hour possible, I went to the foreign office and asked for an audience with Sir Thomas Sanderson, the permanent under secretary who, in the absence of Lord Salisbury on the Continent, is in charge of foreign affairs. I expressed to him the earnest desire of the President for an immediate and, if possible, a favorable reply to your suggestion of a new modus vivendi for the suppression of pelagic sealing for this season, and for a conference of the Powers interested for the purpose of adopting some definite plan for the preservation of the seal herd now threatened with extinction. I went over some of the considerations embraced in your instruction showing the rapid decrease in breeding seals and the necessity for prompt action to prevent the total extinction of the species. I said the interests of England and the United States were identical in the matter; that the business of sealing would be lost to the Canadians by the extinction of the seals, as well as the handling of the product in London. I mentioned the 1st of May as the date of sailing of the patrol fleet and of the departure of the sealing vessels, and explained the urgency of the President in requesting immediate light upon the intentions of the British Government, so that if they should unfortunately conclude to decline the suggestion of the President for a modus vivendi he might be free to take such other measures for the protection of the seals as the exigencies of the case might seem to require.

Sir Thomas Sanderson said the information in the possession of the British Government led them to a conclusion altogether different; that

while there might be a certain diminution in the numbers of the herd, there was no danger of entire extermination; that the number of sealing vessels was considerably diminished from that of last year; that with the diminution of the seals pelagic sealing would doubtless become less profitable and would gradually be given up, and that those engaged in the land-killing of seals would then have control of the business. He said that the fact of the sealers starting about the 1st of May was less important in view of the fact that they went first to the coast of Japan and could be communicated with, if necessary, later on.

Referring to the mention of the reports from the British commissioners, I said that the conclusion of Mr. Thompson did not seem in entire accordance with the facts on which they were based. His statistics showed great mortality among the young seals, which apparently was caused by starvation.

In reply to my repeated solicitations for an early answer he said Lord Salisbury would not arrive until about the 1st of May; that the matter could not be fully brought before him until his arrival; but he proposed to consult with the colonial secretary, Mr. Chamberlain, and with Mr. Bertie, who had been paying especial attention to the matter. He regretted the absence of Mr. Villiers, who was particularly informed as to this subject, but who was away on a week's vacation.

Sir Thomas Sanderson then took me to see Mr. Bertie, who at the outset of our conversation mentioned the subject of compensation to interests involved in pelagic sealing. I told him that the President proposed that any modus vivendi adopted should contain equitable provision for legitimate interests involved. He said it was not probable that the Government of Her Majesty would be inclined to make any change in the present regulations; that they did not believe the seals were in any danger of extermination; that an instruction had been sent to Sir Julian Pauncefote last Friday, which ought to be in Washington the last of this week. In reply to my inquiry as to the drift of this instruction, he said it could not be communicated until confirmed by Lord Salisbury, but that the substance of it was that the British Government saw no reason to make any change in the existing regulations. He repeated the belief of the Government that there was no danger of the extinction of the seals. I told him that the opinion of the President, derived from a careful study of the subject, was exactly the contrary.

Returning from the foreign office, I sent you the telegram, a copy of which I inclose.

I have, etc., JOHN HAY.

Mr. Rockhill to Sir Julian Pauncefote.

No. 652] DEPARTMENT OF STATE,
Washington, April 27, 1897.

EXCELLENCY: In view of a letter from the Secretary of the Treasury of the 24th instant, I have the honor to apprise you that the President has designated the revenue steamers *Bear*, *Rush*, *Perry*, *Corwin*, and *Grant* to cruise in the North Pacific Ocean and Bering Sea, including the waters of Alaska within the dominion of the United States, for the enforcement of the acts of Congress approved April 6 and 24, and June 5, 1894, giving effect to the award rendered by the Tribunal of Arbitration at Paris for the preservation of fur seals and the issuance

of regulations governing vessels employed in fur-seal fishing during the season of 1896.

In this connection your attention is respectfully called to Article I of the British Order in Council, dated April 30, 1894, as follows:

The commanding officer of any vessel belonging to the naval or revenue service of the United States of America and appointed for the time being by the President of the United States for the purpose of carrying into effect the powers conferred by this article, the name of which vessel shall have been communicated by the President of the United States to Her Majesty as being a vessel so appointed as aforesaid, may, if duly commissioned and instructed by the President in that behalf, seize and detain any British vessel which has become liable to be forfeited to Her Majesty under the provisions of the recited act, and may bring her for adjudication before any such British court of admiralty as is referred to in section 103 of "The merchant shipping act, 1854" (which section is set out in the second schedule to the recited act), or may deliver her to any such British officer as is mentioned in the said section, for the purpose of being dealt with pursuant to the recited act.

Asking that the foregoing information may be imparted to Her Majesty's Government,

I have, etc.,

W. W. ROCKHILL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 29, 1897.

SIR: I have the honor to inform you that I communicated to my Government the contents of your note No. 643, of the 16th instant, stating that orders would be issued to the authorities on the Pribilof Islands to extend to Professor Thompson the same facilities as were granted to him during his visit last year.

I am now informed by Lord Salisbury that it is proposed that Mr. Macoun, who accompanied Professor Thompson last year, should again act under his direction and with his assistance.

I venture, therefore, to ask you to be good enough to extend to Mr. Macoun the same facilities as have kindly been accorded to Professor Thompson, in order that Mr. Macoun may be enabled to commence his investigations prior to Professor Thompson's arrival on the islands.

Lord Salisbury further informs me that Professor Thompson proposes to visit the Russian islands first. He hopes to reach Yokohama on about the 30th proximo and to proceed to the Russian islands, where he will remain until about the end of July.

I am directed by Lord Salisbury to inform you, in communicating the above intelligence, that if Dr. Jordan wishes to join Professor Thompson a passage from Yokohama to the Russian islands could be provided for him on board one of Her Majesty's ships.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Hay to Mr. Sherman.

No. 18.] AMERICAN EMBASSY,
London, May 1, 1897.

SIR: I have the honor to call your attention to the inclosed article from the Saturday Review, which will show that public opinion in England is not entirely unanimous in favor of the claims of Canada and of

the action of the British Government in declining to consider the subject of new regulations for the protection of seal life.

I have, etc.,

JOHN HAY.

[Inclosure.—From the Saturday Review, April 24, 1897.]

The passing of the fur seal.

For fully two years before our Government decided to dispatch a party of naturalists to the Bering Sea to investigate, from the British point of view, the latest phase of the sealing question, complaints had been made by both the United States and Russia that the operations of the pelagic hunters were leading to the extermination of the animals from all the breeding grounds on the Pribilof and Commander islands. It can not be said, therefore, that we, who have a large stake in this pelagic branch of the sealing industry, have moved with undue precipitation in the investigation of what is a very important matter. Lord Salisbury might have chosen, and he may yet choose, if the commissioners so advise, to stand by the terms of the Paris award of 1893, when it was agreed that the regulations passed "for the proper protection and preservation of the fur seal in or habitually resorting to" the Bering Sea should be submitted every five years to a new examination. But this arrangement does not, of course, preclude an earlier reopening of the question if the parties concerned agree upon the necessity of such a step; and if it be true (and there can be little doubt that it is true) that the animals are diminishing in numbers at an alarming rate, it would be an obvious piece of folly on the part of Great Britain, which alone stands in the way, to insist upon the observance of the letter of the award and wait until there are no seals before taking action.

All that is wanting now before we decide upon some course is the report of the Commissioners, which should have been out long ago. Failing any mutually satisfactory basis of agreement, there is reason to fear that the extreme party in America, which country, be it noted, has never been at the pains to conceal its dissatisfaction with the award for reasons which are essentially selfish, may have its way, and that a bill may be passed to empower the Secretary of the Treasury to slaughter every fur seal found on the Pribilof Islands (which are the American islands) and to sell the skins to the best advantage for the benefit of the Treasury at Washington. This proposal to kill the goose that lays the golden egg in a fit of pique does not commend itself as reasonable; but it is significant that the Secretary of the Treasury last year gave the lessors of the fishery, the North American Commercial Company, permission to take twice as many male skins during the season as they were allowed to take the previous year; his reason being that the seals after leaving the rookeries are killed in any case. If the matter is not settled early, we are threatened with another jingo outburst against England. We will no doubt survive it, but for the protection of our own interests it seems desirable that a modus vivendi should not be put off any longer. Mr. Smalley tells us that Professor Thompson's report will "contain facts showing that much damage is caused by pelagic sealing and the indiscriminate killing of females." In that case something must be done at once.

That the seals are diminishing in numbers and that they have gone on diminishing in spite of the Paris regulations are facts which unfortunately admit of little question in spite of Sir Charles Tupper's airy denial. Less than ten years ago an approximate estimate of the animals found on the islands of St. Paul and St. George—that is the two islands of the Pribilof group frequented by the seals—gave a total of 3,000,000. Certainly the rookeries and the hauling grounds were packed so closely that there was literally not room enough for all the seals to live comfortably. A careful count made two years ago resulted in the enumeration of a little over 200,000. Under the terms of the original lease the company in possession of the islands was permitted to kill 100,000 bachelor males every season, and high as that limit appears it was really small by comparison with the number of the whole herd. Down to the time when pelagic sealing began to be prosecuted in the Bering Sea, as well as in the open waters of the North Pacific, there was, by the admission of Sir George Baden-Powell himself, little apparent falling off. In 1890, the last year of the old lease, the Alaska Commercial Company found it impossible to take the number of bachelors or "see-katchies" permitted by law, simply because there were not 100,000 to take. Under the new lease to the North American Commercial Company it was stipulated that the Secretary of the Treasury should fix the annual catch at his discretion. In 1895 Mr. Carlisle found it necessary to restrict the land catch to 15,000 male skins. In that same year the vessels engaged in the pelagic branch of the industry numbered 97, of which 81 were employed in the award area. Between them they killed and recovered 56,291 seals, or a decrease, as compared with the corrected

figures of 1894, of 5,547. That this decrease was caused by the falling off in the spring catch along the shores of the United States and British Columbia will be obvious when we state that the catch in the Bering Sea alone after the close season was 44,169; or 12,584 more than in 1894. All this is quite independent of the Asiatic catch, which did not exceed 39,003 skins, as compared with 79,305 skins taken in those waters—that is, off the Japanese and Russian coasts—in the previous season.

The Paris regulations, it may be remembered, established a close season during the months of May, June, and July, and (among other things) made it illegal to use firearms or explosives in the Bering Sea, or to "kill, capture, or pursue" the seal within a radius of 60 miles of the Pribilof Islands. The American Government has all along maintained that these regulations would fail to protect the herd from undue destruction. But the contention that the only remedy was the total prohibition of pelagic fishing north of latitude 35° N. was not reasonable; for, apart from the monopoly that the Americans would thereby have gained, there was no adequate ground for depriving the men engaged in this important branch of the trade of their regular occupation. It has become apparent, however, that the regulations were not sufficiently stringent. During the winter months the seals take their long swims into the Pacific. The Russian herd, which breeds on the Commander Islands, heads past the Kurile Islands for the Japanese coast, and in the spring returns by the way it went. The American herd makes right across from the Aleutian Islands to the British Columbian waters and returns along the shores of Alaska, entering the Bering Sea again by way of Unalaska. The pelagic sealers and the Alaskan Indians meet them, kill as many as they possibly can with spears and Winchesters, register their catch at Unalaska or at Victoria, and take care to be in the Bering Sea by August 1.

The number of females is in excess of the number of males, bull or bachelor, and it happens that between 60 and 70 per cent of the skins taken in the spring are those of gravid females. After giving birth to her pup on one or the other of the islands, the mother finds it necessary to make expeditions into the water in search of food. She is sometimes found—and killed, of course—as far as 200 miles from the breeding grounds. She swims with marvelous celerity, and thinks nothing of a hundred-mile trip. The bulls do not eat on the islands, and rarely go into the water until they quit the place for the season in September or October, and the superfluous males—the bachelors—have no such summer home. Thus it happens that last year 73 per cent of the American and 56 per cent of the Canadian catch outside of the 60-mile radius consisted of females. More than this. A seal pup deprived of its mother dies of starvation, for no other female will adopt it. Last year more than 28,000 pups were found starved to death on the Pribilof Islands, because their mothers had been killed while in search of food beyond the radius. It would be an insult to the reader's intelligence to point out to him the radical defect and the ultimate outcome of a system under which this kind of thing can flourish. But the difficulty in the way of an easy and satisfactory solution is that in the water it is almost impossible to distinguish between a female and a bachelor seal. It must not be supposed, however, that the men whom the American people are fond of describing as poachers on their seal preserves are Canadians only. About one-half of them are Americans, who "steal that way year by year" from California and Oregon, and in the matter of the illicit use of firearms in the Bering Sea these Americans are notoriously the most unscrupulous. It is satisfactory to know that such repressive measures as may be adopted will operate to the disadvantage of American as well as Canadian pelagic sealers.

Mr. Sherman to Sir Julian Pauncefote.

No. 655.] DEPARTMENT OF STATE,
Washington, May 1, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 29th ultimo relating to the visit to the seal islands of Bering Sea of Professor Thompson and Mr. Macoun.

Instructions will at once be given to the authorities on the Pribilof Islands to extend to Mr. Macoun the same facilities as were granted to him during his visit last year, it being understood that the object of his visit is to act under the direction of Professor Thompson and his assistant. It will further be the pleasure of this Government to afford Mr. Macoun passage on any of the revenue vessels making voyages to those islands, should their movements suit his convenience.

Note is taken of the friendly offer of Her Majesty's Government to provide a passage for Dr. Jordan from Yokohama to the Russian Islands in a British ship, and Dr. Jordan will be so advised; but it is probable that it will not be possible at this date to avail of the offer.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, May 3, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 655, of the 1st instant, informing me that instructions will be at once issued to the authorities at the Pribilof Islands to extend facilities to Mr. Macoun on his forthcoming visit to those islands, and conveying the friendly offer of the United States Government to provide Mr. Macoun a passage on board one of the revenue vessels.

I have had great pleasure in informing the Marquis of Salisbury of the contents of your above-mentioned note.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 659.] DEPARTMENT OF STATE,
Washington, May 6, 1897.

EXCELLENCY: I desire to inquire whether Messrs. Macoun and Barrett Hamilton, who visited the Pribilof Islands last year, have submitted reports to the British or Canadian Governments of the result of their observations, and, if they have made such reports, to ask that I may be furnished with copies of the same if it is the intention to make public use of them. It has been the understanding of this Department that the gentlemen named were acting as the assistants to Professor Thompson, whose report you were good enough to hand me on the 3d instant, and it is presumed their observations were embodied in that report. But if independent reports have been submitted by them and public use is to be made of them hereafter, it is but due to the scientist agents of the Government of the United States who visit the seal islands the present season that they should have the benefit of their observations for comparison and verification.

In view, therefore, of the early departure of the agents of the United States for the seal islands, I shall be much gratified if you can give me the desired information with as little delay as possible.

I have, etc.,

JOHN SHERMAN.

Lord Salisbury to Sir Julian Pauncefote.

No. 74.] FOREIGN OFFICE, *May 7, 1897.*

SIR: I have had under consideration, in communication with Her Majesty's secretary of state for the colonies, Mr. Sherman's note of the 9th ultimo on the subject of the fur-seal fishery, of which a copy was inclosed in your excellency's dispatch, No. 98, of the 13th April.

Mr. Sherman urges that all killing of fur seals should be suspended

for the present, and that a joint conference of the Powers concerned should meet at an early date to agree upon the measures necessary to preserve the seals from extermination and to restore the herd to its normal conditions.

The same proposals were made in the note from the United States chargé d'affaires of the 10th ultimo, a copy of which was transmitted to your excellency in my dispatch, No. 71, of the 22d April, with instructions as to the answer to be returned to the United States Government on the subject.

Mr. Sherman, however, adduces certain statistics in support of the contention that the seals are threatened with early extermination, which makes it necessary for Her Majesty's Government to deal with his dispatch in a separate communication.

With regard to Mr. Sherman's complaint that the United States Government had not been furnished with a copy of Professor Thompson's report of his investigations last year, I have to state that Her Majesty's Government regret the delay that has occurred in the matter. It has been caused partly by Mr. Thompson's professional duties, and also by the necessity of his waiting for certain notes and information which he had asked Mr. Macoun, the agent of the Dominion Government, to furnish him. The report is, however, now in the hands of the United States Government.

Mr. Sherman proceeds to state that, in the absence of Professor Thompson's report, the President has been forced to reach his conclusions as regards the condition of the seal fishery by a careful study of Dr. Jordan's report and other ascertained facts and statistics. It is to be regretted that Mr. Sherman has not referred to the passages in Dr. Jordan's report on which the conclusions of the President have been arrived at. So far as Her Majesty's Government can judge in the absence of such indications, the President's conclusions would appear to be based only on general assertions and deductions in that report.

Mr. Sherman states that Dr. Jordan's report shows conclusively that there has been a distinct and steady decrease both in the total number of breeding seals and in the number of harems of breeding cows in the season of 1896 as compared with that of 1895, and that it further conclusively appears from the report that this diminution has been caused by pelagic sealing.

Dr. Jordan, however, states on page 21 as follows:

> In 1895 Mr. Murray made a careful count of the number of harems of the two islands, finding 5,000 in all. At the same period in 1896 he found that the number of harems was reduced to 4,853; a loss of $3\frac{1}{5}$ per cent, the number of bulls without harems having increased 7 per cent.

On page 16 Dr. Jordan himself gives the number of harems in 1896 as 5,009; a small increase on Mr. Murray's count of 5,000 in 1895, instead of a decrease of less than 3 per cent (not $3\frac{1}{5}$ per cent, as calculated by Dr. Jordan). Similarly, as regards the number of breeding cows, Dr. Jordan's count, as recorded on page 16, gives 81,793 for 1896; while the figures for 1895 as given by himself on page 20 were only 70,423. The state of the rookeries in 1895 as compared in 1896 is fully dealt with by Professor Thompson, and is referred to in my dispatch No. 71 of the 22d ultimo, and it is therefore unnecessary to discuss the matter at length. That report also deals, so far as the information at present available is concerned, with the question of the mortality of pups owing to the killing of their mothers at sea, and the general conclusions at which he arrived, as set forth on page 25 of his report, show that the number, 14,473, at which Mr. Sherman places the deaths from this cause, must be subject to very large deductions.

It may be the case, as stated, that it was as easy in 1880 to procure 100,000 skins on land of the same quality as those taken during the season of 1896 as it was to obtain the catch of last year, viz, 30,000; but it must not be forgotten that in 1890 not even 30,000 skins could be obtained. The question of the comparative ease or difficulty with which a stated catch was obtained in two years so far apart as 1880 and 1896 would, even if the same individuals were employed on each occasion, be an uncertain foundation on which to base any estimate of the comparative numbers of the herd. But Her Majesty's Government have never denied that the herd has diminished largely since 1880, though they maintain that any share pelagic sealing may have had in bringing about that decrease is insignificant compared with that of other causes which appear to be overlooked in the United States.

If, as alleged, the number of breeding females in 1880 was four times as many as in 1896, or 600,000 in the former year and 150,000 in the latter, while in 1890 there were 280,000, the figures completely negative the conclusion that pelagic sealing has been the cause of the decline, for in the eleven years—1880 to 1890—while the herd was reduced, according to Dr. Jordan's estimate, by 320,000 breeding females, only 246,902 seals were killed at sea, while in the period 1891 to the end of the spring season of 1896 the pelagic catch reached a total of 269,388, and during this period the decrease in the number of breeding cows was only 130,000.

A herd of 600,000 breeding cows should mean, according to Dr. Jordan's estimate, an annual addition of 100,000 breeding cows to the rookeries, yet in the eleven years—1880 to 1890—while the pelagic catch only averaged some 22,000 a year, there was not only no addition to the rookeries, but an average annual decrease of some 30,000. If this enormous loss were entirely due to pelagic sealing, as Dr. Jordan maintains, it would have doubled when pelagic sealing doubled, and the herd ought to have ceased to exist some years ago, yet during the years which followed, with a herd supposed to range from 280,000 to 150,000, with an annual addition of cows to the rookeries which should, if Dr. Jordan is correct, have been from 48,000 to 25,000, the pelagic catch has averaged about 50,000 a year, yet the loss to the rookeries has been only some 25,000.

These statistics of Dr. Jordan's, as set forth in his report, prove clearly that the loss to the herd in the period during which pelagic sealing has been a large factor in the influences affecting it has been insignificant compared with the destruction which went on prior to 1890 on the islands, and that the effect on the herd of that mode of sealing is much less serious than that of killing on land restricted to males only.

The frequent occurrence, moreover, of seasons characterized like that of last year by weather during which sealing operations at sea are interrupted, affords a natural protection to the herd from exhaustion by pelagic sealing. The difference between the spring catch on the northwest coast in 1895 and 1896 furnished an excellent illustration—52 vessels in the former year securing only 8,383 skins, while 41 vessels in 1896 secured 11,786 skins. The falling off in the Bering Sea catch last season, which Mr. Sherman cites as due to the reduction of the herd, was, according to the information in the hands of Her Majesty's Government, fully explained by the interruptions due to bad weather; and as the great fall in the price of skins has led to a smaller number of vessels fitting out for the fishery this year, their contention that there is no immediate danger to the herd, so far at any rate as pelagic sealing is concerned, appears to be fully justified. But if the proceedings which led to the wholesale reduction of the seals between 1880 and 1890

are resumed, and all the best young male life is destroyed, there can be no question that the herd will at an early date cease to be of commercial importance.

In Mr. Sherman's note the killing of 30,000 males last year is justified on the ground that "it was plain upon scientific investigation that the dangerous mortality among female seals brought about by pelagic sealing had left the number of bulls greatly in excess of the due proportion between the sexes," and that "to properly care for the herd it became necessary to remove as far as possible this menacing excess of male life upon the islands."

If there was such a "menacing" excess of bulls, it is unfortunate that instead of attempting to reduce the excess, the killing was confined to males who would not become "bulls" able to take a place on the rookeries for another three years, during which period, so far as the killing of 1896 is concerned, the alleged excess of bulls on the rookeries will continue.

Mr. Sherman, in the conversation reported in your excellency's dispatch No. 96, of the 9th April, pointed out that Great Britain was quite as much interested as the United States in the recuperation of the fur-seal species.

As a matter of fact, the interest of this country has now for some years exceeded that of the United States, and should the herd be destroyed, a large amount of British capital will be lost, and a large number of British subjects thrown out of employment. They have therefore reason to be more anxious for the establishment of proper regulations than the United States, but the examination of the reports of last year's investigations, while it has shown that there is no indisputable evidence that the herd has quite recently been decreasing, and that there is no ground therefore for immediate alarm, has also shown that all previous statements as to the numbers of the herd have been conjectural, and that there is consequently no means available for testing the efficiency of the existing regulations, or for showing the direction which any amendment of them should take.

To enable a thoroughly satisfactory revision of them to be made accurate statistics should be available, extending over a sufficient period to eliminate accidental circumstances affecting the herd during the greater part of its life, which is spent where observation is impossible.

Until such observation is available, it would, in the opinion of Her Majesty's Government, be premature to enter upon the proposed conference to discuss measures based on conjectures admitted to be of doubtful value, and the interests of this country in the question are too serious to warrant Her Majesty's Government in imperiling them by the adoption of any hasty decision.

Your excellency will read this dispatch to Mr. Sherman and leave a copy of it with him should he desire it.

I am, etc.,

SALISBURY.

Mr. Sherman to Mr. Hay.

No. 28.] DEPARTMENT OF STATE,
Washington, May 10, 1897.

SIR: The British ambassador called upon me on the 3d instant and handed me a copy of a dispatch to him from Her Majesty's principal secretary of state for foreign affairs, bearing date the 21st ultimo.

This dispatch constitutes the reply of the British Government to the proposals of the President, as presented in the note of your embassy of the 10th ultimo, for a modus vivendi for the suspension of all killing of seals for the present season, and for a joint conference of the Powers concerned with a view to the necessary measures being adopted for the preservation of the fur seal in the North Pacific. It will be seen that both proposals are rejected.

I need hardly say that the President is greatly disappointed at this action, especially when it is based upon such unsubstantial and inadequate reasons. The President's concern, in view of the depleted condition of the seal herd, was occasioned not alone from an examination of Dr. Jordan's report of 1896 and what he had reason to suppose were the conclusions of Professor Thompson, but it was based upon a series of observations and statistics covering a much longer period than that treated by those gentlemen, establishing a state of facts beyond refutation and which is in part set forth in my note to the British ambassador of the same date as my cablegram to you. It is therefore quite surprising that Her Majesty's secretary should base his rejection of the proposals of this Government, so impressively presented, upon the report of one scientist whose facts and conclusions are incorrectly apprehended and the delayed report of another, which is for the first time made public concurrently with the receipt of his lordship's note.

It would have been gratifying to me and useful to my Government, in studying the important subject under consideration, if Professor Thompson's report could have been made public with the promptness which marked the appearance of that of Dr. Jordan. In that case there would have been ample time for both Governments to have examined the reports of these two eminent scientists before the opening of another sealing season. But it seems to have better suited the purposes of Her Majesty's Government to withhold Professor Thompson's report until an opportunity was afforded to examine that of Dr. Jordan, and thus enable the former to pass the latter in review, criticise its statements, and as far as possible minimize its conclusions. It is not pleasant to have to state that the impartial character which it has been the custom to attribute to the reports of naturalists of high standing has been greatly impaired by the apparent subjection of this report to the political exigencies of the situation. It is further to be regretted that the report was so long delayed that no opportunity was afforded this Government to examine it before the definite and final rejection of the President's proposals, based mainly upon its conclusions, was communicated to me. This conduct recalls the incident which preceded the arbitration at Paris, and which came near rendering that arbitration abortive, when a similar report of a British commission was withheld until after the case of each Government was exchanged and the report of the American commission made public.

Lord Salisbury asserts that Dr. Jordan's report does not contain any facts warranting the statement that there is a "depleted condition and prospective early extinction of the herd." The note of your embassy of the 10th ultimo does not attribute such a statement to Dr. Jordan, but it is difficult to understand how anyone can read his report without reaching the conclusion that such is the real condition of the herd. On page 18 he says: "From this time (1886) on the decline has been more rapid and *has been continuous*." On page 21 he clearly recognizes diminution, as evidenced by photographs, as also by decrease of harems. On page 66 he uses this expression: As the herd *is steadily*

diminishing, the spring or northwest catch is becoming relatively unimportant." Other citations might be made, but it would seem unnecessary in view of his declarations, often repeated in his report, respecting pelagic sealing, from which I give only one extract (p. 29):

> Pelagic sealing, in the judgment of the members of the present commission, has been *the sole cause of the continued decline* of the fur-seal herds. It is at present the *sole obstacle* to their restoration and the sole limit of their indefinite increase. It is therefore evident that no settlement of the fur-seal question as regards either the American or Russian islands can be permanent unless it shall provide for the cessation of the indiscriminate killing of fur seals, both on the sealing grounds and on their migrations. There can be no "open season" for the killing of females if the herd is to be kept intact.

Professor Thompson's report is plainly written with a view to minimize as far as possible the depleted condition of the herd on the Pribilof Islands, and requires a critical examination not possible within the limits of the present instruction, but its general purport may be briefly stated. It is to be regretted that he should have contracted his study far within the purview of his instructions. In the outset of his report he says: "The main object of my mission was the collection of information and statistics with regard to the working and effectiveness of the regulations" of the Paris Tribunal. But we look in vain in his report for any discussion of that all-important subject. He confined his inquiry and report to the subordinate subject of the number of seals resorting to the islands and particularly to the relative numbers in 1895 and 1896. The result of his observations and inquiry seemed to be that on some rookeries there was an increase and on others a decrease, but on the whole a possible state of equilibrium for the past two years, although he concedes a diminution as compared with 1892. If all the professor claims is admitted, it does not militate against the contention that since pelagic sealing became general the decline of the herd has been steady and rapid. The apparent equilibrium noted in his report is well explained by Dr. Jordan when he says (p. 18):

> There is evidence that the modus vivendi of 1892–93, by which Bering Sea was closed to the sealing fleet, has produced for 1895 and 1896 a slight check of the diminution. The reason for this is that in addition to the saving of mothers no pups were starved to death in 1892 and 1893, and those which might have been starved have returned as breeders or as killable seals in 1895 and 1896.

Since the receipt of Lord Salisbury's dispatch explicit inquiry has been made by Dr. Jordan as to the relative condition of the herd in 1895 and 1896 and in previous years, and he has furnished the chapter on the "Decline of the herd," from the forthcoming final report of himself and associates, from which the following extract is taken:

> While the amount of the decline can not be stated with mathematical exactness, it is possible from the data at hand to make an approximate estimate. From a careful study of all the conditions, in our opinion the fur-seal herd of the Pribilof Islands has decreased to about one-fifth its size in 1872–1874; to somewhat less than one-half its size in 1890; and that between the seasons of 1895 and 1896 there has been a decrease of about 10 per cent.

Although Professor Thompson has been very careful throughout the report to say nothing likely to embarrass his Government, in the "conclusions," the voice of the true scientific investigator speaks in firm and certain tones. While he regards "the alarming statements * * * of the herd's immense decrease" as overdrawn, he says "there is still abundant need for care and for prudent measures of conservation in the interest of all. * * * It is not difficult to believe that the margin of safety is a narrow one, if it be not already in some measure

overstepped. We may hope for a perpetuation of the present numbers; we can not count upon an increase. And it is my earnest hope that a recognition of mutual interests and a regard for the common advantage may suggest measures of prudence which shall keep the pursuit and slaughter of the animal within due and definite bounds." In view of such explicit language it is not easy to understand how Lord Salisbury can reconcile his refusal to entertain the proposals of the President with the interests of his own countrymen, to say nothing of the friendly relations which he desires to maintain with the United States, Russia, and Japan.

The experience had with the scientific commissions of 1892, as well as the reports of 1896 just under review, shows that it is difficult through them to reach a harmony of views; but we have at hand certain statistics of undisputed authority pointing unmistakably to conclusions which should be controlling.

The operations of the pelagic fleet in Bering Sea since the Paris regulations have been in force are as follows:

1894, thirty-seven vessels, 31,585 seals taken, or an average of 853 per vessel.

1895, fifty-nine vessels, 44,169 seals taken, or an average of 748 per vessel.

1896, sixty-seven vessels, 29,500 seals taken, or an average of 440 per vessel.

It thus appears that nearly double the number of vessels in 1896 were not able to take as many seals as were taken in 1894, and the catch per vessel fell off nearly one-half. Lord Salisbury attributes this large falling off in Bering Sea "to the stormy weather prevailing," but does not cite his authority. I am not aware of any published report to that effect. Captain Hooper, who commanded the American cruising fleet in Bering Sea in 1895 and 1896, reports:

> The weather in Bering Sea was not materially different in the past two years. Conditions admitted of boarding operations by the fleet twenty-five days in 1895 and twenty-four days in 1896.

An examination and comparison of the logs of sealing vessels for 1895 and 1896 confirm Captain Hooper's report. The above figures, with the statistics contained in my note of the 9th ultimo to the British ambassador, make it very clear that the seal herd is becoming rapidly depleted, and that "the margin of safety," as Professor Thompson expresses it, has been "already overstepped." It is to be inferred that "the margin of safety" is intended to signify the point at which pelagic sealing ceases to be profitable. He can not have in mind biological extermination, for that point could not have been reached so long as a single bull and harem existed. The point when sealing ceased to be profitable seems to have been reached during last year. A table appended to his report shows that the product of the pelagic catch of 1896 in the London market was about half the amount of that of 1895, and Lord Salisbury informs us that this result has "brought many owners of the sealing vessels to the verge of bankruptcy." It thus appears that the condition of things predicted by the Government of the United States, as quoted below, has already come to pass—the commercial extermination of the seals. If pelagic sealing continues to be tolerated, a limited number of vessels will carry on the indiscriminate slaughter in the hope, by a favorable cruise, of recouping the losses of the previous year, and the rookeries on the islands will be still further depleted. But the biological existence of the fur seal may

still be continued and Her Majesty's ambassador may repeat the declaration so often made during the past two years that there is "no reason to fear that the seal herd is threatened with early extermination."

In this connection it may not be unprofitable to recall the action of the two Governments respecting the efforts made to revise the regulations adopted at Paris. The expressed object of the Paris Arbitration was "the preservation of the fur seals," and the regulations adopted by the Tribunal were framed with a view to "the proper protection and preservation of the fur seal * * * resorting to Bering Sea." On January 23, 1895, Secretary Gresham addressed a note to the British ambassador stating that the first year's experience had "convinced the President that the regulations enacted by the Paris Tribunal have not operated to protect the seal herd from the destruction which they were designed to prevent," and he asked that a commission of scientists and experts be appointed by the Governments of the United States, Great Britain, Russia, and Japan to report upon the proper measures to be adopted, and pending the deliberations of the Governments a modus vivendi be agreed upon suspending sealing in Bering Sea. Nearly four months elapsed without an answer from the British Government, when, on May 14, 1895, a second note was sent, reiterating the President's solicitude, urging a reply, and predicting that unless some further restrictions were adopted the seal would "be exterminated for all commercial purposes within a very few years." On May 27 the British answer was received, in which it was complacently stated "that the condition of affairs is not of so urgent a character as the President has been led to believe," and that there was no "such urgent danger of total extinction of the seals as to call for a departure from the arbitral award by which the two nations have solemnly bound themselves to abide."

Secretary Olney, June 24, 1895, by direction of the President, renewed the proposition in different terms, but the British Government repeated its declination to make "any extension of the regulations solemnly laid down by an international board of arbitration."

After a second year's experience of the regulations, Secretary Olney, March 11, 1896, called the attention of the British ambassador to the catch of 1895 in Bering Sea (the largest ever made in that sea) and expressed the hope that the British Government would realize "the absolute necessity of consenting for the coming season to some further regulation * * * to the end that the valuable herd be saved from total extinction." On the 27th of April, Sir Julian Pauncefote replied that Her Majesty's Government saw no reason to believe the catch in Bering Sea was "so large as to threaten early extermination," and that there was no "necessity for the immediate imposition of increased restrictions."

This correspondence is recalled to show that from the first year the Paris regulations were put in force each succeeding President and Secretary of State has been firmly convinced that they were inadequate for the purpose for which they were adopted, and that the British Government has just as firmly resisted all overtures for even a conference of the Governments concerned for the purpose of considering whether further regulations were required to protect the seals, and has rested its refusal upon "the arbitral award by which the two nations have solemnly bound themselves to abide."

In view of this attitude of the British Government, I deem it opportune to make an examination (even at the risk of being somewhat tedious) into the manner in which it has responded to the action of the

Paris Tribunal, and to what extent and in what spirit it has observed the decision and recommendations of that tribunal.

A perusal of the protocols of that tribunal will show that the preparation of the regulations was intrusted to the three arbitrators nominated by the neutral Governments, and when their unanimous report was presented it was provided in article 2 that the regulations should be applied to all the waters of the Pacific Ocean and Bering Sea north of the thirty-fifth degree of north latitude, thereby including all the waters east of Japanese and Russian territory. Lord Hannen, the British arbitrator, objected to this provision and moved an amendment limiting the area to all that part of the ocean and sea east of the one hundred and eightieth meridian. Baron Courcel, president of the tribunal, stated on behalf of the neutral arbitrators that, in framing article 2, "they had acted out of regard for Russia and Japan, powers not respresented before the Tribunal of Arbitration, and toward the waters of whom it appeared not equitable to drive back the English and American pelagic sealers during the whole time of the close season." But he acquiesced in Lord Hannen's amendment and it was adopted. (Protocol LIV.) It is plain from the proceedings that the tribunal regarded the extension of the regulations to the Asiatic waters as a matter of justice to Russia and Japan, and they would have been so extended if those powers had been parties to the arbitration.

When, in accordance with Article VII of the treaty of 1892, the Russian and Japanese Governments were approached with a view to securing their adhesion to the regulations, they both replied they could only do so on their extension to the Asiatic waters. Secretary Gresham reports that as early as October, 1893, he verbally brought this attitude of the subject to the attention of the British ambassador, who recognized the force of the position assumed and said the situation seemed to suggest the propriety of a treaty between the four powers "for the preservation, for their common benefit, of the fur seals between the two continents and north of the thirty-fifth degree of north latitude."

Mr. Bayard was instructed, October 27 and November 20, 1893, to seek to bring about such an arrangement or treaty; January 23, 1894, Mr. Gresham brought the subject to the attention of the British ambassador, and on May 2, no answer being received, the proposition was again urged. Secretary Olney brought the subject again to the attention of the British Government in a note dated June 24, 1895, the proposition being presented in a new form; and on August 19 a general negative reply was made to Mr. Olney's note.

Under date of April 2, 1896, Secretary Olney informed Mr. Bayard that the Russian Government was about to initiate negotiations at London for the extension of the Paris regulations over the Asiatic waters, and at the request of the Government Mr. Bayard was instructed to cooperate in such negotiations. Mr. Bayard at once put himself in communication with the Russian ambassador, but on May 14 he was informed by Lord Salisbury that Her Majesty's Government had decided to dispatch a naturalist to the Russian seal islands, and that pending the receipt of his report his Government would not enter upon negotiations. The British naturalist returned to London in October, 1896, but up to this date his lordship has given no indication of a desire or intention to open the negotiations. In fact, the dispatch to which I now reply rejects the proposition of the President for a similar conference or negotiation. The effect of Lord Hannen's amendment of article 2 of the regulations has been to bring about the state of affairs which the neutral arbitrators desired to avoid, to wit, to transfer the

sealing vessels to the Asiatic waters during the closed season in the American waters, which they expected would be prevented by negotiations between the interested Governments. Such negotiations Great Britain has steadily omitted and declined to enter upon.

Again, the arbitrators appended to their decision or award a series of declarations, not binding upon the contracting Governments, but which were recommended for their adoption. The American arbitrators at once accepted the declarations, but Lord Hannen hesitated to accept the second paragraph, which is as follows:

> In view of the critical condition to which it appears certain that the race of fur seals is now reduced, in consequence of circumstances not fully known, the arbitrators think fit to recommend both Governments to come to an understanding in order to prohibit any killing of fur seals, either on land or sea, for a period of two or three years, or at least one year, subject to such exceptions as the two Governments might think proper to admit of.
>
> Such a measure might be recurred to at occasional intervals if found beneficial.

Lord Hannen declared that, "although approving the spirit in which it (the second paragraph) is conceived, and although regarding as very desirable that the destruction of the fur seals might be entirely suspended during a certain period of time, so as to enable nature to retrieve the losses which this race of animals has undergone, he does not feel authorized by the terms of his mandate to express an opinion on the subject;" and the Canadian arbitrator concurred with his British colleague. (Protocol LIV.)

Immediately after the receipt of the official copy of the award and declarations, September 12, 1893, Secretary Gresham cabled instructions to Mr. Bayard to ask the concurrence of Great Britain in the enforcement of the second declaration. Mr. Bayard reported, September 13, that he had made known his instructions to the British Government. No answer having been received on this point, Secretary Gresham repeated the offer to Sir Julian Pauncefote January 24, 1894. I do not find that response to this proposition was ever made. The wisdom of the recommendation is abundantly proved by the experience of the past three years, and it strongly supports the repeated applications which have been made by the Government of the United States for a modus suspending all killing of the seals until a conference could be had to readjust the Paris regulations.

The indifference with which the British Government treated the repeated appeals of this Government for prompt action toward the adoption of measures to enforce the regulations "solemnly laid down by an international board of arbitration," illustrates the measure of respect entertained for that august Tribunal. On September 12, 1893, within a month after the award had been rendered, Secretary Gresham instructed Mr. Bayard by cable (cited above) to inform the British Government of the desire of the Government of the United States to take up without delay the subject of the enforcement of the regulations, so as to make them effective before the next sealing season. This notice was given to the British foreign office September 13, more than three months before the opening of the sealing season. No progress having been made, November 17, Secretary Gresham cabled Mr. Bayard that the President was anxious that an agreement on this subject should speedily be reached. On the 4th of December, Secretary Gresham consented, at the desire of the British Government, that the negotiations might be transferred to Washington, but he gave notice to Lord Rosebery that "the rapidly shortening interval before the next season will commence admonishes both Governments to expedite the negotiations." On the 24th of January, 1894, the Secretary addressed an urgent note

to the British ambassador, complaining that nothing had yet been accomplished, and the time lost had brought them "to the opening of another sealing season without any definite steps having been taken for the execution of the Paris award." A month later, February 22, the Secretary cabled Mr. Bayard that, in answer to his repeated inquiries, the British ambassador informed him he was still without instructions, and he was directed to say "this long delay is difficult to understand, and it is the President's desire that you represent the matter impressively to Her Majesty's Government." On March 17, Secretary Gresham sent another urgent cablegram to Mr. Bayard, complaining of still further delay, for which "this Government is not responsible," and which was threatening to "become embarrassing for both Governments." The negotiations were not entered upon until six months after they were invited by the United States; the British act (April 23, 1894) to enforce the regulations was not passed until four months after the sealing season had opened, and the final order in council (June 27, 1894) on the subject was not issued until six months after the sealing fleet had put to sea in disregard of the award of the Tribunal.

The manner in which the British Government has discharged its police duties under the award is in marked contrast with its appeal for a strict observance of the five years' period of the regulations. An equal obligation rests upon each Government to patrol the waters embraced in the award area, in order to see that the regulations are not violated by the sealing vessels. In 1894 the Government of the United States furnished twelve vessels for the patrolling fleet, at great expense, and only one vessel was furnished by the British Government. In 1895 five United States vessels patrolled the award area and only two British vessels, one for a short time only in Bering Sea, and the other took no part whatever in the patrol, as its presence was almost constantly required in Unalaska Harbor to take over the British sealing vessels seized in Bering Sea. Owing to the repeated complaints of the Government of the United States as to the inadequacy of the British patrol, an additional cruiser was ordered into Bering Sea during the season of 1896, although it was stated by the British Government that "so far as they have been able to judge, the force employed up to the present time has been sufficient." As it is shown that practically no patrol service had been rendered in Bering Sea by the British cruisers during the previous year, the inference from this language would seem to be that Her Majesty's Government understood that the American cruisers only were to perform the patrol duty and the British cruiser to take over and act upon the validity of seizure of British vessels.

The detailed enforcement of the regulations has further developed on the part of the British Government a strange misconception of the true spirit and intent of the arbitrators. Under article 6 of the regulations the use of firearms in Bering Sea was prohibited, and to enforce that prohibition it was agreed between the two Governments for the year 1894 that sealing vessels might have their arms and ammunition placed under seal. But on May 11, 1895, although this Government had every reason to believe from the order in council that the British Government had given its concurrence to the arrangement, the British ambassador gave notice that his Government would not renew the arrangement as to the sealing of arms for the coming season, and defended its action on the ground that the possession of arms, etc., by a sealing vessel was "not forbidden by the award regulations."

This tardy action of the British Government in refusing to renew the arrangement of 1894 led to much trouble and inconvenience in connec-

tion with the patrol of Bering Sea. The British Government made grievous complaint against the severe measures of search resorted to by the American cruisers, which gave rise to a lengthy correspondence. On July 2, 1896, Secretary Olney submitted a proposition to put an end to the controversy by an examination of vessels entering Bering Sea and an inspection by a representative of the United States at British Columbian ports of all skins taken in Bering Sea, to discover whether or not firearms were used; but this proposition was not accepted. A further attempt was made by Secretary Olney to procure some agreement for the season of 1897, when it was urged that American vessels frequenting Bering Sea were required to have their arms sealed and on returning to their home ports their skins were carefully inspected, while Her Majesty's Government refuses to enforce the provision as to arms and declines the inspection of skins—measures which this Government regards as "absolutely essential for preventing the unlawful destruction of the seals." Nevertheless, another season has been entered upon without any settlement of this vexed question.

In this connection I recall the serious defect, pointed out in the correspondence, in the British act for the enforcement of the regulations. Under the British act passed to carry out the modus vivendi of 1891, whereby all killing of seals was prohibited in Bering Sea, it was provided that the presumption of guilt would lie against the vessel "having on board fishing or shooting implements or seal skins." A provision of a kindred nature was inserted in the British act for the enforcement of the Russian modus of 1893. The act of Congress of 1894 to enforce the regulations of the Paris award contained a similar provision; but the British act of 1894 for the same purpose contained no provision whatever as to presumptive guilt respecting the possession of firearms or skins at forbidden times or in forbidden waters. And to emphasize its purpose in the matter, when the British act to enforce the Russian agreement was reenacted in 1895, the provision of the act of 1893 as to presumptive illegality was omitted. This action of the British Government was made the subject of an earnest protest on the part of my predecessor, but to no purpose. The practical effect is to make it impossible in many cases to convict British sealing vessels, although there may be the strongest presumptive evidence of guilt, evidence which, under the act of Congress, would in most cases procure the conviction of an American sealing vessel.

I shall only cite one further instance of the failure and refusal of the British Government to give full effect to the Paris regulations. Article 5 provided that the vessels engaged in sealing should enter daily in their official log books the number and sex of the seals taken and that these entries should be communicated by each Government to the other at the end of each season. This regulation was prescribed in order to procure reliable statistics as to the proportion of female seals killed, but it was found to be unsatisfactory and imperfect in its practical operation. The catch of American vessels was subjected to an official inspection at the home port, and it was found that they reported a much greater proportion of female seals taken than the British sealers. Although in many instances the British sealers were close to the American sealers, yet the American sealers reported from two to five times as many females as males, a result entirely at variance with the British returns. This state of facts led the Acting Secretary of State, May 10, 1895, to request of the British Government their consent to the stationing of United States inspectors at British Columbian ports for the purpose of verifying the log entries of British sealing vessels, with the offer

of a reciprocal privilege in American ports to British inspectors. No answer having been received, on September 13 and again on September 18 the request made in the previous May was renewed. On the 24th of September the British ambassador replied that the request for inspectors was not acceptable to Her Majesty's Government "on the ground that the matter is already provided for by the award regulations, the sealers being bound themselves to keep a record of sex."

The measure was regarded by this Government as so important that, December 15, 1896, Secretary Olney recalled it to the attention of the British ambassador in connection with the sealing of arms. The answer of the British Government to this second application was that "the compulsory examination by experts of skins on landing at British ports would require legislation in Canada," and that the views of the Canadian Government would have to be ascertained. In answer to the inquiry of Secretary Olney on January 23, 1897, as to when the Canadian Government was likely to take action, the ambassador replied on March 24 that Her Majesty's Government were "still in correspondence with the Canadian Government" and that a further communication would be made as soon as possible. No further communication has been made.

I regret that this statement has become so lengthy, but in view of the fact that the British Government, when pressed for a remedy to well-established defects in the regulations or the acts and rules agreed upon for their enforcement, has appealed to "the arbitral award by which the two nations have solemnly bound themselves to abide," I have felt the present occasion opportune to make a review of the events which have transpired since that award was rendered, and to challenge a comparison of the conduct of the two Governments with regard to the final action of the International Tribunal of Arbitration. In no respect has the United States Government failed to observe the exact terms of the award or to accept its recommendations in their true spirit and full effect, even though they have entailed heavy expense and caused great damage to long-established interests of this nation.

On the other hand, I think I have shown that the British Government has from the beginning and continuously failed to respect the real intent and spirit of the Tribunal or the obligations imposed by it. This is shown by the refusal to extend the regulations to the Asiatic waters; by the failure to put in operation the recommendation for a suspension of the killing of the seals for three, for two, or even for one year; by the neglect to put the regulations in force until long after the first sealing season had been entered on; by the almost total evasion of the patrol duty; by the opposition to suitable measures for the enforcement of the prohibition against firearms; by the omission to enact legislation necessary to secure conviction of the guilty; and by the refusal to allow or provide for an inspection of skins in the interest of an honest observance of the regulations.

The obligations of an international award, which are equally imposed on both parties to its terms, can not properly be assumed or laid aside by one of the parties only at its pleasure. Such an award which in its practical operation is binding only on one party in its obligations and burdens, and to be enjoyed mainly by the other party in its benefits, is an award which, in the interest of public morality and good conscience, should not be maintained. Having in view the expressed object of the arbitration at Paris and the declared purpose of the arbitrators in prescribing the regulations, when it became apparent, as it did after the first year's operation of them and with increased emphasis each

succeeding year, that the regulations were inadequate for the purpose, it was the plain duty of the British Government to acquiesce in the request of that of the United States for a conference to determine what further measures were necessary to secure the end had in view by the arbitration.

A course so persistenly followed for the past three years has practically accomplished the commercial extermination of the fur seals and brought to naught the patient labors and well-meant conclusions of the Tribunal of Arbitration. Upon Great Britain must therefore rest, in the public conscience of mankind, the responsibility for the embarrassment in the relations of the two nations which must result from such conduct. One of the evil results is already indicated in the growing conviction of our people that the refusal of the British Government to carry out the recommendations of that Tribunal will needlessly sacrifice an important interest of the United States. This is shown by the proposition seriously made in Congress to abandon negotiations and destroy the seals on the islands, as the speedy end to a dangerous controversy, although such a measure has not been entertained by this Department. We have felt assured that as it has been demonstrated that the practice of pelagic sealing, if continued, will not only bring itself to an end, but will work the destruction of a great interest of a friendly nation, Her Majesty's Government would desist from an act so suicidal and so unneighborly, and which certainly could not command the approval of its own people.

The President therefore cherishes the hope that, even at this late day, the British Government may yet yield to his continued desire, so often expressed, for a conference of the interested powers; and, in delivering to Lord Salisbury a copy of this instruction, you will state to him that the President will hail with great satisfaction any indication on the part of Her Majesty's Government of a disposition to agree upon such a conference.

Respectfully, yours, JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, May 18, 1897.

SIR: I had the honor of informing you verbally on the 3d instant, under telegraphic instructions from Her Majesty's principal secretary of state, that her Majesty's Government are prepared to agree to the renewal of the arrangement made in 1894 for the sealing up by a duly authorized officer, on the application of the master, of the arms on board a vessel proceeding to the fishery in Bering Sea, or returning to port during the close season, but that the Canadian Government found themselves unable to concur in the suggestion that the skins landed from the British sealing fleet should be examined at the port of destination by American experts. The proposals of the United States Government in regard to both these points were contained in your predecessor's note to me of December 15, 1896.

I am now in receipt of a dispatch from the Marquis of Salisbury, stating the grounds on which this decision was arrived at. As regards the proposed inspection of skins, the Canadian Government are convinced that even were it possible to establish that any punctures which might be found in the seal skins were the results of gunshot wounds, and that they could be readily distinguished from those made by spears,

it would still be impossible to prove that the animal from which the pelt was taken had been killed by means of firearms. It is a matter, it is said, of common knowledge that the skins of a large number of seals killed by spears contain shot wounds, so that no weight can be attached to any argument derived from these wounds as to the manner whereby the ultimate capture of the seal was effected. There is no means of proving that these shot wounds were not received during the migration of the seals outside Bering Sea, where the use of firearms is not prohibited, or that they may not have been inflicted by the crew of a vessel other than the one by which the seal was eventually secured by the spear. Moreover, sealers, knowing that an examination such as that suggested awaited them and their destination, could readily add a spear wound to the skin had the seal been shot, thus effectually destroying the utility of any such test.

The case of the *Kate* is referred to by the Canadian authorities as illustrating the force of the above remarks. As you are aware, this vessel was seized last season because certain skins were found on board believed to have shot holes in them, though it was afterwards found that the vessel had no firearms whatever on board.

The Canadian Government are further of opinion that an examination of the salted skins when landed at the home ports would prove of little use in establishing the sex of the seals killed. They state that when the United States Treasury circular, which is referred to in Mr. Olney's note, first came into their possession, the matter was exhaustively considered and the conclusion reached that the tests therein indicated were wholly ineffective for determining the question of sex.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 21, 1897.

By note dated 18th and received yesterday afternoon, British ambassador states readiness of British Government to renew arrangement of '94 for putting firearms under seal at request of masters, but that it can not agree to proposal to examine skins on landing. Copy mailed you to-day. Advise Foster as soon as he lands, so that he may wait at London until copy arrives.

SHERMAN.

Mr. Sherman to Sir Julian Pauncefote.

No. 686.] DEPARTMENT OF STATE,
Washington, June 7, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th ultimo, stating that the British Government was prepared to agree to a renewal of the arrangement made in 1894 for the sealing up by a duly authorized officer, on the application of the master, of the arms on board British sealing vessels engaged in killing seals in Bering Sea during the present season or upon such vessels when proceeding to port during the closed season.

In reply, I desire to say that the Government of the United States consents that the provisions of the rules and regulations prescribed by the President under the act of Congress approved April 6, 1894, for the government of United States vessels employed in fur-seal fishing during the season of 1897 shall be extended for the remainder of the present season to British sealing vessels.

Although article 8 of the said regulations is not applicable to British sealing vessels, I respectfully suggest that Her Majesty's Government be asked to require of said vessels the information under oath called for by form catalogue 204, copies of which I take pleasure in inclosing.

In case you are authorized to accept the terms of the regulations of 1897, copy of which I also inclose, I shall be glad to cause the slight changes that it will be necessary to make to the end that the regulations may be adapted to British sealing vessels.

Asking that the matter may be given immediate attention and that I be advised of the conclusion reached so that no unnecessary delay shall arise in arriving at an understanding alike desirable to both Governments,

I have, etc., JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, June 9, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 686, of the 7th instant, in reply to mine of the 18th ultimo, in which I informed you that Her Majesty's Government were prepared to agree to a renewal for the season of 1897 of the arrangement made in 1894 relating to the sealing up of arms, etc., with a view to the protection from unnecessary interference of sealing vessels proceeding to the fishery in Bering Sea, or returning to port during the close season.

You now inform me that the United States Government consent to extend to British vessels the regulations prescribed by the President under an act of Congress for United States vessels during the fishery season of 1897 (a copy of which you inclose), and you inquire whether I am authorized to accept the terms of those regulations, in which case certain changes would be made in them so as to adapt them to British vessels.

I have the honor to state in reply that I have no authority to agree to the application of those regulations to British sealing vessels. The latter are governed by regulations of a similar character prescribed under powers derived from a British act of Parliament, and any extension or alteration of them imposing any new restrictions or obligations would require the sanction of a further British order in council.

The arrangement of 1894 as to the sealing up of arms, being of an entirely voluntary character, required no legislation, and it can be renewed for the present season merely by instructions to the naval or other officials charged to carry it out. I should be much obliged if you would be good enough to inform me whether the proposal on the subject conveyed to you in my note of the 18th ultimo is agreeable to your Government.

In the meanwhile I shall not fail to transmit your note now under reply to the Marquis of Salisbury for the consideration of Her Majesty's Government.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, June 13, 1897.

SIR: With reference to your note, No. 652, of the 27th of April last, giving the names of the United States revenue steamers which will cruise in Bering Sea during the sealing season, I have the honor, by direction of the Marquis of Salisbury, to inform you that the sloop *Wild Swan*, Commander Napier, and the gunboat *Pheasant* will be employed in Bering Sea on patrol duties this season on behalf of Her Majesty's Government.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 699.] DEPARTMENT OF STATE,
Washington, June 15, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 13th instant, giving the names of the British vessels which will be employed in Bering Sea on patrol duties this season on behalf of Her Britannic Majesty's Government.

I have, etc., JOHN SHERMAN.

Mr. Sherman to Sir Julian Pauncefote.

No. 704.] DEPARTMENT OF STATE,
Washington, June 18, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant, in reply to mine of the 7th, in which you state that British sealing vessels are now subject to regulations prescribed under acts of Parliament, and that any extensions or alterations imposing any new restrictions would require a further order in council to bear any force or validity. You further state that the regulations prescribed for American sealing vessels for the season of 1897 go beyond the scope of the so-called arrangement of 1894, and therefore in the absence of a new order in council you are not empowered to agree upon said regulations. You conclude by stating that the arrangement of 1894 was of a largely voluntary nature, and you ask whether your proposition to agree to a renewal of such arrangement is acceptable to my Government.

I have the honor to reply that I am well informed that the regulations for 1897 now applicable to American sealing vessels contain much that is beyond the scope of the agreement of 1894, which was merely of a temporary and provisional nature, the same being prepared hastily during the early part of May, 1894, after the sealing fleet had put to sea. It is evident, therefore, that to accept the said regulations of 1897, a new order in council will be necessary, but I had no reason to assume that your Government would not be willing to enact a proper order in council to bring about this result.

The provisions of the arrangement of 1894, as I have stated, were merely of a temporary and provisional nature. Experience has shown the necessity of further and more stringent regulations properly to carry out the true intent and purpose of the Paris award. For example, there were no provisions in the arrangement of 1894 as to lights on sealing

vessels at night, nor as to storing of arms, nor as to the sworn returns required of American vessels, nor was there anything contained in said arrangement as to the inspection of seal skins landed in ports of the United States or Great Britain. The latter safeguard (the inspection of skins by pelagic inspectors) the United States regards of the utmost importance.

Even with all these precautions, however, American sealing vessels undergo rigid search when met at sea by American cruisers. If, on examination, all firearms found on board are sealed, this fact constitutes evidence that they have not been used since the sealing up for illegal purposes and may save the vessel from seizure in those cases where skins are found on board with some evidence of having been shot.

It is not unnatural that both Governments should desire that the inevitable annoyance caused by the searching of vessels should be reduced to a minimum. My predecessor, on July 2, 1896, made certain suggestions which would certainly have reduced to a minimum this annoyance, at least as regards vessels clearing direct from Victoria for Bering Sea. His suggestions were: First, that all British sealing vessels, before entering Bering Sea, should be searched at Unalaska by United States revenue officers, and the fact that they have on board no firearms should be duly certified to; secondly, that all skins landed by said vessels should be examined by expert inspectors at the home port to discover whether any had been shot. The reply of your Government, communicated by Lord Gough on September 21, 1896, was substantially to the effect that unless said preliminary search and certificate should absolutely exempt British vessels from further search by American cruisers, the proposition could not be entertained. Your Government also declined to authorize the examination of skins landed in British ports by pelagic inspectors, on the ground, among others, as stated in your note, dated May 18, that such examination was not of practical value.

Although the British Government may not consider such an inspection of value, it is to be regretted that it could not have consented to such an inspection, in view of the fact that the United States Government, advised by eminent experts, deemed it of great value, and was willing to make certain arrangements, based in part upon such examination which would, as stated above, reduce to a minimum the inevitable annoyance resulting from a search by our cruising vessels.

I regret that the views of the right of search, expressed by my predecessor in his note to you of December 15, 1896, are not agreeable to your Government. I feel constrained to state that this Government regards this right as indispensable to a proper execution of the intent and spirit of the Paris award. The fact that firearms are sealed up has not in practice released American sealing vessels from most rigid search whenever fallen in with by an American cruiser, nor should any different result follow in the case of a British sealing vessel.

In view of the fact, however, that said sealing up may be regarded oftentimes as a most important piece of evidence to prove that the vessel has not used, illegally, firearms in Bering Sea, and that sealing up may relieve the patrolling vessels of much extra trouble, this Government is willing to give to British vessels the benefit of articles 4, 5, and 6 of the regulations controlling American sealing vessels for the season of 1897, and it will accordingly so instruct its naval officers, should your Government intimate its desire to this effect; at the same time informing said officers that the fact of sealing up firearms shall afford

to British vessels the same protection and immunity against seizure after search as is now afforded American vessels.

I would respectfully suggest an answer to this suggestion at your earliest convenience in order that proper instructions may be speedily prepared to officers of the patrolling fleet.

I have, etc., JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY, *June 20, 1897.*

SIR: I have the honor to acknowledge the receipt of your note No. 704, of the 18th instant, in answer to mine of the 9th, in which I had the honor to inquire whether the proposal of Her Majesty's Government to renew for the fur-seal fishery season of 1897, the agreement of 1894 as to the sealing up of arms, is agreeable to your Government.

In reply to that inquiry you state that your Government is willing to give to British vessels the benefit of Articles IV, V, and VI of the regulations controlling American sealing vessels for the season of 1897.

I would beg leave to point out that the above reply hardly answers the inquiry of my Government.

The arrangement of 1894 was a reciprocal one, for the mutual benefit of the sealing vessels of both nations. Its discontinuance at the desire of the Canadian sealers has been deprecated ever since by your Government, at whose instance, therefore, it may be said it is now proposed to renew it.

The precise terms of the arrangement were settled by the then Secretary of the Treasury (the Hon. J. Carlisle) and myself, and they are to be found recorded in my note to the late Mr. Secretary Gresham of May 10, 1894.

If your Government should be disposed to renew that arrangement, as proposed by my Government, for the season of 1897, there will be no difficulty in extending its benefits reciprocally to the sealing vessels of both nations.

But your counter proposal "to extend to British vessels the benefits of Articles IV, V, and VI of the regulations controlling American sealing vessels for the season of 1897" is not one which I am authorized to deal with otherwise than by transmitting it to my Government by the earliest opportunity.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Day to Mr. Tower.

No. 713.] DEPARTMENT OF STATE,
Washington, June 28, 1897.

SIR: I have the honor to acknowledge the receipt of the note of the British ambassador of the 20th instant, in answer to the Department's No. 704, of the 18th, relative to sealing regulations for British vessels in Bering Sea. Sir Julian Pauncefote states that the offer of the Government of the United States to give to British vessels the benefit of Articles IV, V, and VI of the regulations controlling American sealing vessels for the season of 1897 does not answer the inquiry of his Government as to whether or not this Government will accept the arrangement of 1894 for the coming season of 1897.

I have to say in reply, as stated in the Department's note of the 18th

instant, that the provisions of the arrangements of 1894 were necessarily of a temporary and provisional nature, and are deemed by me inadequate to properly carry out the intent and purpose of the Paris award. I regret, therefore, to have to state the proposition to agree to a renewal of said arrangements is not acceptable to this Government.

Trusting that the decision of the British Government as to the offer to give the British sealers the benefit of Articles IV, V, and VI of the regulations of 1897 will receive early and favorable consideration, because of the limited time in which to issue instructions to carry out said regulations, I have, etc.,

WILLIAM R. DAY,
Acting Secretary.

Mr. Tower to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., June 30, 1897.

SIR: I have the honor to acknowledge the receipt of Mr. Day's note, No. 713, of the 28th instant, stating that the proposal of Her Majesty's Government for a renewal of the arrangement of 1894 relative to the sealing regulations in Bering Sea is not acceptable to your Government.

I shall not fail to bring the contents of this note to the knowledge of Her Majesty's principal secretary of state for foreign affairs.

I have, etc.,

REGINALD TOWER.

Mr. Sherman to Mr. Tower

No. 719.]

DEPARTMENT OF STATE,
Washington, July 2, 1897.

SIR: Further referring to Sir Julian Pauncefote's note of June 13 last, in which the information is contained that the sloop *Wild Swan* and the gunboat *Pheasant* will be employed in Bering Sea on patrol duties this season, I am constrained to express the deep regret of the President at the obvious inadequacy of the proposed fleet. Five vessels have been designated by the President for this purpose, and in view of the area to be patrolled and of the number of sealing vessels which have already engaged in and are preparing to fit out for sealing operations this season, the President hopes that Her Majesty's Government will decide for the present season to add to the fleet of three vessels employed last season rather than to reduce its numbers. The President believes it to be impossible properly to execute the laws enacted to enforce the Paris award unless a larger fleet be designated by Her Majesty's Government.

An early reply to this note will be appreciated, as the President fears that the designation of two vessels only by Her Majesty's Government would be accepted by the sealers as evidence of an abandonment of the patrol, which would render it necessary for him to detail a much larger fleet of United States vessels for this season.

It is unnecessary in this connection to repeat what I have already stated in my instruction to Mr. Hay, dated May 10, 1897, as to the inadequacy of the British patrolling fleet during the past three years in which the Paris award has been in operation.

I have, etc.,

JOHN SHERMAN.

Mr. Tower to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., July 5, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 719, of the 2d instant, informing me that the President "believes it to be impossible to execute the laws enacted to enforce the Paris award unless a larger fleet be designated by Her Majesty's Government" to be employed in Bering Sea during the present season on patrol duties.

I shall not fail to bring the contents of your note to the knowledge of the Marquis of Salisbury without delay and to inform you of the reply I may receive thereto.

I have, etc.,

REGINALD TOWER.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., July 21, 1897.

SIR: With reference to your note to Mr. Tower, No. 719, of the 2d instant, respecting the number of vessels employed on patrol duties in Bering Sea during the present season, I have the honor to inform you, in compliance with an instruction from the Marquis of Salisbury, that Her Majesty's Government have decided to send a third vessel, Her Majesty's ship *Amphion*, to Bering Sea, besides Her Majesty's ships *Wild Swan* and *Pheasant*.

I have, etc., C. F. FREDERICK ADAM.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., July 30, 1897.

SIR: With reference to your note No. 713 of the 28th ultimo, and to previous correspondence respecting sealing regulations in Bering Sea, in which you proposed, on behalf of the United States Government, that the regulations controlling American sealing vessels during the season of 1897 should be adapted to British vessels, I have now the honor to inform you, in compliance with an instruction received this day from the Marquis of Salisbury, that Her Majesty's Government regret that they are unable to accept the proposal in question.

So far as the sealing up of arms is concerned, Her Majesty's Government are of opinion that the certificate of a British custom-house officer, declaring that there are no firearms on board a vessel, constitutes in itself a sufficient guaranty. Such certificates are already carried by most British sealing vessels.

Nevertheless, instructions have been transmitted to the officers of the patrolling fleet, directing them to seal up the arms and ammunition of any British vessel which may apply to them for the purpose, and at the same time to enter the fact upon the vessel's log.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Adee to Mr. Adam.

No. 739.] DEPARTMENT OF STATE,
Washington, August 3, 1897.

SIR: I have the honor to acknowledge the receipt of your note of July 30 last, stating that Her Majesty's Government can not accept the proposals of this Department that the regulations controlling American sealing vessels during the season 1897 should be adapted to British vessels, but that instructions have been transmitted to the officers of the patrolling fleet directing them to seal up the arms and ammunition of any British vessel which may apply to them for the purpose and at the same time to enter the fact upon the vessel's log.

I beg to inform you that the subject in question will have the further consideration of the Department.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Sherman to Mr. Adam.

No. 766.] DEPARTMENT OF STATE,
Washington, August 28, 1897.

SIR: Referring to your note of the 30th of July last, relating to the sealing up by officers of the British patrol fleet of firearms and ammunition of British vessels engaged in sealing in Bering Sea, I have now the honor to inform you that a copy thereof was forwarded to the Secretary of the Treasury for his information and action.

In response to that note I have the pleasure of informing you that the Treasury Department has given notice to Captain Hooper, commanding the United States patrol fleet, of the intended action of the British officers respecting the sealing up of arms and ammunition, with instructions for Captain Hooper to exercise his good sense and judgment in giving to British sealing vessels searched the benefit which might properly come from the action of the officers of the British patrol fleet, although it is feared that the notice of the step taken by the British Government may reach Captain Hooper too late for the present sealing season.

I have, etc.,

JOHN SHERMAN.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., August 30, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 766, of the 28th instant, informing me that the Treasury Department has given notice to Captain Hooper, commanding the United States patrol fleet, of the instructions transmitted to the officers of the British patrolling fleet, directing him to seal up the arms and ammunition of any British vessel which may apply to him for that purpose.

I shall not fail to report to the Marquis of Salisbury the directions given to Captain Hooper in this connection.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Hay to Mr. Sherman.

No. 69.] EMBASSY OF THE UNITED STATES,
London, July 7, 1897.

SIR: In obedience to your instruction by cable, dated July 1, and after consultation with Mr. Foster, as suggested by you, I asked for a special audience with Lord Salisbury for the purpose of laying before him your proposition for a conference of the powers interested in the preservation of the fur seal, to be held at Washington in October next. I informed him that Russia had promised through Mr. Foster to take part in such a conference, and that we had reason to hope that Japan would also participate; and that the President especially desired that the Government of Her Majesty should also be represented in any such consultation that might take place.

Lord Salisbury asked me under what instructions the conference would meet. I had been told by General Foster that it was not contemplated that the representatives of any of the powers should be bound by imperative instructions, nor that the powers taking part should be considered as pledged to any positive line of action; that the meeting would be merely consultation as to the best means of preserving seal life in Bering Sea. I explained this to Lord Salisbury. He replied that before giving me a definite answer it would be necessary for him to consult his colleagues of the colonial office; that the question was essentially a colonial one; that England was in this respect rather the trustee for Canada than the principal; that he hoped later to be able to speak more definitely; that in principle he was in favor of any practicable action which would result in the preservation of the seals, though he did not at present agree with us upon the facts bearing upon the question of the threatened extermination of the herd.

After some further conversation on the subject, I asked him if he would approve of our discussing the matter with the right Hon. Joseph Chamberlain, the secretary of state for the colonies. He said he would be glad if we would do so. I have accordingly made an appointment for Mr. Foster with Mr. Chamberlain for next Saturday, "the first minute," he says, "he has disengaged."

As I have before observed to you in this correspondence, the attention of the Government seems to be devoted exclusively this year to the cultivation of the imperial idea in the colonies, and nothing will be done which will militate against this sentiment.

I have had some conversation with the Japanese minister at this court, in which he showed a favorable disposition to the project of a conference at Washington. Mr. Foster will converse further with him on the subject.

I have, etc., JOHN HAY.

Mr. Hay to Mr. Sherman.

No. 74.] EMBASSY OF THE UNITED STATES,
London, July 17, 1897.

SIR: Referring to my dispatch No. 69, of the 7th instant, I have the honor to report that I have lost no opportunity of bringing the subject of a conference to be held in Washington, in regard to the best means of preserving the seal herd in Bering Sea, to the attention of the British Government. I have arranged interviews between the Hon.

John W. Foster, representing the American Government, and the Rt. Hon. Joseph Chamberlain, colonial minister, and Sir Wilfred Laurier, premier of Canada.

I have also brought him into communication with Mr. de Staal, Russian ambassador at this court. General Foster will report to you the result of these interviews, which have been very satisfactory and promise favorable results. I have on my part had frequent conversations with my Russian and Japanese colleagues and other officials interested.

On Thursday last I had a brief conversation with Lord Salisbury, in which I referred to our former conversation on the same matter, and expressed the hope that after all the exchange of opinion which has now taken place between him and the different colonial authorities, whom he had consulted in reference to the Bering Sea matter, he might see his way to giving us a definite and favorable answer on the subject of the conference. He replied that he had reason to believe he might within a few days conclude the matter. In a conversation with Sir Julian Pauncefote I received similar encouragement.

I am unwilling to believe that the recent publication of some of the correspondence touching these questions will cause the British ministry to modify their views in relation to them or prevent the action we were hopefully anticipating.

I have, etc.,

JOHN HAY.

Mr. Hay to Mr. Sherman.

No. 86.] EMBASSY OF THE UNITED STATES,
London, July 30, 1897.

SIR: Referring to your instruction numbered 139 of the 20th instant, and to previous correspondence relative to the preservation of fur seals in Bering Sea, I have the honor to inclose herewith the translation of a cipher telegram which I sent you yesterday, stating that Her Majesty's Government had assented to a conference of experts on the seal question, at Washington, in October next.

I also inclose copies of Lord Salisbury's note, on which my cablegram was based, and of my reply to the same.

I have, etc.,

JOHN HAY.

[Inclosure 1 in No. 86.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *July 28, 1897.*

YOUR EXCELLENCY: In the last paragraph of the dispatch addressed to you by Mr. Sherman, under date of the 10th of May last, and communicated by you to me on the 22d of that month, a wish is expressed for a conference of the powers interested in the fur-seal fishery of the North Pacific.

In reply I have to state that Her Majesty's Government are willing to agree to a meeting of experts nominated by Great Britain and Canada and by the United States, in October next, when the further investigations to be made on the islands during the present season will have been completed.

The object of the meeting would be to arrive, if possible, at correct conclusions respecting the numbers, conditions, and habits of the seals frequenting the Pribilof Islands at the present time, as compared with the several seasons previous and subsequent to the Paris award.

It seems to Her Majesty's Government that Washington would be the most suitable place for such a meeting.

The other portions of Mr. Sherman's dispatch, in so far as they require any reply from Her Majesty's Government, have been answered by anticipation in dispatches which I have addressed to Her Majesty's ambassador at Washington on the 22d of April and 7th of May last, and which have been communicated to the Government of the United States.

I have, etc., SALISBURY.

[Inclosure 2 in No. 86.]

Mr. Hay to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, July 29, 1897.

MY LORD: I have the honor to acknowledge the receipt of your lordship's note of the 28th of July, in which, in reply to the suggestion of the President of the United States of a conference of the powers interested in the fur-seal fishery in the North Pacific, you acquaint me of the willingness of Her Majesty's Government to agree to a meeting of experts nominated by Great Britain and Canada and by the United States, in October next, the object of the meeting being to arrive, if possible, at correct conclusions respecting the present condition of the seal herd frequenting the Pribilof Islands, as compared with former seasons, and that, in the opinion of Her Majesty's Government, Washington would be the most suitable place for such a meeting.

I shall lose no time in transmitting your lordship's note to my Government.

It may not be out of place for me to recall to your lordship that, as I have already had occasion to mention, the President expects the Governments of Russia and Japan, powers interested in the preservation of the seal herds of Behring Sea, to be represented at the conference.

I have, etc., JOHN HAY.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., August 28, 1897.

DEAR MR. SHERMAN: In compliance with an instruction which I have received from the Marquis of Salisbury, I have the honor to transmit to you herewith proof copies of the communications addressed by the Government of the United States to that of Her Majesty on the subject of the fur-seal fishery in Behring Sea, which it is proposed to present shortly to Parliament, together with a list of the several documents inclosed.

I have to request you to inform me at your early convenience of any observations which you may have to make in regard to the publication in question.

I have, etc., C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Adam.

DEPARTMENT OF STATE,
Washington, September 8, 1897.

DEAR MR. ADAM: I am in receipt of your confidential note of the 28th ultimo, and desire to thank you for affording me the opportunity to examine the copies of communications it is proposed to present to Parliament.

The only observation which I have to make respecting the compilation is to suggest that if Lord Salisbury's reply to Mr. Sherman's instruction No. 28, of May 10, 1897, to Mr. Hay, is published, Mr. Hay's acknowledgment of the receipt of his lordship's note should likewise be included in the publications.

I am, my dear Mr. Adam, very truly, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Adam.

No. 768.] DEPARTMENT OF STATE,
Washington, August 31, 1897.

SIR: Referring to previous correspondence respecting the proposed Bering Sea conference to be held in this city in October next, I have now the honor to inquire the earliest practicable date in that month when Professor Thompson and the other British delegates may be expected to reach this city. It is the desire of the Government of the United States that the meeting shall take place early in October, 1897, if possible, for which reason it is imperative that I should be apprised of the date of their arrival in Washington in order that suitable communications may be sent to the Governments of Japan and Russia.

As you doubtless know, Dr. Jordan, one of the scientists who lately visited the seal islands on behalf of the United States, has returned to this country.

Asking that the subject be given immediate attention, I avail, etc.,

JOHN SHERMAN.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., September 2, 1897.

SIR: With reference to previous correspondence respecting the proposed meeting of experts from the United States, Great Britain, and Canada, to be held in Washington in October next, I have the honor to inform you that I have telegraphed the substance of your note No. 768, of the 31st ultimo, to Her Majesty's principal secretary for foreign affairs.

As soon as I receive his lordship's reply, I shall not fail to inform you of its tenor.

I have, etc., C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1897.

It is very desirable that the date of the meeting of seal conference should be fixed without further delay. Endeavor to have British Government agree not later than October 18.

SHERMAN.

Mr. Hay to Mr. Sherman.

[Telegram.]

LONDON, *September 24, 1897.*

Have visited foreign office to urge early date for Bering Sea conference. Promise reply. Have expressed my disagreement with conclusion of British Government about Russia and Japan, and await your further instructions.

HAY.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., September 22, 1897. (Received Sept. 25.)

SIR: In reply to your note, No. 768, of the 31st ultimo, I have the honor, in compliance with an instruction received from Her Majesty's principal secretary for foreign affairs, to draw your attention to the fact that Her Majesty's Government have merely agreed to a meeting, to be held at Washington, of experts nominated by the United States, Great Britain, and the Dominion of Canada, in order by due consideration of the reports drawn up by the said experts to arrive at correct conclusions respecting the condition of the seal herd frequenting the Pribilof Islands.

In agreeing to such a meeting Her Majesty's Government never, of course, anticipated that their doing so would be construed as an assent to a proposal for an international conference.

I am at the same time directed to point out that neither Russia nor Japan have any experts in a position corresponding to that of the commissioners who have been carrying on their investigations upon the Pribilof Islands during the past two years; and, moreover, that neither of the two countries in question possesses any direct interest in the herd frequenting those islands.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Hay.

[Telegram]

DEPARTMENT OF STATE,
Washington, September 25, 1897.

We have not understood Great Britain pledged to anything beyond tenor of Salisbury note July 28. But its terms should be construed in light of your preceding interviews with him and your note July 29.

Russia and Japan had previous to that date been invited and have accepted invitation to conference in October. We have supposed Great Britain would not object to attendance of Russian and Japanese delegates at meeting of experts of United States and Great Britain and have benefit their observations and conclusions. If Great Britain insists in withdrawing from conference after the experts have concluded their labors, it is understood she is free to do so. Urge early answer to our request to be informed when British experts will be in Washington, and have date, if possible, not later than October 18.

SHERMAN.

Mr. Hay to Mr. Sherman.

No. 126.] EMBASSY OF THE UNITED STATES,
London, September 25, 1897.

SIR: I have the honor to transmit a copy of a telegram sent you yesterday. Deciphered, it is as follows:

Have visited foreign office to urge earliest date for Bering Sea conference. Promised reply in a few days. Have expressed my disagreement with conclusion of British Government about Russia and Japan, and await your further instructions.

I received your cabled instruction of the 20th of September in due time; but as Lord Salisbury was out of town, at his place in the country, and as he usually comes in on Wednesday afternoons to receive the diplomatic body, I waited till that day to ask an interview with him. Unfortunately he remained out of town on that day. I therefore went on Thursday to see Sir Thomas Sanderson, the permanent undersecretary for foreign affairs, and represented to him the earnest desire of my Government that as early a date as possible should be fixed for the meeting of the conference, which had been agreed upon for the month of October, between the British, Russian, Japanese, and American Governments. He told me he was not acquainted with the state of the business, took a note of my request, and then added that the British Government had only consented to a meeting of English, Canadian, and American experts. I expressed my surprise at this, referred to my conversations with Lord Salisbury, in which I had expressly stated, without objection on the part of his lordship, that Russia and Japan would be invited to take part in the conference; it was true, I said, that Lord Salisbury, in his note consenting to a conference, had not mentioned the participation of other powers, but I had immediately, in acknowledging receipt of his note, called to his attention the fact of the invitation having been extended to Russia and Japan. Sir Thomas Sanderson assented to this, and told me he would give the matter his attention.

The next morning I saw in the Times a telegram from Ottawa announcing, apparently on authority, that the British and Dominion Governments objected to meeting the representatives of Russia and Japan in conference. This, taken in connection with what I had heard the day before, I thought required immediate attention. I was drafting a note to Lord Salisbury on the subject when I received a visit from Mr. Villiers, the undersecretary of state, in whose department this matter more immediately lies. He told me that several days ago the foreign office had instructed Mr. Adam, the chargé d'affaires of the British embassy in Washington, to acquaint you with the view of Her Majesty's Govern-

ment in regard to the participation of Russia and Japan in the conference. I once more recalled to him, as I had to Sir Thomas Sanderson, that I had constantly kept in view in my conversations with Lord Salisbury the expectation of the President that representatives of both Russia and Japan would take part in the conference, and that I had, in my note of the 29th of July, renewed that intimation without objection from the British Government. He said the conference was one of experts, that Russia and Japan had no experts, and that they had no interests at stake in the preservation of the Pribilof herd.

I told him, in view of the fact that the President had invited, with the knowledge and presumed assent of the British Government, the Governments of Russia and Japan to participate in the conference, and that these Governments had accepted the invitation, it would now be difficult, if not impossible, to exclude them; but that I would report to you our conversation, and await your further instructions.

He further informed me that they had inquired of Mr. D'Arcy Thompson what would be the earliest date at which he could be in Washington, and would let me know his reply as soon as received. Sir Julian Pauncefote, it is thought, will not be able to sail before the 24th of October.

I am, etc., JOHN HAY.

Mr. Hay to Mr. Sherman.

No. 137.] EMBASSY OF THE UNITED STATES,
London, October 6, 1897.

SIR: I received your cabled instruction of the 25th on Sunday, the 26th. On Monday morning I arranged for an interview with Mr. Villiers at the foreign office, as Lord Salisbury is still absent from London. I communicated to Mr. Villiers the substance of your instruction, of which he took note, and, after some conversation, he said he would write to Lord Salisbury by that day's post and hoped to have an answer on the following day. He added, however, that it might be necessary to consult the colonial office, in which case a delay of a day or two would be possible.

During the week I made several inquiries, direct and indirect, which merely developed the fact that an interchange of views was going on between the foreign and colonial offices, which consumed a good deal of time owing to the absence of Mr. Chamberlain in Italy, Lord Salisbury not being willing to decide the matter without the full assent of the colonial authorities. On Saturday night I received your cabled instruction of that date, which I answered the next day; both telegrams are inclosed in this dispatch.

On Monday I went to the foreign office and saw Mr. Villiers. I represented to him how urgent was the necessity that my Government should receive a definite answer in regard to the conference. He went into detail as to the communications which had been passing between Lord Salisbury, Mr. Chamberlain, and the colonial office, showing that it had been impossible to give us an answer up to that date. He again assured me that every effort would be made to reply definitely to our inquiries on Tuesday or Wednesday.

To-day I received a note from Mr. Villiers, a copy of which I inclose, informing me that Mr. Adam has been instructed by telegraph to com-

municate to you the decision of the British Government not to take part in a conference at which Russia and Japan were to attend.

I have, etc.,

JOHN HAY.

[Inclosure in No. 137.]

Mr. Villiers to Mr. Hay.

FOREIGN OFFICE, *October 6, 1897.*

MY DEAR AMBASSADOR: I have the honor to inform you that late last night a telegram was sent to Mr. Adam instructing him to point out to the United States Government that if Russian and Japanese delegates were to attend this would alter the character and objects of the meeting of experts nominated by Great Britain, the United States, and Canada, to which assent was given in Lord Salisbury's note of July 28.

Mr. Adam is therefore to express the great regret of Her Majesty's Government that it will not be possible for them to send a delegate to a meeting so constituted. Moreover, they do not see that either Russia or Japan could take part usefully in such a meeting of experts to consider the condition of the seal herd frequenting the Pribilofs. But if the Russian and Japanese Governments should so desire, Her Majesty's Government see no objection to furnishing them with copies of the proceedings of the meetings of the United States and British experts.

I beg to remain, etc.,

F. H. VILLIERS.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Washington, October 6, 1897.

SIR: With reference to the communication, made to Her Majesty's Government on the 27th ultimo by the United States ambassador in London, expressing the desire of the Government of the United States for the admission of delegates from Russia and Japan to assist at the meeting of experts respecting the fur-seal fishery question, I have the honor, in compliance with an instruction from the Marquis of Salisbury, to point out that such a course would change the character and objects of the meeting of experts to be nominated by Great Britain, Canada, and the United States, to which his lordship assented, on behalf of Her Majesty's Government, in his note to Mr. Hay of the 28th of July last.

I am accordingly directed to express to you the great regret of Her Majesty's Government that it will not be possible for them to send a delegate to a meeting constituted in the manner suggested by Mr. Hay on the 27th ultimo.

Her Majesty's Government fail to perceive that any useful purpose could be served by the participation of Russia or Japan in a meeting of experts appointed to consider the state of the seal herd frequenting the Pribilof Islands.

However, Her Majesty's Government see no objection to copies of the proceedings of the meeting of British and United States experts being supplied to the Governments of Russia and Japan, should they wish to have them.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Adam.

No. 796.]

DEPARTMENT OF STATE,
Washington, October 7, 1897.

SIR: I had the honor to receive in due course of the mail your note dated from Manchester, Mass., on the 22d ultimo, in which, in replying to my note of the 31st of August, you draw attention to the fact that Her Majesty's Government has merely agreed to a meeting of experts nominated by the United States, Great Britian, and the Dominion of Canada; that Her Majesty's Government never anticipated that this act would be construed as an assent to a proposal for an international conference; that neither Russia nor Japan have any experts in a position corresponding to that of the commissioners who have been carrying on investigations on the Pribilof Islands during the past two years, and that neither of the two countries in question possesses any direct interest in the herd frequenting those islands.

While I make careful note of these declarations on the part of your Government, I desire to say that neither in my note of the 31st of August nor in any other communication made by this Department to Her Majesty's Government has the action of that Government been construed in any other manner than was warranted by the language employed by Lord Salisbury in his note to Mr. Hay of July 28 last, and by the circumstances which occasioned the sending of that note. His lordship's note is in its terms a reply to the last paragraph of my instruction to Mr. Hay of May 10 last, and in that paragraph the British Government was invited to "a conference of the powers interested" in the preservation of the seals, and which powers, as appears from other portions of that instruction, were the United States, Great Britain, Russia, and Japan; but I recall to your attention the fact that his lordship's note had been preceded by a conference early in July between him and Mr. Hay by special appointment, in which his lordship was informed that it was the desire of the Government of the United States to hold a conference at Washington, in October next, of the powers interested in the preservation of the seals: that Russia had already accepted an invitation to such conference; that there was reason to hope that Japan would also participate, and that the President desired that Her Majesty's Government should also be represented.

His lordship was also informed that it was not expected that the powers taking part should be considered as pledged to any positive line of action, and that the meeting would be for consultation as to the best means of preserving seal life. In this conference his lordship promised to give Mr. Hay an answer after consulting with his colleagues of the colonial office. This interview was followed by another later in the month of July, in which the subject was alluded to, and an early answer to Mr. Hay's invitation was promised. Lord Salisbury's note of July 28 was acknowledged on the day following its date, and his lordship's attention was recalled to the interviews in which it was made known that it was expected the Governments of Russia and Japan would be represented at the conference.

The Government of the United States has not understood that Great Britain was pledged to anything beyond the tenor of Lord Salisbury's note of July 28. But I felt justified in construing it in the light of Mr. Hay's interviews with, and his note of July 29 to, his lordship. In view of these facts I have proceeded upon the understanding that the delegates of Russia and Japan would be present at the meeting of the experts of the United States and Great Britain and would have the ben-

efit of their observations and conclusions. I have also understood that if Great Britain should insist upon withdrawing from the conference after the experts had concluded their labors she would be free to do so.

In answer to your reference to the absence of expert knowledge on the part of Russia and Japan as to the Pribilof Islands, I beg to say that, however this may be, the United States has always contended that a proper understanding and settlement of the seal question involved a study of the conditions of seal life in the entire area of the North Pacific Ocean. Both the United States and Great Britain have proceeded upon this theory, as during the past two years, while they have been conducting investigations on the Pribilof Islands, they have likewise sent their scientists to study seal life on the Asiatic side of the same waters. I have presumed that in the contemplated conference the scientists of both the United States and Great Britain who have visited the Asiatic seal islands during the past two years would be present and give the Powers interested the benefit of their investigations. In addition to the useful information they would doubtless contribute, I am informed that the Russian Government has named the governor (and for many years a resident) of the Russian seal islands as one of its delegates to the conference; and I have no doubt the Japanese delegates will be able to furnish valuable expert knowledge of the general subject. I think, therefore, that it will be unfortunate for the proper solution of this long-debated question if the British Government should fail to have present its own scientist who has for the past two years visited the Asiatic seal islands, or should not receive the information which the Russian and Japanese delegates may be prepared to submit to the conference.

It is true, as asserted by Lord Salisbury, that neither Russia nor Japan possesses any direct interest in the seal herd frequenting the Pribilof Islands, but that fact has not heretofore been regarded as a bar to their admission to the conferences of the United States and Great Britain when this herd was under consideration. His lordship will recall the joint conference which took place in London between himself, the American minister, and the Russian ambassador in 1888, and the tripartite conference of the Secretary of State, the British and Russian ministers in Washington in 1890. In inviting the October conference the President felt that the controversy respecting the fur seals had been so long and serious, and its rightful settlement so important and far-reaching, it would be a great aid to the ultimate and proper settlement of the long dispute if the United States and Great Britain would avail themselves of the information and experience of the Russian and Japanese Governments.

Having made such response as seemed necessary to your note of the 22d ultimo, I have now to acknowledge the receipt yesterday afternoon of your note bearing that date, in which you inform me that Mr. Hay made a communication on the 27th ultimo to Her Majesty's Government expressing the desire of the Government of the United States for the admission of delegates from Russia and Japan to the meeting of experts respecting the fur-seal question; that you are instructed by Lord Salisbury to point out that such a course would change the character and object of the meeting of experts nominated by Great Britain, Canada, and the United States; that it will not be possible for Her Majesty's Government to send a delegate to a meeting constituted in a manner suggested by Mr. Hay on the 27th ultimo, and that your Government fails to perceive that any useful purpose could be served by

the participation of Russia and Japan in a meeting to consider the state of the Pribilof seal herd.

In response to these statements I beg to say that Mr. Hay has advised me that under my instructions he called at the foreign office on the 23d ultimo, and in the absence of the principal secretary for foreign affairs he saw the permanent undersecretary for foreign affairs and represented to him the earnest desire of the Government of the United States that as early a date as possible should be fixed for the meeting of the conference, which had been agreed upon for the month of October between the British, Russian, Japanese, and American Governments. The permanent undersecretary took note of Mr. Hay's request and then stated to him that the British Government had only consented to a meeting of English, Canadian, and American experts. Mr. Hay expressed his surprise at this; referred to his conversations with Lord Salisbury in which he had expressly stated, without objection on the part of his lordship, that Russia and Japan would be invited to take part in the conference, and that in his note of July 29, in acknowledging receipt of his lordship's note of July 28, he had immediately called to his attention the fact of the invitation having been extended to Russia and Japan, without objection from the British Government. This interview having been reported by telegraph to me, the views of the President on the subject were communicated to Mr. Hay confirming his understanding of the conference, and he was again instructed to urge an early answer to the request to be informed when the British experts would arrive in Washington. Under these circumstances Mr. Hay visited the foreign office on the 27th ultimo, made known the views of this Government on the question raised in the previous interview, and again asked to be informed as to the arrival of the British representatives.

It will thus be seen that, so far from Mr. Hay having communicated "the desire of the Government of the United States for the admission of delegates from Russia and Japan to assist at a meeting of experts," his object was to urge upon the British Government to indicate the time when its delegates would arrive in Washington to attend the conference already agreed upon and the composition of which had been early made known to Lord Salisbury. No answer has yet been made to the inquiry which was the object of Mr. Hay's visits to the foreign office on the 23d and 27th ultimo, and which was likewise the subject of my note of August 31 last. If, at the late date of Mr. Hay's visit referred to, a request had been made for the first time for the admission of delegates from Russia and Japan to a meeting of experts from the United States and Great Britain, his lordship might well claim "that such a course would change the character and object of the meeting." But it has been shown that early in July last his attention was called to the character of the conference solicited by the United States and was informed that Russia had already accepted an invitation to participate in it and that Japan was also expected to take part. It was likewise known to his lordship that the Government of the United States had for three years past been seeking to bring about such a conference, and not until Mr. Hay's visit on the 23d ultimo was this Government aware of any objection on the part of the British Government to the participation of the representatives of Russia and Japan in the conference which it had been agreed should be held in October.

The Government of the United States having extended invitations to the Governments of Russia and Japan to attend the conference, and both of these Governments having accepted the invitation, this Govern-

ment will make the necessary arrangements to receive their delegates and hold the conference during the present month as agreed upon, and it anticipates that its deliberations will be fruitful of good results.

It will be a source of deep regret to the President if the British Government will not participate in this conference, but he directs me to say to you that this Government will still hold itself ready to meet during the present month by proper representation such delegates as the British Government may nominate for the object set forth in Lord Salisbury's note of July 28 last. I have therefore to request that you will communicate the fact of this readiness on the part of the President to his lordship as promptly as possible, in order that, if agreeable to him, the meeting may be fixed for a date as early in the month as practicable.

I have, etc., JOHN SHERMAN.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Washington, October 9, 1897.

SIR: I have the honor to acknowledge the receipt of your note, No. 796, of the 7th instant, in reply to my two notes of the 22d ultimo and the 6th instant, respecting the inability of Her Majesty's Government to accede to the proposal of the United States for the admission of delegates from Russia and Japan to the meeting of American, British, and Canadian experts to examine the condition of the seals frequenting the Pribilof Islands.

I did not fail to convey by telegraph yesterday to Her Majesty's principal secretary of state for foreign affairs a summary of your note, specially mentioning the readiness of the United States Government to meet during the present month such delegates as Her Majesty's Government may nominate, for the object set forth in Lord Salisbury's note of the 28th of July last to Mr. Hay, and I also transmitted a copy of the full text by post last night.

As this, however, can scarcely be delivered in London before the end of next week, and some little time must be allowed for its consideration by Her Majesty's Government, I venture to point out that under the most favorable circumstances it will be almost impossible for any British delegate to arrive in Washington in time to attend a meeting before the end of the present month.

I have, etc., C. F. FREDERICK ADAM.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Washington, October 15, 1897.

SIR: With reference to your note, No. 796, of the 7th instant, I have the honor to inform you, in compliance with an instruction received from the Marquis of Salisbury, that Her Majesty's Government have duly taken note of the acceptance by the President of the United States of the proposal contained in his lordship's note of the 28th of July last, for a meeting of experts nominated by Great Britain and Canada and by the United States. The object of this meeting, as stated in the

above-mentioned note, is "to arrive, if possible, at correct conclusions respecting the number, conditions, and habit of the seals frequenting the Pribilof Islands at the present time, as compared with the several seasons previous and subsequent to the Paris award."

Her Majesty's Government have accordingly nominated Prof. D'Arcy W. Thompson as their delegate at the meeting in question, while the Government of the Dominion of Canada have appointed Mr. Macoun in a similar capacity, and those gentlemen have been instructed to proceed to Washington with the least delay possible. Prof. D'Arcy Thompson sails from Liverpool to-morrow, and may therefore be expected here on or after the 23d instant.

Her Majesty's Government and the government of the Dominion of Canada would be glad to be informed of the names of the experts to be appointed by the United States Government.

With regard to the invitation to Her Majesty's Government, which is renewed in your note above mentioned, to a conference on the general question of the regulation of the fur-seal fishery, with the United States, Russia, and Japan, I am instructed to express once more to you the regret of Her Majesty's Government that they are not prepared to participate in a conference constituted in such a manner and for such a purpose.

I have, etc., C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Adam.

No. 805.] DEPARTMENT OF STATE,
Washington, October 20, 1897.

SIR: An unavoidable delay has occurred in replying to your notes of the 9th and 15th instant respecting a meeting of experts of the United States, Great Britain, and Canada, owing to my inability to communicate with the persons whom it was the desire of the President to designate for that purpose. I now have the honor to inform you that the delegates appointed to represent the Government of the United States at the meeting of experts, as indicated in your note of the 15th instant, are Messrs. Charles S. Hamlin and David Starr Jordan, and that they will be ready to begin their sessions at such time as shall be agreed upon after the arrival of the British delegates in this city, having due regard for the convenience of the latter.

In view of the language employed in your two notes, of which this is an acknowledgment, it seems necessary that I should add that no action on the part of my Government can properly be construed into a proposal to change the conditions established by the conferences held and the notes exchanged between Her Majesty's principal secretary for foreign affairs and the United States ambassador in London in July last. But while the President has been greatly desirous that the British Government should participate in a conference where the whole subject of the controversy might be considered, he welcomes any step taken in that direction, however circumscribed. It is a source of gratification to him that the meeting of American, British, and Canadian experts has been definitely arranged, and he sincerely trusts it may lead to an early and honorable adjustment of this long pending question.

I have, etc.,

JOHN SHERMAN.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Washington, October 20, 1897.

SIR: I have the honor to acknowledge the receipt of your note No. 805, of this day's date, informing me of the appointment of Messrs. Charles S. Hamlin and David Starr Jordan as delegates to represent the United States Government at the meeting of experts to be held in Washington in accordance with the proposal contained in the Marquis of Salisbury's note of the 28th of July last to Mr. Hay.

With regard to the allusion to the language of my two notes, I have the honor to point out afresh that my note of the 15th instant was written under direct instructions from the Marquis of Salisbury, to whom I shall not fail to communicate the text of your note with the least possible delay.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Sherman to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, November 4, 1897.

MY DEAR SIR JULIAN: On the 10th of last month Mr. Hay was instructed by cable to represent to the foreign office that, in view of the pressing engagements of Dr. Jordan and other of our experts who reside on the Pacific coast, it was greatly to be desired that the contemplated meeting of experts on the conditions of the Pribilof herd of seals should be held as speedily as possible. In response to his representations Mr. Hay was informed that Professor Thompson would leave immediately for Washington and that the Canadian expert would join him there without delay.

Professor Thompson arrived on the 23d ultimo, and the experts nominated by our Government signified to him their desire to enter upon their work at once, but up to the present the meeting has been delayed on account of the continued absence of Mr. Macoun, the Canadian expert. In view of the past representations on the subject I need hardly say to you that this delay has been a source of disappointment to the President. While I am without any official information upon the subject, it is announced from Ottawa in the public press that Mr. Macoun is not to leave the Canadian capital till the 8th instant. If such is the case, I feel called upon to express my regret, especially in view of the fact that, under the limitations placed by Lord Salisbury upon the meeting agreed upon between the two Governments, it is to be composed exclusively of the experts named, and under the same limitations should naturally precede any conference of a diplomatic or political character, which latter is much desired and will be welcomed by my Government.

I am, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, November 7, 1897.

MY DEAR MR. SECRETARY: I have the honor to acknowledge the receipt of your letter of the 4th instant and to express my regret at the inconvenience which has been caused by the delay in Mr. Macoun's

arrival. I have now been informed by the Marquis of Salisbury that Mr. Macoun proposes to leave Ottawa to-morrow, Monday, on his way to Washington, and that the Canadian Government, while fully recognizing the character and object of the meeting of experts, desire that their minister of marine, Sir Louis Davies, should be present, in order to watch the discussion and suggest questions, if necessary, though naturally without obtruding any point of policy.

Sir W. Laurier proposes also to be in Washington, and I am desired by Lord Salisbury to inform you of the wishes of the Canadian Government and to inquire whether their proposal is agreeable to your Government.

I beg to add that in the event of your Government concurring in the presence of the colonial ministers at the meeting of experts it is suggested that I should be present at the same time.

I remain, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, November 8, 1897.

MY DEAR SIR JULIAN: I take pleasure in repeating the assurance which I gave you verbally yesterday when you handed me your note of that date, that my Government will very heartily welcome the visit to Washington of Sir Wilfrid Laurier, the prime minister of Canada, and Sir Louis Davies, minister of marine, and that it cheerfully yields to the desire of the Marquis of Salisbury to so far modify the character of the meeting of experts, as set forth in Mr. Adam's note of the 15th ultimo, as to admit the officials named as well as yourself to the meeting, in order to watch the discussion and suggest questions.

I beg to add that Mr. John W. Foster, whom, as you know, the President has intrusted with the negotiations relative to the seal question, will be expected also to attend the meetings on the part of the United States.

I take it for granted that the foregoing modification of the character of the meeting does not in any wise relieve the experts from the duty of reaching conclusions on their own behalf respecting the conditions of the Pribilof seal herd and making a report thereon.

I am, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, November 8, 1897.

MY DEAR MR. SECRETARY: I beg to thank you for your note of this day's date concerning the projected visit to Washington of Sir W. Laurier and Sir L. Davies.

As regards the last paragraph of your note, I would observe that there is no intention whatsoever to modify the character of the meeting, and that the experts will, of course, report upon the condition of the seal herd, as originally arranged.

I am, etc., JULIAN PAUNCEFOTE.

Messrs. Hamlin and Jordan to Mr. Sherman.

WASHINGTON, D. C., *November 17, 1897.*

SIR: On the 22d of October you directed the undersigned to act as delegates, representing the United States, in a conference with delegates of Great Britain and Canada held for the following object:

To arrive, if possible, at correct conclusions respecting the numbers, conditions, and habits of the seals frequenting the Pribilof Islands at the present time as compared with the several seasons previous and subsequent to the Paris award.

We have now the honor to report to you the successful completion of the work of the conference. The protocols of this conference, which are handed you herewith, contain the record of the daily proceedings of the meetings. The final findings of fact are embodied in the joint statement of conclusions unanimously adopted by the conference, which we now also place in your hands.

It is proper that we should explain the absence in this joint statement of all reference to the regulations adopted in accordance with the award of the Paris Tribunal of Arbitration, or to any question involving administrative action.

In this connection, in accordance with their understanding of the purpose of the conference, the delegates of the United States presented for discussion the following proposition:

In the seasons subsequent to the Paris award the number of seals frequenting the Pribilof Islands has steadily declined to the date of our inspection of the rookeries in 1897. The regulations adopted by the Paris Tribunal of Arbitration have therefore proved ineffective for the protection and preservation of the fur-seal herd.

In deference to the views of the delegates of Great Britain and Canada, this proposition and all similar ones suggested were withdrawn from discussion, it being stated by the delegates of Great Britain and Canada that their interpretation of the joint instructions did not permit them to take up this or any other question bearing directly or indirectly on regulations or administrative matters.

Trusting that you may find the work of the conference a satisfactory contribution to knowledge of the condition of the fur-seal herd, we are,

Very respectfully, yours,

CHARLES SUMNER HAMLIN.
DAVID STARR JORDAN.

Joint statement of conclusions respecting the fur-seal herd frequenting the Pribilof Islands in Bering Sea.

The undersigned, duly empowered delegates, engaged during recent years in the investigation of the condition and habits of the fur-seal herd frequenting the Pribilof Islands in Bering Sea, viz: On behalf of the United States, Charles Sumner Hamlin and David Starr Jordan; on behalf of Great Britain, D'Arcy Wentworth Thompson; on behalf of Canada, James Melville Macoun, have met in conference under instructions from our respective Governments. Under these instructions we were directed:

To arrive, if possible, at correct conclusions respecting the numbers, conditions, and habits of the seals frequenting the Pribilof Islands at the present time as compared with the several seasons previous and subsequent to the Paris award.

As a result of such conference, now completed, we, the above-named Charles Sumner Hamlin, David Starr Jordan, D'Arcy Wentworth Thompson, and James Melville Macoun, find ourselves in accord on the propositions contained in the following joint statement of conclusions respecting the fur-seal herd frequenting the Pribilof Islands, and make this our report.

JOINT STATEMENT.

1. There is adequate evidence that since the year 1884, and down to the date of the inspection of the rookeries in 1897, the fur-seal herd of the Pribilof Islands, as measured on either of the hauling grounds or breeding grounds, has declined in numbers at a rate varying from year to year.

2. In the absence for the earlier years of actual counts of the rookeries such as have been made in recent years, the best approximate measure of decline now available is found in these facts:

(*a*) About 100,000 male seals of recognized killable age were obtained from the hauling grounds each year from 1871 to 1889. The table of statistics given in Appendix I shows on the whole a progressive increase in the number of hauling grounds driven and in the number of drives made, as well as a retardation of the date at which the quota was attained during a number of years previous to 1889.

(*b*) In the year 1896, 28,964[1] killable seals were taken after continuing the driving till July 27, and in 1897 19,189, after continuing the driving till August 11. We have no reason to believe that during the period 1896 and 1897 a very much larger number of males of recognized killable age could have been taken on the hauling grounds.

The reduction between the years 1896 and 1897 in the number of killable seals taken, while an indication of decrease in the breeding herd, can not be taken as an actual measure of such decrease. A number of other factors must be taken into consideration, and the real measure of decrease must be sought in more pertinent statistics drawn from the breeding rookeries themselves.

3. From these data it is plain that the former yield of the hauling grounds of the Pribilof Islands was from three to five times as great as in the years 1896 and 1897, and the same diminution to one-third or one-fifth of the former product may be assumed when we include also the results of hunting at sea.

4. The death rate among the young fur seals, especially among the pups, is very great. While the loss among the pups prior to their departure from the islands has been found in the last two years to approach 20 per cent of the whole number born, and though the rate of subsequent mortality is unknown, we may gather from the number which return each year that from one-half to two-thirds have perished before the age of 3 years—that is to say, the killable age for the males and the breeding age for the females.

5. The chief natural[2] causes of death among the pups, so far as known

[1] The nominal quota of 30,000 for 1896, and of 20,890 for 1897, included food skins taken in the fall of 1895 and 1896.

[2] That is to say, not including losses ensuing from the killing of mothers at sea. The number of dead pups counted on the rookeries between August 8 and 14, in 1896, was 11,045. It is recognized that this number is an underestimate, inasmuch as a greater number must have been overlooked than were counted twice. It is also recognized that the great majority of these pups died from the attacks of the worm *Uncinaria*.

at present, are as follows, the importance of each being variable and more or less uncertain:

(*a*) Ravages of the parasitic worm, *Uncinaria*, most destructive on sandy breeding areas and during the period from July 15 to August 20.

(*b*) Trampling by fighting bulls or by moving bulls and cows, a source of loss greatest among very young pups.[1]

(*c*) Starvation of pups strayed or separated from their mothers when very young or whose mothers have died from natural causes.

(*d*) The ravages of the great killer (*Orca*), known to be fatal to many of the young and perhaps also to older seals.

At a later period drowning in the storms of winter is believed, but not certainly known, to be a cause of death among the older pups.

6. Counts of certain rookeries, with partial counts and estimates of others, show that the number of breeding females bearing pups on St. Paul and St. George was, in 1896 and 1897, between 160,000 and 130,000, more nearly approaching the higher figure in 1896 and the lower in 1897.[2]

7. On certain rookeries where pups were counted in both seasons, 16,241 being found in 1896 and 14,318 in 1897, or, applying a count adopted by Professor Thompson, 14,743 in the latter year, there is evident a decrease of 9 or 12 per cent within the twelvemonth in question. The count of pups is the most trustworthy measure of numerical variation in the herd. The counts of harems, and especially of cows present, are much inferior in value. The latter counts, however, point in the same direction. The harems on all the rookeries were counted in both seasons. In 1896 there were 4,932, in 1897 there were 4,418, a decrease of 10.41 per cent. The cows actually present on certain rookeries at the height of the season were counted in both seasons. Where 10,198 were found in 1896, 7,307 were found in 1897, a decrease of 28.34 per cent.[3]

8. It is not easy to apply the various counts in the form of a general average to all the rookeries of the islands. We recognize that a notable decrease has been suffered by the herd during the twelvemonth 1896 to 1897, without attempting, save by setting the above numbers on record, to ascribe to the decrease more precise figures.

9. The methods of driving and killing practiced on the islands, as they have come under our observation during the past two years, call for no criticism or objection. An adequate supply of bulls is present on the rookeries; the number of older bachelors rejected in the drives during the period in question is such as to safeguard in the immediate future a similarly adequate supply; the breeding bulls, females, and pups on the breeding rookeries are not disturbed; there is no evidence

[1] The importance of this source of loss we now find to be much less than was supposed to be the case from the investigations made in 1896. (See Reports for 1896, Jordan, p. 45; Thompson, p. 20; Macoun, MSS.)

[2] For detailed account of the census of 1896, see Jordan, preliminary report for 1896, p. 15; Thompson, report for 1896, p. 19; Macoun, report, 1896, MSS. For a discussion of suggested corrections to the census of 1896, see Jordan, final report, 1897. For details of the census of 1897, see Thompson, report, 1897; Macoun, report, 1897. Jordan, report, 1897. A correction to be made in the census of 1896 arises from the agreed assumption that the total number of breeding females was 1.75 times the number seen in the height of the season. Later observations show that the actual total is at least twice the maximum number ever seen at once on a rookery.

[3] The extreme irregularity of the number of cows present on the rookeries from day to day, and the consequent invalidity of and comparison of their number, is shown by the census made on Lukanin and Kitovi rookeries during the season of 1897. See Appendix II.

or sign of impairment by driving of the virility of males; the operations of driving and killing are conducted skillfully and without inhumanity.

10. The pelagic industry is conducted in an orderly manner and in a spirit of acquiescence in the limitations imposed by the law.

11. Pelagic sealing involves the killing of males and females alike, without discrimination and in proportion as the two sexes coexist in the sea. The reduction of males effected on the islands causes an enhanced proportion of females to be found in the pelagic catch; hence this proposition, if it vary from no other cause, varies at least with the catch upon the islands. In 1895 Mr. A. B. Alexander, on behalf of the Government of the United States, found 62.3 per cent of females in the catch of the *Dora Siewerd*, in Bering Sea, and in 1896 Mr. Andrew Halkett, on behalf of the Canadian Government, found 84.2 in the catch of the same schooner in the same sea. There are no doubt instances, especially in the season of migration and on the course of the migrating herds, of catches containing a very different proportion of the two sexes.

12. The large proportion of females in the pelagic catch includes not only adult females that are both nursing and pregnant, but also young seals that are not pregnant, and others that have not yet brought forth young, with such also as have recently lost their young through the various causes of natural mortality.[1]

13. The polygamous habit of the animal, coupled with an equal birth rate of the two sexes, permits a large number of males to be removed with impunity from the herd, while, as with other animals, any similar abstraction of females checks or lessens the herd's increase; or, when carried further, brings about an actual diminution of the herd. It is equally plain that a certain number of females may be killed without involving the actual diminution of the herd, if the number killed do not exceed the annual increment of the breeding herd, taking into consideration the annual losses by death through old age and through incidents at sea.

14. While, whether from a consideration of the birth rate or from an inspection of the visible effects, it is manifest that the take of females in recent years has been so far in excess of the natural increment as to lead to a reduction of the herd in the degree related above, yet the ratio of the pelagic catch of one year to that of the following has fallen off more rapidly than the ratio of the breeding herd of one year to the breeding herd of the next.[2]

15. In this greater reduction of the pelagic catch compared with the gradual decrease of the herd there is a tendency toward equilibrium, or a stage at which the numbers of the breeding herd would neither increase nor decrease. In considering the probable size of the herd in

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[1] Statements on which to base an estimate of the relative numbers of these several classes are necessarily incomplete, but the following notes may serve as a partial guide: Townsend, report 1895, pp. 46, 47. Alexander, report 1895, pp. 142, 143. Macoun, report 1897, MSS. Lucas, report 1897, MSS.

[2] The catch of the pelagic fleet, Canadian and American, in 1897, in Bering Sea was 16,657 seals. In the summer of 1896 it was 29,500. The aggregate catch which directly influenced the herd of 1897 was 38,922, a number made up by adding to the summer's catch of 1896 the northwest coast catch in the spring of 1897. Up to the present time, accordingly, the pelagic catch already taken (16,657) and operating directly against next year's supply is 57.22 per cent less than the pelagic catch which operated against the supply of 1897 (see also Appendix I); or, if we compare merely the summer catches, inasmuch as the possible spring catch of 1898 is an unknown factor, we have a reduction of 43.46 per cent.

the immediate future, there remains to be estimated the additional factor of decline resulting from reductions in the number of surviving pups caused by the larger pelagic catch of 1894 and 1895.

16. The diminution of the herd is yet far from a stage which involves or threatens the actual extermination of the species, so long as it is protected in its haunts on land. It is not possible, during the continuance of the conservative methods at present in force upon the islands, with the further safeguard of the protected zone at sea, that any pelagic killing should accomplish this final end. There is evidence, however, that in its present condition the herd yields an inconsiderable return either to the lessees of the islands or to the owners of the pelagic fleet.

CHARLES SUMNER HAMLIN.
DAVID STARR JORDAN.
D'ARCY WENTWORTH THOMPSON.
JAMES MELVILLE MACOUN.

APPENDIX I.

Statistics regarding land and sea killing, 1871–1897.

Year.	Date quota filled.[1]	Hauling grounds driven.[1]	Number of drives.[1]	Killed on land.[2]	Killed at sea.
1871	July 28	46	43	102,960	16,911
1872	July 25	43	30	108,819	5,336
1873	July 24	51	37	109,177	5,229
1874	July 17	61	41	110,585	5,873
1875	July 16	55	37	106,460	5,033
1876	[3]Aug. 1	36	30	94,657	5,515
1877	July 14	44	32	84,310	5,210
1878	July 18	54	35	109,323	5,544
1879	July 16	71	36	110,411	8,557
1880	July 17	78	38	105,718	8,418
1881	July 20	99	34	105,063	10,382
1882	....do...	86	36	99,812	15,551
1883	July 19	81	39	79,509	16,557
1884	July 21	101	42	105,434	16,971
1885	July 27	106	63	105,434	23,040
1886	July 26	117	74	104,521	28,494
1887	July 24	101	66	105,760	30,628
1888	July 27	102	73	103,304	26,189
1889	July 31	110	74	102,617	29,858
1890	[4]July 20	87	55	28,059	40,814
1891	.....	[5]	[5]	12,040	59,568
1892	.....	[5]	[5]	7,511	46,642
1893	.....	[5]	[5]	7,396	30,812
1894	Aug. 4	.....	.....	16,270	61,838
1895	July 27	.....	.....	14,846	56,291
1896	....do...	31	21	28,964	43,917
1897	Aug. 7	42	27	20,890	[6]25,079

[1] These figures refer to the hauling grounds of St. Paul.
[2] These totals include all males killed for any purpose on the islands.
[3] In 1876 the killing was begun at an unusual date, said to be on account of an exceptionally late season.
[4] Closed by order of the agent in charge.
[5] Years of the modus vivendi.
[6] As reported to date.

APPENDIX II.

Record of arrival of cows.[1]

Date.	Cows present.	Date.	Cows present.	Date.	Cows present.
Amphitheater of Kitovi.		*Amphitheater of Kitovi*—Continued.		*Lukanin rookery*—Continued.	
June 12	0				
13	0	July 20	429	June 26	207
14	2	21	528	27	257
15	3	22	416	28	.....
16	3	23	469	29	.....
17	4	24	465	30	635
18	6	25	426	July 1	.....
19	7	26	463	2	890
20	8	27	406	3	938
21	9	27	304	4	1,088
22	23	29	414	5	1,197
23	37	30	427	6	1,264
24	45	31	375	7	1,371
25	56			8	1,531
26	76	*Record of harems.*		9	[2]1,541
27	105	June 14	1	10	1,680
28	137	20	3	11	1,755
29	168	30	10	12	.....
30	210	July 8	35	13	1,736
July 1	246	13	46	15	1,841
2	290	25	53	14[3]	306
3	362			15	327
4	414	*Lukanin rookery.*		16	325
5	499			17	338
6	518	June 12	1	18	228
7	550	13	1	19	290
8	585	14	3	20	214
9	[2]587	15	5	21	215
10	660	16	6	22	219
11	703	17	11	23	212
12	.....	18	19	24	196
13	654	19	25	25	186
14	556	20	37	26	148
15	703	21	52	27	157
16	678	22	74	28	177
17	698	23	103	29	149
18	566	24	131	30	127
19	556	25	176	31	124

[1] Weather clear; no storms or surf, except one day when rain fell, causing a larger number of cows to take to the water and making it difficult to distinguish those present from the rocks.

[2] Rain.

[3] After July 14 it became impossible, on account of the scattering of the cows, to continue the count for the entire rookery without too great loss of time, and so a section of 18 harems was singled out and the count continued on it.

Mr. Sherman to Mr. Hay.

No. 318.] DEPARTMENT OF STATE,
Washington, November 22, 1897.

SIR: I transmit you herewith the protocols of the conference of the seal experts of the United States, Great Britain, and Canada recently held in this city.

The results of the conference will be found in the "conclusions" on pages 15 to 19. You will observe that these "conclusions" substantially confirm the facts contended for by the Government of the United States since the regulations of the Paris Tribunal went into operation. It therein appears that the seal herd of the Pribilof Islands shows a decrease from year to year from 1884 (when the effects of pelagic sealing first began to appear) up to 1897; that the herd has diminished to

one-third (the British concession) or one-fifth (the American contention) of its former size; that a notable decrease has been suffered during the last year; that this decrease has been brought about by the excessive killing of females; that the proportion of females to males taken in pelagic sealing is from 62 to 84 per cent; that while the herd is not threatened with actual (biological) extermination so long as it is protected on the islands, in its present reduced condition it is neither profitable to the lessees nor the pelagic sealers—in other words, its commercial extermination has been reached, that the method of killing on the islands is fully approved, and that a large number of males may be taken with impunity from the herd.

Respectfully, yours, JOHN SHERMAN.

Mr. Foster to Mr. Sherman.

WASHINGTON, D. C., *December 3, 1897.*

SIR: I have the honor to report that, in accordance with your instructions, I had an informal interview on the 16th ultimo with Sir Wilfrid Laurier, prime minister, and Sir Louis H. Davies, minister of marine and fisheries, of the Dominion of Canada, who were in Washington in attendance on the conference of fur-seal experts. There was also present at the interview Mr. C. F. Frederick Adam, of the British embassy.

The primary object of the interview was to agree, if possible, upon some tentative method of settlement of the fur-seal question, with a view to its formal consideration by the Governments of the United States and Great Britain; but in the course of the interview various other unsettled questions between the United States and Canada were discussed, including the protection of fish in the waters of rivers and lakes contiguous to the two countries, the alien labor law, the American tariff on lumber and logs, commercial reciprocity, and the Northeast sea fisheries. At the close of the interview I submitted a proposition as a basis of settlement, of which I inclose a copy.

Sir Wilfrid Laurier said it would not be possible to give a definite answer until he had taken the advice of his council, and that it would be sent to me soon after his return to Ottawa. This answer was received on the 30th ultimo and my response thereto was sent through the British embassy on the 2d instant. The correspondence, of which copies are inclosed, shows that the Canadian Government is unwilling to agree to a modus vivendi suspending the killing of seals while the proposed negotiations were in progress.

I am, etc., JOHN W. FOSTER.

[Inclosure.]

Mr. Foster's proposition.

At the conference with Sir Wilfrid Laurier, Sir Louis Davies, and Mr. Adam, of the British embassy, Mr. Foster proposed:

First. That the Governments of Great Britain and the United States agree at once to a modus vivendi providing for a complete suspension of the killing of seals in all the waters of the Pacific Ocean and Bering Sea for one year from December, 1897, and for a suspension of all killing of seals on the Pribilof Islands for the same period.

Second. That the British ambassador and one or more representatives of the Canadian Government on the one part, and such representative or representatives as may be designated by the President of the United States on the other part, shall, with as little delay as possible, take up for consideration, with a view to settlement by means of treaty stipulations, the fur-seal question, the protection of fish in the waters of rivers and lakes contiguous to the United States and Canada, the subject of reciprocal immigration, commercial reciprocity, or any other unsettled question between the United States and Canada which either of the Governments may see proper to bring forward.

November 16, 1897.

[Inclosure 1.]

Sir Wilfrid Laurier to Mr. Foster.

PRIVY COUNCIL,
Canada, Ottawa, November 24, 1897.

DEAR MR. FOSTER: Your memorandum embracing the substance of proposals made by you at a conference held between you and myself, Sir Louis Davies, and Mr. Adam, of the British embassy, has been submitted by me since my return to Ottawa to my colleagues.

Your second proposition practically embodies the suggestions made by myself and my colleague, and meets, I need hardly say, with the full approval of the Canadian Government. Though the regulations prepared by the Paris Tribunal for the killing of seals in Bering Sea and in the Pacific Ocean have been made revisable only at the end of five years, we are quite willing to enter at once, and without waiting for the end of the period thus fixed, into an agreement to review the whole seal question, for the object of settling by treaty stipulations, not that question alone, but all others in which at present the relations between the two countries are not as satisfactory as they ought to be, viz: "The protection of fish in the waters of rivers and lakes contiguous to the United States and Canada, the subject of reciprocal immigration, commercial reciprocity, or any other unsettled question between the United States and Canada which either Government may see proper to bring forward."

This proposition, however, is made by you contingent upon and subject to the condition contained in the first: "That the Governments of Great Britain and the United States agree at once to a modus vivendi providing for a complete suspension of the killing of seals in all the waters of the Pacific Ocean and Bering Sea for one year from December, 1897, and for a suspension of all killing of seals on the Pribilof Islands for the same period."

There are difficulties in agreeing to that proposition which, I fear, will be found insuperable.

Immediately on my return I requested my colleague, Sir Louis Davies, to obtain information as to the number of sealers who are fitting out for the coming year's operations, and as to the approximate compensation which would be expected to be paid to them in case pelagic sealing was prohibited for a year. The information furnished me is to the effect that the fleet is preparing as usual; that the prohibition of pelagic sealing for a year would practically destroy the business for several years, because the masters, the mates, and the white crews, for the larger part belonging to other parts of Canada, would leave British Columbia. The sum which would likely be demanded as compensation is far beyond what it would be possible for us to induce Parliament to

vote, even if we could recommend it. Under these circumstances, and in view of the finding of the experts at the late conference, that "In the greater reduction of the pelagic catch" of late years "compared with the gradual decrease of the herd, there is a tendency toward equilibrium, or a stage at which the numbers of the breeding herd would neither increase nor decrease," and, further, that "the diminution of the herd is yet far from a stage which involves or threatens the actual extermination of the species, so long as it is protected in its haunts on land." I am in hopes that you will agree to the proposition submitted at our verbal conference by Sir Louis Davies and myself, and not press for the immediate suspension of pelagic sealing.

The coast catch during the months of January, February, March, and April, as gauged by the catches of the past few years, is very small. Last year the catch of the Canadian sealing fleet amounted only to 6,100, and in the year before to 8,350. If the fleet, therefore, are permitted to prosecute pelagic sealing for these four months, but little comparative harm would be done to the herd. Following these months is the close season, embracing May, June, and July, during which, of course, no pelagic sealing can be carried on, except on the Asiatic coast. It appears to me, therefore, as highly probable that the joint commission suggested could finally conclude its labors long before the time when, under the Paris regulations, pelagic sealing could begin in Bering Sea. If that commission reached a satisfactory conclusion, and the Congress of the United States approved of it, there would be no difficulty in obtaining the necessary Imperial legislation to carry out whatever recommendations might be agreed to with respect to the suspension or cessation of pelagic sealing in time to prevent the prosecution of the business in Bering Sea next year. It is obvious, however, that any conclusion which might be reached by the joint commission must, to be effective, be ratified by Congress as well as by Imperial legislation, and unless the session of Congress which opens in the coming month of December and closes, I understand, about the 4th of March, ratifies any treaty which might be agreed to before its termination, it would necessarily lie over for another year. This would involve the renewal of the suspension for a second year, with a further claim for compensation on the part of the sealers.

I would also the more strongly urge upon you the view here presented, because pelagic sealing, being at present a legitimate business, carried on under the sanction of the Paris regulations, can not be stopped until the Imperial Parliament has enacted the necessary legislation prohibiting it; and, as that Parliament will not meet until early in February next, it seems obvious that such legislation could not be hoped for until, at any rate, late in the month of February. At that date the result of the labors of the joint commission, if it was constituted at an early day, would be known and could be submitted for approval at the coming session of Congress.

Under all these circumstances, therefore, we do not see how it is possible to agree to the suggested suspension, but we see no reason to doubt, if the appointment of a joint commission results in the submission of a treaty which Congress would ratify, the necessary Imperial legislation could be procured in time to carry out its recommendation with regard to Bering Sea sealing before the close season ends and pelagic sealing begins, and so attain the object you have in view.

Yours, respectfully,

WILFRID LAURIER.

[Inclosure 2.]

Mr. Foster to Sir Wilfrid Laurier.

DEPARTMENT OF STATE,
Washington, December 2, 1897.

DEAR SIR WILFRID: I received on the 30th ultimo, through the British embassy, your letter of the 24th, in which you kindly communicate your answer to the proposition which I submitted in the conference which I had the pleasure to hold with you, your colleague, and Mr. Adam of the British embassy, on the 16th ultimo.

Your answer is in effect a declination of my proposition and a renewal of the proposal made in the conference by Sir Louis Davies and which at the time I stated my Government could not accept. The considerations in support of your colleague's proposal restated by you have been submitted to the President, and he directs me to express his regret that they are not of such a nature as to justify him in reversing the position taken by me in our conference.

You intimate that if pelagic sealing is continued during the earlier months of the year the catch would not exceed 6,000, which you think would do little harm to the herd. This might be the case if it was in its normal condition, but such a catch now would be approximately equal to 30,000 in normal times, and in its present depleted condition would create a serious inroad on the herd. The state of "equilibrium" contemplated by the experts to which you refer was at a still more depleted stage than even now exists. It is admitted that the industry is at present unprofitable for both the lessees and the pelagic sealers. Should the herd reach the "equilibrium" pointed out by you it will have passed the period when negotiations will be of any avail. But in addition to the injury that a continuance of early pelagic sealing will do to the herd it will also entail on the United States the heavy expense of the patrol during the entire summer, even though a settlement should be reached, as you think possible, before August, as the Victoria fleet will be at sea, an expense which for the past four years has averaged about $150,000 annually.

In view of your statement that the Imperial Parliament will not convene till February, we should be quite willing to have the proposed suspension of sealing take effect at such date in February as would enable the necessary legislation to be passed provided a modus vivendi could be signed at once. Such an arrangement would, it is believed, obviate the legal difficulties to which you refer. There is no disposition on our part to embarrass the Dominion Government by asking impossible or unreasonable conditions. This is the more apparent when I recall the fact that four years ago when the Paris Tribunal rendered its award that body, "in view of the critical condition" to which the herd was then reduced, recommended the two Governments to suspend the killing of seals for a period of two or three years. If such a measure was called for then, how much more reasonable is the request for a single season's suspension now, after four more years of disastrous slaughter of female seals, during which period the experts agree the herd has steadily declined.

Your frank and courteous letter reveals the fact to which I had occasion to refer during your recent friendly visit to this city, and which constitutes a serious obstacle to our negotiations. We seem to have failed to impress upon the Canadian Government, past or present, our

view that pelagic sealing ought to be voluntarily given up because it is unneighborly in that it is destroying a valuable industry of our Government, and inhumane because it is exterminating a noble race of animals useful to the world. We paid Russia a large sum for Alaska and the chief prospective return then visible was the seal industry, which had yielded the Russian Government and subjects large profit. We enjoyed the industry undisturbed for about fifteen years, reaping a rich return to the Government and the lessees, the estimated revenue to the Federal Treasury up to 1891 being over $11,000,000, a sum much larger than was paid to Russia for the entire territory. Suddenly the pelagic sealers entered upon the work of destruction and they have brought the industry to the point when it is no longer profitable.

This work of destruction has been prosecuted as a conceded legal avocation, and when we have called attention to the rapid diminution of the herd and the treaty obligation to protect and preserve it, we have been met by the declaration that its actual extermination is not immediately threatened. When it is proposed to negotiate for the surrender of the legal right of pelagic sealing, we are told that this can not be brought about by a fair compensation to those engaged in the industry, but that the question must be included with a number of other subjects having no relation to it whatever, and that it must await the fate of all these matters, some of which, as commercial reciprocity and the tariff, are very complex in their character, and others, as the northeastern sea fisheries, of long standing and very difficult of adjustment.

Notwithstanding the President feels that the subject of the proper protection of the seals should not be complicated with other questions of intricate public policy and conflicting interests, in his earnest desire to promote a more friendly state of relations between the two neighboring countries he has consented that all those questions should be embraced in one series of negotiations, if meanwhile a modus vivendi could be agreed upon which would save the seals from destruction while the negotiations were in progress. You have been misinformed as to the duration of the coming Congress, as it will continue beyond the 4th of March next without constitutional limitation. But it could hardly be anticipated that the subjects which you desire to have considered would be adjusted by treaty stipulations and the necessary resulting legislation with the dispatch indicated in your letter, even with the most friendly spirit of conciliation. The variety of questions to be considered and the interests to be consulted would compel deliberation in the negotiations and might create discussion before legislation could be secured.

I have explained at some length the reasons which control the President in adhering to the position which, under his instructions, I assumed during our informal conference, because of my earnest wish to have you understand that we are greatly desirous of bringing about a better understanding with your Government. I am extremely sorry and greatly disappointed that your visit to Washington gives so little promise of satisfactory results, but I entertain the hope that it may yet bear good fruits.

I remain, etc., JOHN W. FOSTER.

RELIEF EXPEDITION TO THE YUKON RIVER COUNTRY.

Mr. Sherman to Sir Julian Pauncefote.

No. 859.] DEPARTMENT OF STATE,
Washington, December 20, 1897.

EXCELLENCY: Permit me to call your attention to a law enacted by the Congress of the United States and approved by the President on Saturday, December 16, 1897, a copy of which is attached hereto. You will observe that the purpose of this act is to appropriate $200,000 to be expended (or so much thereof as may be necessary), in the discretion and under the direction of the Secretary of War, for the purchase of subsistence stores, supplies, and materials for the relief of people who are in the Yukon country or other mining regions of Alaska, and to purchase transportation and provide means for the distribution of such stores and supplies.

I am advised by the honorable Secretary of War that in order to carry into effect the provisions of this act it will be necessary to cross the territory of the Canadian Government so as to reach the Yukon River country with the stores, supplies, and materials of which the people of that region stand in great need. It is the purpose of the Secretary, with the permission of the Canadian Government, to promptly proceed to carry out the humane provisions of this act and to transport the supplies, accompanied by military escort, over Canadian territory to the Yukon River country and other mining regions of Alaska.

Your excellency will observe that the act also provides that, with the consent of the Canadian Government, the Secretary of War may, in his discretion, cause the relief thus provided to be extended in Canadian territory. Permission for that purpose is also respectfully asked, and for admission of supplies duty free to Canadian territory. As it is necessary that the measures of relief contemplated shall be promptly carried into effect, I have the honor to request the attention of your excellency to the matter, in order that the train may be directed, if the action of your Government shall warrant that course, to proceed with the proper military escort over Canadian territory. As permission for the passage of such escort is involved, and with a view to gaining time, I beg that the inquiry may be made and the requisite permission be obtained by telegraph.

I have, etc., JOHN SHERMAN.

[Inclosure in No. 859.]

FIFTY-FIFTH CONGRESS OF THE UNITED STATES OF AMERICA.

At the second session, begun and held at the city of Washington on Monday, the sixth day of December, one thousand eight hundred and ninety-seven.

AN ACT Authorizing the Secretary of War, in his discretion, to purchase subsistence stores, supplies, and materials for the relief of people who are in the Yukon River country, to provide means for their transportation and distribution, and making an appropriation therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of two hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended (or so much thereof as may be necessary) in the discretion and under the direction of the Secretary of War for the purchase of subsistence stores, supplies, and materials for the relief of people who are in the Yukon River country, or other mining

regions of Alaska, and to purchase transportation and provide means for the distribution of such stores and supplies: *Provided*, That with the consent of the Canadian Government first obtained, the Secretary of War may cause the relief herein provided for to be extended into Canadian territory.

That the said subsistence stores, supplies, and materials may be sold in said country at such prices as shall be fixed by the Secretary of War, or donated where he finds people in need and unable to pay for the same.

That the Secretary of War is authorized to use the Army of the United States in carrying into effect the provisions of this act, and may, in his discretion, purchase and import reindeer and employ and bring into the country reindeer drivers or herders not citizens of the United States, or provide such other means of transportation as he may deem practicable. The said reindeer or other outfit may be sold and disposed of by the Secretary of War when he shall have no further use for them under the provisions of this act, or he may turn over the same or any part thereof to the Department of the Interior, and the proceeds arising from all sales herein authorized shall be covered in the Treasury.

SEC. 2. The Secretary of War shall make report in detail to Congress at the beginning of its next regular session as to all purchases, employments, sales, and donations or transfers made under the provisions of this act.

THOMAS B. REED,
Speaker of the House of Representatives.

GARRET A. HOBART,
Vice-President of the United States and President of the Senate.

Approved December 18, 1897.
WILLIAM MCKINLEY.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, December 27, 1897.

SIR: As I had the honor to inform you in my note of the 21st instant, I communicated the contents of your note, No. 859, by telegraph to the Governor-General of Canada, and I am now in receipt of his excellency's telegraphic reply to the following effect:

The Dominion Government have decided to permit the entry to the Yukon district, free of duty, of convoys of provisions for gratuitous distribution to distressed persons.

Also that convoys may be accompanied by such reasonable escort as the United States Government may desire to provide for them, and each convoy shall be likewise accompanied by a Canadian officer, the expenses of such Canadian officers being borne by the Dominion Government.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 866.] DEPARTMENT OF STATE,
Washington, December 30, 1897.

EXCELLENCY: Referring to previous correspondence relative to the matter of carrying into effect the provisions of the act of Congress for the relief of people who are in the Yukon country, I take pleasure in acknowledging the receipt of your note of the 27th instant, informing me of the measure which the Dominion Government has taken to facilitate the action of this Government in the premises.

I have hastened to communicate a copy of your note to the Secretary of War for his information.

I have, etc., JOHN SHERMAN.

COMMUNICATION WITH THE YUKON RIVER COUNTRY.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., July 23, 1897.

SIR: At the request of the Government of Canada, I have the honor to ask for your good offices with your honorable colleague, the Secretary of the Treasury, in order to obtain permission for the Canadian Pacific Navigation Company to run a steamer from Victoria, British Columbia, to Dyea, Alaska, for the purpose of landing freight and passengers at that latter place, in transit for the Canadian Northwest Territory.

The company propose that they should give a bond to the collector of customs at Juneau, Alaska, and, if necessary, that a United States officer, to be paid by the company, should accompany the goods until they are within undisputed Canadian territory.

His Excellency the Governor-General of Canada has desired me to request that the Treasury Department, if it agrees to the above proposals, should send instructions by telegraph to the proper authorities, to go forward by the steamer leaving Victoria, British Columbia, on the 28th instant.

The matter is pressing, as the traffic to the Klondike gold fields, in the Canadian Northwest Territory, is very heavy, and the season for traveling in those regions will shortly close.

I have, etc.,

C. F. FREDERICK ADAM.

Mr. Adee to Mr. Adam.

No. 732.] DEPARTMENT OF STATE,
Washington, July 28, 1897.

SIR: Referring to your note of the 23d instant, relative to the landing of freight and passengers at Dyea, Alaska, I have the honor to inform you that the Department has received a letter, dated the 26th instant, from the Acting Secretary of the Treasury, stating that Dyea has been made a subport of entry to the end of facilitating business at that place.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adam to Mr. Sherman.

BRITISH EMBASSY,
Manchester, Mass., August 11, 1897.

SIR: In view of the influx of large numbers of persons into the Yukon district on both sides of the one hundred and forty-first meridian, it would appear to be for the general interest that the facilities for communication with the interior of the country should be increased. Navigation by the Yukon is open only for about four months out of the twelve, so that under present conditions the population is left isolated for the rest of the year.

The Governments of the United States and of Canada propose sending into their respective territories a military force to maintain law and

order; but the opening up and maintenance of communications with the interior districts during the period when navigation ceases on the Yukon is an object of no less importance and general interest.

It would therefore seem most desirable, pending the settlement of the international boundary line between the United States and the Dominion of Canada, south of Mount St. Elias, that, while reserving the rights of either country, a permanent route should be created, giving access to the interior at all seasons of the year.

Of such routes, that which appears to offer the fewest obstacles would start from the head of the winter navigation on the Lynn Canal, crossing the mountains by White Pass, or by any other pass which might prove more easy of access, and proceeding northward to Fort Selkirk, and from thence to Klondike.

Should the United States Government have no objection to the proposal, the government of Canada is willing to undertake to open communication by constructing a telegraph line from the head of winter navigation on the Lynn Canal for a distance of about 80 miles across the summit of the mountains, by whichever pass is found most practicable, to a suitable point northeast of the mountain range, from which a trail can be readily followed to Fort Selkirk and on to Klondike.

The Dominion government would likewise erect shelters at distances of from 40 to 50 miles along the trail, and maintain dog trains during the winter months for the conveyance of mails to and from the interior. Travelers, on reaching Klondike, will find the surrounding country to be accessible, and it is hoped that by this scheme more constant intercourse with the interior can be established than by any other plan.

The Governor-General of Canada has requested me to invite your most favorable consideration to the above proposals, and his excellency would be glad to learn at the earliest possible moment whether the Government of the United States is prepared to concur therein; and, if not, in what particulars they would wish to suggest any different arrangements.

I have further the honor to state that Her Majesty's principal secretary of state for foreign affairs, to whom the Canadian proposals were submitted, indorses them, and has instructed me to urge upon the United States Government the absolute necessity for adopting some measures of similar import.

Of that necessity no further proof need be sought than the circular issued yesterday by the United States Secretary of the Interior, warning persons intending to cross the White Pass of the existing block at that point.

I have the honor, etc., C. F. FREDERICK ADAM.

Mr. Sherman to Mr. Adam.

No. 756.] DEPARTMENT OF STATE,
Washington, August 14, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant submitting, for the consideration of this Government, proposals of the Canadian authorities to establish communication with the Klondike region by constructing a telegraph line from the head of winter navigation on the Lynn Canal.

I do not feel at liberty at present to express any authoritative opinion on the proposals therein submitted, but the subject will have careful consideration.

I have, etc., JOHN SHERMAN.

Mr. Sherman to Mr. Adam.

No. 773.] DEPARTMENT OF STATE,
Washington, September 9, 1897.

SIR: In acknowledging the receipt of your note of the 6th instant, requesting a reply to your former note of the 14th ultimo, wherein you submit for the consideration of this Government proposals of the Canadian authorities to establish communication with the Klondike region by constructing a telegraph line from the head of winter navigation on the Lynn coast, I have the honor to inform you that the matter is having the President's attention, and that you may expect this Government's response at an early day.

I have, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Adam.

No. 775.] DEPARTMENT OF STATE,
Washington, September 14, 1897.

SIR: In my note of the 9th instant I had the honor to advise you that the proposal of the Canadian authorities which you set forth in your note of the 11th ultimo, to establish communication with the Klondike region by constructing a telegraph line from the head of winter navigation on the Lynn Canal, was having the President's attention.

I am now directed by the President to inform you that this Government, after careful consideration of the matter, gives its consent to the construction of the proposed line, without prejudice, however, to the boundary or other claims of either country, and with the reservation that its right to revoke the license at any time be admitted.

I have, etc.,

JOHN SHERMAN.

GREATER REPUBLIC OF CENTRAL AMERICA.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN NICARAGUA AND COSTA RICA.[1]

Mr. Rodriguez to Mr. Olney.

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA,
Washington, D. C., February 6, 1897. (Received Feb. 18.)

SIR: During the period of his first Administration, the Most Excellent President Cleveland had the condescension to serve as arbiter between the Republics of Nicaragua and Costa Rica, to decide upon the validity or invalidity of a treaty on boundaries celebrated by them on the 15th of April, 1858.

His award put an end to the controversy, and both parties received and acknowledged it with thankfulness. However, in carrying out some of its details they encountered difficulties which, up to the present, have impeded its complete execution. Said difficulties are mostly shown in the original minutes of the commissioners charged with determining the boundary line, and of their true nature I have endeavored to convey to your excellency a clear idea in my official communication of the 26th of December last, to which I take the liberty of respectfully calling your excellency's attention.

With a view to obviate them the two Republics agreed to a new convention, which was by both of them duly ratified, the ratifications having been exchanged, on the 18th of December last, by the Greater Republic of Central America and that of Costa Rica, the former having at the time taken the place of Nicaragua in respect to its foreign affairs.

By that convention,[2] of which I have the honor herewith to inclose a certified copy, as also an English translation of the same, two boards of engineers are provided for, one in behalf of each of the contracting parties, to determine the dividing line between Nicaragua and Costa Rica, said boards to be completed by an engineer appointed by the President of the United States of America, and who shall have the power—as ample as it is delicate—to finally decide upon all points of difference, whatever their nature may be, between the two boards.

It is also stipulated by said convention that the diplomatic representatives of both contracting parties shall, within ninety days from the exchange of ratifications, request that the President of the United States of America accede to make said appointment and select and appoint said engineer.

In compliance with such stipulation I, in accord with his excellency the minister resident of Costa Rica, under instructions and in behalf of our respective Governments, apply through your excellency to the President of the United States of America, requesting that he deign

[1] See ante, p. 111.
[2] For text of the Convention, see Foreign Relations, 1896, p. 100.

to condescend to the wishes of said Governments, thus solemnly expressed in the aforesaid compact, and newly oblige their acknowledgment.

And in so doing I avail, etc.

J. D. RODRIGUEZ.

THE TRANSPORTATION OF CENTRAL AMERICAN TROOPS AND MUNITIONS OF WAR IN UNITED STATES VESSELS.

Mr. Rodriguez to Mr. Sherman.

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA,
Washington, April 17, 1897.

SIR: Conformably to our conversation of yesterday, I have the honor to address this communication to your excellency.

My Government desires to transport troops and implements of war from a port in Honduras, or from the Confederation, to any port in the same State, on the Atlantic or Pacific, with the object of reestablishing order along the first of the above-named coasts; and in the event of being able to charter, for this purpose, American vessels, it trusts the consuls of the United States at Ceiba and Trujillo, or at any other place along the said coasts, will put no obstacles in the way. My Government solicits this friendly office of your excellency without prejudice to the right which it may have in accordance with international law.

I reiterate, etc.,

J. D. RODRIGUEZ.

Mr. Sherman to Mr. Rodriguez.

No. 14.] DEPARTMENT OF STATE,
Washington, April 20, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in which, referring to our conversation of the 16th, you state the desire of your Government to transport troops and munitions of war from a port in Honduras, or from the Confederation, to any port in the same State on the Atlantic or the Pacific, with the object of reestablishing order along the Atlantic coast, and that in the event of your Government being able to charter American vessels for this purpose, it trusts that the consuls of the United States at Ceiba and Trujillo, or at any other place along the said coast, will put no obstacles in the way.

If, as would appear, the proposed chartering of American vessels by your Government contemplates a regular contract with the owners or agents of such vessels, not compulsory but voluntary on their part, it is not perceived how the consuls of the United States could interpose any valid objections to a legitimate transaction which the representatives of the American owners may be legally competent to effect.

Copy of this correspondence will, however, be sent to the United States minister to Guatemala and Honduras, and to the consular officers in the latter country for their information.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Coxe.

No. 71.] DEPARTMENT OF STATE,
Washington, April 21, 1897.

SIR: I inclose herewith for your information copy of notes from and to Señor J. D. Rodriguez, the minister of the Greater Republic of Central America at this capital, in regard to the desire of his Government to charter American vessels for the purpose of transporting troops and munitions of war with the object of reestablishing order along the Atlantic coast.

You will observe the Department's reply that if the proposed chartering of American vessels by his Government contemplates a regular contract with the owners or agents of such vessels, not compulsory but voluntary on their part, it can not be perceived how the consuls of the United States could interpose any objections to a legitimate transaction which the representatives of the American owners may be legally competent to effect.

If, however, there should be any appearance of coercion on the part of the employing Government, the consul's intervention would be justified. The owners of the vessels should also understand that they can not expect the United States to intervene in their behalf should the employing Government fail to pay them for their services; for while the United States would not interfere to prevent an American vessel from voluntarily carrying arms and troops in the service of a Government trying to put down an insurrection, it would leave the vessel and its crews so voluntarily entering into such service to the consequences of establishing such a relation. Should a seaman employed for other services desire to be discharged, he ought not to be compelled to serve in the transportation of arms and troops.

Respectfully, yours, JOHN SHERMAN.

GUATEMALA.

THE CENTRAL AMERICAN EXPOSITION.

Mr. Coxe to Mr. Olney.

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Washington, December 11, 1896. (Received December 12.)

SIR: As the Department is aware, an exposition, to be known as the Exposition of Central America, is to be held in the city of Guatemala from March 15 to July 15, 1897. The people of Guatemala, and, so far as they are able, of all Central America, are bending every energy to make this exposition a success, and, judging from all appearances at Guatemala, it promises to be so. Suitable and handsome buildings have been bought from a recent exposition at Bordeaux, France, and the buildings are being erected and the grounds prepared under the supervision of the French engineers who constructed the Bordeaux Exposition. The people of Guatemala and of Central America are very solicitous regarding the success of this undertaking, and take a great deal of pride in it.

Under these circumstances I take the liberty respectfully to recommend that a United States ship of war be sent to the port of San Jose de Guatemala, on the Pacific Ocean, to be present at the inauguration of the exposition, and that, so far as feasible, provision be made for the entertainment by the officer in command of the President and high officers of Guatemala on this occasion. I am sure that it would create a very pleasant feeling, not only in Guatemala, but in Central America; and in a number of other respects also I think the effect would be salutary. I would recommend that as large and imposing a ship as possible, if feasible the flagship, should be dispatched on this mission.

I have, etc.,

MACGRANE COXE.

Mr. Lazo Arriaga to Mr. Olney.

GUATEMALAN LEGATION,
Washington, January 15, 1897.

MR. SECRETARY: On the 9th of April last I had the honor to address a note to your excellency informing you that on the 15th day of March next there will be opened in Guatemala City the first Central American Exposition, which will include a "foreign department," and that my Government charged me to express to your excellency the pleasure it would afford Guatemala to see exhibited in said "foreign department" the works of art, products, etc., of the United States of America.

Important manufacturing interests of this country have suggested the propriety of placing the exhibits of the United States under the

superintendence of an official commissioner to introduce and appropriately present at the Central American Exposition the articles which to this end may be sent to him; and my Government, which is ever ready to welcome every initiative whatever that may contribute to mutual benefit and tend to draw closer the relations between our two countries, instructs me to say to your excellency that it would be pleased to see the appointment of such a commissioner, who, on the other hand, would be cordially received and waited on by the central committee of the Central American Exposition.

It gratifies me to avail myself of this occasion to renew, etc.,

ANTONIO LAZO ARRIAGA.

Mr. Olney to Mr. Lazo Arriaga.

No. 25.] DEPARTMENT OF STATE,
Washington, January 27, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, and to inform you in reply that Mr. D. Lynch Pringle, consul-general of the United States at Guatemala City, has been appointed honorary commissioner of this Government at the Central American Exposition, to be opened on March 15 next.

Accept, sir, etc.,

RICHARD OLNEY.

Mr. Coxe to Mr. Sherman.

No. 80.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, March 25, 1897. (Received April 15.)

SIR: I have the honor to report, in brief, the visit to this capital of the commander in chief of the Pacific station on the flagship *Philadelphia* for the purpose of attending the opening exercises of the Central American Exposition.

The *Philadelphia* arrived at the port of San Jose on the evening of March 11, and the secretary of this legation was at the port on her arrival to convey the respects of this legation.

The admiral and officers of his staff came to this capital by special train on Saturday, the 13th instant, arriving here at 3.30 p. m. At Moran, a station on the railroad about 10 miles out, they were met by the president and central committee of the exposition, and by representatives of the war and foreign offices. I personally met the admiral at the railway station here and escorted him to his apartments in the Gran Central Hotel.

As Monday, the 15th instant, was to be so much taken up by the inaugural ceremonies of the exposition, it was found necessary that the official call of the admiral upon the President of the Republic should be made on Sunday. This was accordingly done at 11 a. m., of the 14th instant. The call was paid at the executive mansion, the admiral being accompanied by a large staff, and there were military honors and music by the Banda Marcial. This call was duly returned by the deputy minister of war. On this (Sunday) evening there was an exhibition at the Teatro Colon of a literary and musical character by students of the

schools and others, in celebration of the opening of the exposition. Two boxes were sent to this legation by the Government for myself and the admiral and the officers of the *Philadelphia*, and we duly attended the exercises.

On the 15th instant, at 11 a. m., the admiral and staff, accompanied by myself and the secretary of this legation, by invitation of the President, called at the executive mansion, where we were received by the President, members of the cabinet, and other high officials of state. After a few moments the President and officials of Guatemala took seats in their carriages to fall into the line of the procession to the exposition grounds. The admiral in my carriage immediately succeeded the carriage of the President, and we were immediately followed by the admiral's staff, and then by the battalion of the *Philadelphia*, which had come up from the port by special train the afternoon before. In this order we proceeded to the exposition grounds. Arrived there, I escorted the admiral and staff to the tribune occupied by President Barrios, where seats were reserved for them, and thereafter I took my seat in the tribune of the diplomatic corps. The literary exercises were then proceeded with, at the termination of which a luncheon was served. President Barrios having expressed an earnest desire to see the military and physical drill of the *Philadelphia's* battalion, a halt was made at a suitable ground on the return march, and there the military and physical drill of the battalion was given in view of the President and officials of Guatemala, the entire diplomatic corps, and an immense throng of citizens. It was a magnificent and stirring sight, and was received with much applause and many expressions of admiration.

On the evening of the same day a serenade was given the President by the *Philadelphia's* band, and on the next morning, the 16th, the entire battalion returned to San Jose by special train. It was a source of the greatest gratification to myself and all our citizens here to witness the admirable behavior of the battalion, not only when under arms, but off duty. On Sunday evening, the day of their arrival, the commanding officer gave the men leave to go about the city as they pleased, and everyone returned at the appointed time, not one of them having misbehaved himself in any way. Admiral Beardslee requested me to say a few words of farewell to the battalion on their departure; and, while realizing and fully coinciding in the wisdom of the disinclination of the Department to its diplomatic agents saying much in public, I considered, in view of the splendid behavior of this battalion here, it would not be considered improper for me to give some expression to the feelings of appreciation which we all had of it. I therefore consented, and beg to inclose herewith a copy of my remarks, as published in The Journal, the only paper published here in the English language (inclosed), and I trust the Department will not disapprove of my action.

During the admiral's stay he also paid official calls upon the diplomatic corps, the members of the Guatemala cabinet, and upon the chief justice of the supreme court, which calls were duly returned.

On the evening of the 17th instant, a dinner was given by the "American colony" here.

On Thursday, the 18th instant, a breakfast was given to the admiral and staff by Baron Werner von Bergen, dean of the diplomatic corps, and Mrs. von Bergen, at which the diplomatic corps and the ladies of their families were invited to meet the admiral.

On Thursday evening a reception and musicale was given to the admiral and staff by President and Mrs. Barrios, at the executive man-

sion, and on Friday morning, the 19th instant, the admiral and officers returned by special train to San Jose.

During the week Mrs. Coxe and myself had the pleasure of having Admiral Beardslee and some of his officers with us, twice at dinner, once at the opera, and once for an afternoon drive.

On Saturday the 20th instant a delightful reception was given by Admiral Beardslee on board the *Philadelphia.*

It gives me much pleasure to assure the Department that I feel entirely satisfied that this visit of the *Philadelphia* will have a very beneficial effect here in many ways. The officers by their kindly and courteous demeanor and the men by their soldierly and manly bearing have won the friendship and admiration of all; and in every respect I feel sure that the advantage which I foresaw when recommending that a ship be sent here at this time, as per my dispatch of December 11, 1896, will be fully and entirely realized.

I have, etc.,

MACGRANE COXE.

Mr. Coxe to Mr. Sherman.

No. 105.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, May 13, 1897.

SIR: I beg to report that the Central American Exposition, the official opening of which occurred on March 15, was thrown open to the public on last Sunday, the 9th instant. It was quite largely attended, the management reporting that 7,000 visitors passed the gates.

The buildings, grounds, and exhibits present quite an attractive appearance. The exhibits of our citizens, particularly of those of the Pacific slope, are by far the best shown.

I have, etc.,

MACGRANE COXE.

WITHDRAWAL OF EXEQUATUR OF CONSULAR AGENT.

Mr. Pringle to Mr. Sherman.

No. 148.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, July 31, 1897.

SIR: I beg leave to report to you that I received a note yesterday from the minister of foreign affairs, informing me that the President had seen fit to withdraw the exequatur of Mr. Florentin Souza, United States consular agent at Champerico.

I confess that I was somewhat surprised. I think that a more courteous way of getting rid of a consular officer might have been employed. As to what the charges against him are, up to the present time I have not the slightest idea.

I will authorize Mr. S. F. Lord to act as consular agent for the present.

I wired Mr. Souza, asking him if he knew why the action had been taken. In his reply, which I received this morning, he states positively that he knows no cause for such action, and requests that I will inves-

tigate the matter. I inclose copies of all the correspondence, and will send copy of the minister's reply to my note as soon as received.

Meanwhile, I refrain from expressing any opinion until I am in possession of all the facts.

I have the honor, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires.

[Inclosure 1 in No. 148.—Translation.]

Mr. Muñoz to Mr. Pringle.

PALACIO NACIONAL,
Guatemala, July 29, 1897.

HONORABLE SIR: I have the honor to transmit to you the order issued yesterday:

The President of the Republic has ordered the exequatur of Mr. Florentin Souza, United States consular agent in the port of Champerico, withdrawn.
Let it be known.

REYNA BARRIOS.
JORGE MUÑOZ,
The Secretary of State.

I embrace this opportunity, etc.,

JORGE MUÑOZ.

[Inclosure 2 in No. 148.]

Mr. Pringle to Mr. Muñoz.

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, July 30, 1897.

SIR: I have the honor to acknowledge the receipt of your note dated yesterday, the 29th.

I am obliged to confess that it has caused me some surprise, as I am unaware of any cause for the withdrawal of the exequatur of Mr. Florentin Souza, United States consular agent at Champerico.

Will your excellency kindly furnish me with the reason for this action on the part of His Excellency the President?

May I request you to furnish me with the information at your earliest convenience. I will place Mr. Samuel F. Lord in charge of the United States consular agency for the present.

I embrace this opportunity, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

[Inclosure 3 in No. 148.—Telegram.]

Mr. Pringle to Mr. Souza.

Have received notice from minister of foreign affairs that your exequatur has been withdrawn by the President of this Republic. Please inform me at once if you know the cause for this action.

PRINGLE.

(Sent Friday afternoon, July 30, 1897, about 2.30 p. m.)

[Inclosure 4 in No. 148.—Telegram.]

Mr. Souza to Mr. Pringle.

RETALHULEU, *July 30, 1897.*
(Received in Guatemala at 7.30 p. m.)

I am very much surprised to learn, by your telegram of this date, that my exequatur has been withdrawn, and I have not the slightest idea of what can be the cause for said action.

I am perfectly sure that I have not given the least cause in any way or manner, and beg you, in consideration of my many years of service to the United States, to obtain a full and proved explanation of the reasons.

FLORENTIN SOUZA.

Mr. Sherman to Mr. Pringle.

No. 124.] DEPARTMENT OF STATE,
Washington, August 18, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 148, of the 31st ultimo, reporting that the Government of Guatemala has revoked the exequatur of Mr. Florentin Souza, our consular agent at Champerico, and that you have authorized Mr. Samuel F. Lord to act as agent for the present.

Your selection of Mr. Lord as agent, ad interim, is approved by the Department. The information respecting the acting agent, called for by the Consular Regulations, should be sent by you to the Department in a consular dispatch.

You inclose with your dispatch a copy of a note to the Guatemalan minister for foreign affairs, in which you request a statement of the reason for the withdrawal of the exequatur of Mr. Souza.

You were not strictly in your right in making this request. As a general rule of international intercourse, a Government can withdraw a consular exequatur without assigning any reason. If it voluntarily assigns cause for removal, it invites discussion of the sufficiency thereof, and defensive evidence can be offered with a request for reconsideration. If it offers no reasons, it can not be compelled to give them. Your inquiry, therefore, should be treated as a request for information rather than as a demand for proof of good cause, and it is hoped the Guatemalan Government will so construe it.

Respectfully, yours, JOHN SHERMAN.

CITIZENSHIP OF LEON APARICIO.

Mr. Pringle to Mr. Sherman.

No. 181.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, October 7, 1897. (Received November 2.)

SIR: I beg leave to report to you that on the 28th of September, 1897, I issued a passport to Mr. Leon Aparicio.

In accordance with the law, which requires all foreigners to be registered as such, Mr. Aparicio applied to the minister of foreign affairs for the usual certificate of registration, showing his passport as proof of his citizenship.

Mr. Aparicio was refused the usual certificate on the ground that all children born abroad of Guatemalan parents were citizens of the

Republic of Guatemala. Inasmuch as Mr. Aparicio was born in France, and distinctly renounced his allegiance to the French Government when the first passport was issued to him by Minister Young, No. 249, on the 8th of January, 1895, duplicate on file in the Department, I contend that the Government of this Republic can not apply the article of their constitution, which says, "that all children born abroad of Guatemalan parents are citizens of Guatemala," as above stated. I believe that I am in the right in my opinion.

I simply wrote to the minister and asked him his reasons, copy of which I inclose; also copy of his answer, with translation.

Mr. Aparicio's second application was sent to the Department by way of California on the 5th instant, with the returns for the quarter ending September 30, 1897.

Requesting the Department to instruct me as to whether the position taken by me is sustained,

I have, etc., D. LYNCH PRINGLE.

[Inclosure 1 in No. 181.]

Mr. Pringle to Mr. Muñoz.

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, October 1, 1897.

SIR: Mr. Leon Aparicio, a duly naturalized citizen of the United States, to whom I issued a passport on the 28th of September, informs me that the Government of this Republic declines to recognize him as a citizen of the United States.

Mr. Leon Aparicio, having been born in France, and having renounced his allegiance to the French Government, I think alters the case.

Will you kindly inform me the reason of this action on the part of your Government.

I renew, etc., D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

[Inclosure 2 in No. 181.—Translation.]

Mr. Muñoz to Mr. Pringle.

GOVERNMENT PALACE,
Guatemala, October 5, 1897.

HONORABLE SIR: Referring to your esteemed note, dated the 1st instant, I have the honor to write to you giving the information submitted by the subsecretary, which states:

MR. MINISTER: As it appears from what Leon Aparicio himself says, he was born in France in the year 1872, being a descendant of Guatemalan parents, and he afterwards became a citizen of the United States of America.

With respect to his birth, we have to refer in this particular to the constitutional act which was in force at the time of the birth of Mr. Aparicio. The first act of the law says that the sons of Guatemalan parents are Guatemalans, although they may have been born in a foreign country; and by virtue of this Mr. Leon Aparicio is a Guatemalan, although he may have been born in France, and afterwards may have been naturalized in the United States. In this manner I have to comply with the wishes expressed in yours of the 2d instant.

With assurances of my respect, JORGE PRADO.

Placing the above in your knowledge, I have the pleasure of renewing, etc.,

JORGE MUÑOZ.

Mr. Sherman to Mr. Pringle.

No. 155.] DEPARTMENT OF STATE,
Washington November 6, 1897.

SIR: Your No. 181 of the 7th ultimo has been received and due consideration given to your reference to the Department of the case of Mr. Leon Aparicio, who, although producing evidence of citizenship in the form of a passport issued by you September 26, 1897, has been denied Guatemalan registry as a foreigner on the ground that all children born abroad of Guatemalan parents are citizens of the Republic of Guatemala.

The Department fails to comprehend the application of the cited Guatemalan law to the present case. Granting that Mr. Leon Aparicio may have been born abroad of parents who, at the time of his birth, were citizens of Guatemala, that circumstance would not prevent his becoming a citizen of the United States by due process of naturalization, precisely the same as if he had been born in Guatemala.

It appears from his sworn application of January 2, 1895, upon which your legation issued a passport, No. 249, of the same date, that having been so born in Paris, France, on the 28th February, 1868, he emigrated to the United States in September, 1884; that he resided six years uninterruptedly in the United States, from 1884 to 1890, at San Mateo, Cal., and that he was naturalized as a citizen of the United States before the superior court of San Francisco on the 25th day of August, 1890. He was then over 23 years of age, fully competent to become naturalized in the United States according to the laws of this country, and this Government must anticipate for him the same recognition of his acquired status as it expects in the case of any other Guatemalan duly naturalized in the United States.

As the reply of Señor Muñoz rests apparently upon a misapprehension, you should bring to his attention the facts as they appear, explaining to him that your note of October 1 did not rest any ground of exemption on the fact of Mr. Aparicio having been born in France, but solely on his lawful acquisition of United States citizenship. It is unfortunate that you should have put that point forward in your note, for by so doing you afforded Señor Muñoz reasonable ground to answer as he did.

It is further noticed that you state in your dispatch that Mr. Aparicio "distinctly renounced his allegiance to the French Government when his first passport was issued to him by Minister Young," whereas in fact it appears from the papers in the case that he renounced his original allegiance when he was naturalized in California five years previous to the date of his first application for a passport. It does not appear that he renounced French allegiance on naturalization or that he ever had any to renounce; but that is immaterial to the statement, inasmuch as by no authority of statute or international law could he have renounced any foreign allegiance before Minister Young. Such renunciation is a part of the statutory process of naturalization, only to be performed before a court within the jurisdiction of the United States.

Respectfully, yours,

JOHN SHERMAN.

HAITI.

RIGHT OF CONSUL TO ADMINISTER OATHS AND TAKE TESTIMONY.

Mr. Terres to Mr. Sherman.

No. 247.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 2, 1897. (Received ———.)

SIR: I am in receipt of a letter from Th. Behrmann, esq., our vice-consul, acting at Cape Haitien, asking for instructions as to whether or not C. Abegg, esq., consular agent at Port de Paix, has the right to administer oaths and take certain depositions requested in a letter addressed to him by Mr. James H. Kelly, attorney for Mr. Lechner.

I beg to be informed as to whether or not Mr. Abegg, although empowered by paragraph 482 of the Consular Regulations to render such notarial services, has the right to do so without first receiving instructions from the Department of State, since the subject has been brought to the notice of the Department by this legation in its dispatches Nos. 220 and 221, of October 26 and November 3, 1896, respectively, and whether Mr. Kelly should not address himself to the Department, requesting that such instructions be given to Mr. Abegg.

I have, etc.,

JOHN B. TERRES.

[Inclosure in No. 247.]

Mr. Kelly to Mr. Abegg.

TRENTON, N. J., *February 25, 1897.*

DEAR SIR: Mr. Lechner, of this city, has retained me to prepare the papers in his suit against the Government of Haiti. I desire the testimony of the following persons, who are witnesses to the affair, as to what took place in the court wherein Lechner was arraigned; your knowledgment as to his inhuman treatment while he was in prison, and the grossly oppressive conduct on the part of the Haitian officials; whether you were obliged to keep silence when you attempted to defend Lechner and act as his counsel, and anything further you may know regarding this case.

William Stevens, who was a witness to the fight and saw the Dominican draw a knife, and whether he was allowed to testify in the court as to what took place, and anything else he may know.

Dorremar, Thomas Parr, and Grass, who are employed by the same company as employed Lechner. These persons, I am informed, have the same knowledge of the facts as has Stevens.

The testimony should be written upon foolscap paper with a margin of at least one inch on each side of the page, which testimony must be given under oath; and the right of the person taking the deposition to administer oaths by the laws of the place must be verified.

The credibility of the deponent, if known to such magistrate or other person authorized to take such testimony, should be certified on the same paper, and if not known should be certified by some other person known to such magistrate.

Kindly attend to this matter at once, and whatever may be the charges or expenses we will be responsible for the same, and we will remit upon receipt of the testimony. If possible, I desire the testimony sent to us by this boat on her return trip.

Yours, very truly, JAMES L. KELLY.

Mr. Sherman to Mr. Terres.

No. 196.] DEPARTMENT OF STATE,
Washington, May 6, 1897.

SIR: Your No. 247, of April 2, 1897, has been received. You inquire whether our consul-general at Port-de-Paix has the right to administer oaths and take certain depositions requested in a letter addressed to him by Mr. James L. Kelly, attorney for Mr. Lechner, without special authorization from this Department. It appears from the inclosure that Mr. Kelly, attorney for Mr. Lechner, desires to obtain sworn testimony to be used in making a claim against the Government of Haiti. The testimony, as the Department understands it, is not to be used in the Haitian courts. If it were to be so used, it would be necessary that it be taken in accordance with the requirements of the Haitian law. You are referred to section 1750 of the Revised Statutes of the United States, which you will find quoted in paragraph 845 of the Consular Regulations, for the authority given every consular officer of the United States to administer oaths and take depositions and to perform any notarial act which a notary public is authorized to do in the United States. By referring to section 1674 of the Revised Statutes, quoted in paragraph 783 of the Consular Regulations, you will see that the term "consular officer" includes consular agents. The consular agent, therefore, has all the power to administer oaths which is given by section 1750 to any consular officer of the United States. This Department can give him no additional or special authority in such matter. While the consular agent at Port de-Paix has the authority within his territorial jurisdiction to take depositions in a matter of this kind, which depositions would be unhesitatingly accepted by this Department, it does not follow that he is obliged to abandon his public duties and go about the country obtaining this evidence. This is a matter which Mr. Kelly will have to settle with the agent; he has no right to demand this service.

Respectfully, yours, JOHN SHERMAN.

RIGHT TO REQUIRE PASSPORTS OF PERSONS LEAVING THE COUNTRY.

Mr. Powell to Mr. Sherman.

No. 43.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, October 7, 1897. (Received October 16.)

SIR: I respectfully call the attention of the Department to the inclosed proposed law referring to the future issue of passports. If this law should be enacted none of our citizens can leave any port of

this Republic without a passport from the Haitian Government. I therefore request instructions on the following:

1. Are American citizens leaving Haiti to return to the United States required to obtain passports?
2. What action shall I take if the same be enforced?

I have, etc.,

W. F. POWELL.

[Inclosure 1 in No. 43.—Translation.]

Project of law.

TIRESIAS AUGUSTIN SIMON SAM, President of Haiti, seeing the law of September 21, 1864, on the report of the secretary of state of finances and the advice of the council of the secretaries of state, has proposed, and the legislative body has voted, the following law:

ART. 1. Article 1 of the law of October 31, 1876, on stamp papers, is modified as follows:

ARTICLE 1. From the promulgation of the present law there shall be ten stamps, to wit:

The first of	P. 0.05	The sixth of	P. 1.35
The second of	0.10	The seventh of	2.00
The third of	0.20	The eighth of	4.00
The fourth of	0.35	The ninth of	6.00
The fifth of	0.70	The tenth of	15.00

ART. 2. The price of stamped papers on which shall be delivered passports for foreign parts with which every person dwelling on Haitian territory should be provided is thus fixed:

To go into the Dominican Territory	G. 4.00
To go to the Antilles or on the American continent	6.00
To go to the other side of either oceans	15.00

ART. 3. The present law abrogates all provisions of laws that are contrary thereto.

It shall be executed at the diligence of the secretary of state for finances and the secretary of the state of the interior, each one in that which concerns him.

Given at the National Palace at Port au Prince, October 1st, 1897, 94th year of the independence.

T. A. S. SAM.

Mr. Sherman to Mr. Powell.

No. 42.] DEPARTMENT OF STATE,
Washington, October 23, 1897.

SIR: I have to acknowledge the receipt of your No. 43 of the 7th instant, inclosing copy of the proposed law requiring all persons leaving Haitian ports to provide themselves with passports.

In reply I have to state that the requirement of a passport or permit to quit a country is common and is enforced at the present time by important States, such as Russia, Turkey, and Spain, in the Spanish Antilles. The right to prescribe such a formality can not well be disputed, but the amount of the fee (6 gourds) may warrant friendly representations against so onerous a charge.

Respectfully, yours, JOHN SHERMAN.

HAWAII.

DEATH OF MINISTER ALBERT S. WILLIS.

Mr. Mills to Mr. Olney.

No. 179.] LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, January 6, 1897. (Received Jan. 21.)

SIR: It is with deep regret that I have to inform you of the death of Mr. Albert S. Willis, envoy extraordinary and minister plenipotentiary of the United States, which occurred this morning at 8.30.

The funeral services will take place on the 8th instant, after which the remains will be placed in a vault until the 13th instant, when they will be shipped to San Francisco, on the steamship *Australia*, en route to Louisville, Ky., the home of the late minister.

I am, etc.,

ELLIS MILLS,
Chargé d'Affaires.

Mr. Mills to Mr. Olney.

No. 180.] LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, January 9, 1897.
(Received January 25.)

SIR: I have the honor to inform you that the funeral services over the remains of the late Albert S. Willis, envoy extraordinary and minister plenipotentiary of the United States, took place on the 8th instant.

The body was taken from his late residence about 11 o'clock in the morning and conveyed to the executive building, where it lay in state in what was formerly the throne room until 3 o'clock in the afternoon, at which time the religious services were held in the Central Union Church, after which the body was laid in a vault at Nunanu Cemetery, where it will remain until Wednesday next, the sailing day of the steamship *Australia*.

The funeral was one of the largest and most imposing that has occurred in Honolulu. Business was practically suspended during the day, the Government offices being closed. All the officials of this Government were present, and everything possible was done to show the respect and esteem in which the dead minister was held.

The minister of foreign affairs, Mr. Cooper, rendered me every possible assistance in arranging the details of the funeral.

The family of the late minister, consisting of Mrs. Willis, her son, and sister, Mrs. Dulaney, will leave Honolulu on the same steamer with the body.

I have, etc.

ELLIS MILLS, *Chargé d'Affaires.*

Mr. Hatch to Mr. Olney.

HAWAIIAN LEGATION,
Washington, D. C., January 19, 1897.

SIR: Anticipating the instructions of my Government, I desire to express to you the deep regret felt in Honolulu, both by the Government and the community, at the untimely decease of the Hon. Albert S. Willis, the distinguished envoy extraordinary and minister plenipotentiary of the United States at Honolulu.

This sad event has cast a gloom upon the country where he has so long resided, and where his sincerity of character and earnestness of purpose have commanded universal respect.

I beg that you will convey to the President an expression of the sincere condolence of my Government upon this bereavement.

I have, etc.,

FRANCIS M. HATCH.

Mr. Olney to Mr. Hatch.

No. 10.] DEPARTMENT OF STATE,
Washington, January 20, 1897.

SIR: I have the honor to acknowledge the receipt of the note you addressed to me under date of the 19th instant, wherein, anticipating the instructions of your Government, you express to me the deep regret felt both by the Hawaiian Government and by the community of Honolulu at the death of Mr. Willis.

The brief telegraphic advices thus far received, joined to the earlier dispatches written during the illness of Mr. Willis, have abundantly acquainted me with the marks of tender sympathy and high personal appreciation on the part of your Government and countrymen which were shown during the last hours of the minister and which followed him to his temporary resting place on the island.

I have apprised the President of your present communication, and in his name and my own I wish to convey, through you, adequate expression of the appreciation felt by this Government and by my countrymen for the touching tributes of friendship and respect offered by the Hawaiians to the representatives of a friendly state.

Accept, etc.,

RICHARD OLNEY.

Mr. Mills to Mr. Olney.

No. 198.] LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, February 10, 1897.
(Received February 23.)

SIR: Referring to your No. 159, of January 27, in which I am instructed to make to the minister of foreign affairs an appropriate expression of the appreciation of the Government of the United States of the honors shown by that of Hawaii to the remains of Minister Willis, I have the honor to say that on the 9th ultimo I addressed a note to Minister Cooper on the subject, and inclose a copy thereof.

Hoping that my action in this matter will meet with your approval, I am, etc.,

ELLIS MILLS, *Chargé d'Affaires.*

[Inclosure in No. 198.]

Mr. Mills to Mr. Cooper.

LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, January 9, 1897.

SIR: On behalf of the Government of the United States, and of the family of the late Albert S. Willis, envoy extraordinary and minister plenipotentiary of the United States of America, I desire to express the most sincere thanks for the honors shown by the Republic of Hawaii to the memory of the deceased minister on the occasion of the funeral services yesterday.

May I be permitted also to extend my personal thanks for the assistance so generously extended to me in the arrangements for the funeral.

I have, etc.,

ELLIS MILLS, *Chargé d'Affaires.*

HONDURAS.

MURDER OF CHARLES W. RENTON.[1]

Mr. Coxe to Mr. Sherman.

No. 85.] LEGATION OF THE UNITED STATES,
GAUTEMALA AND HONDURAS,
Gautemala, April 8, 1897.

SIR: I have the honor to transmit herewith note and translation of same, dated March 11, 1897, received April 5 from Mr. E. Mendoza, secretary of the Dieta of the Republica Mayor, together with a copy (and translation thereof) of the opinion and judgment of the supreme court of justice of Honduras, rendered February 8, 1897, in the case of the persons charged with the murder of Charles W. Renton and other crimes referred to in Mr. Mendoza's note.

On the 3d instant I received a telegram from Mr. Little, our consul at Tegucigalpa, which seems to announce the escape of Isert and Sandham, two of the defendants. As the latter part of the telegram seems to me blind, I send it herewith as received, together with a translation as it reads, and also inclose a translation of the latter part as I suppose it was intended to read, which would be accomplished by inserting, instead of the words "se ha podido," the words "se ha hecho lo posible." Since the receipt of this telegram I have made every possible effort to have it repeated, so that I could get the correct reading before the next mail; but as yet without success. As soon as I am informed on this point I will at once advise the Department.

I have, etc.,

MACGRANE COXE.

[Inclosure 1 in No. 85.—Translation.]

Mr. Mendoza to Mr. Pringle.

SECRETARY'S OFFICE OF THE DIETTA OF THE
GREATER REPUBLIC OF CENTRAL AMERICA,
San Salvador, March 11, 1897.

SIR: In conformity with instructions received from the Government of the State of Honduras, I have the honor to transmit to your honor an authenticated copy of the judgment pronounced by the supreme court of justice of the said State, under date of February 8 last past, in the case pending, for the investigation of the crimes of illegal imprisonment and assassination upon the person of Mr. Charles W. Renton, arson of his properties, wounding of Mr. John Johnstone, and the violent abduction of the wife of the late Renton.

With sentiments of the most high consideration, etc.,

E. MENDOZA.

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[1] See Foreign Relations, 1895, page 882.

[Subinclosure in No. 85.]

SUPREME COURT OF JUSTICE,
Tegucigalpa, February 8, 1897.

Having examined the case tried before the justice of the peace of Yriona, in the inquiry into the crimes of illegal detention and assassination committed on the person of Mr. Charles W. Renton, of arson committed on the property of said Renton, and of injury of a less grave nature inflicted on John Johnson, and of the forcible removal of the wife of Mr. Renton, who was also wounded, to the cape of Gracias a Dios:

Result: That the witness Zacarias Stephen declares that at the beginning of the year 1894, he being in the house of Mr. Renton, saw that there arrived Mr. Davve [probably should be Dawe—Translator], Fernando Eude, Kittle, and Johnson, all armed, and after a few words of reconvention they discharged their rifles at Mr. Renton, who in turn fired on them, but without anyone being wounded on this occasion; that they having retired to the house of the company, Mr. Davve gave to the deponent a letter and an order that he go and bring Messrs. Sandham, Ysert, and Edgar Eude, who were in the "Cayo," in order to kill Mr. Renton; that these immediately started for "Brus Laguna" with the witness, and he retired to his house; that on the following day he returned to the house of Renton, but did not find the latter in it, but in that of Roberto, and with a wound caused by a ball from a firearm which entered his body from behind, through the short ribs, and then came out in front a little above the belly; that Renton was lying on a bed, guarded by Mr. Davve, Kittle, Fernando and Edgar Eude, Ysert, Sandham; and Kittle, Ysert, Fernando and Edgar Eude set fire to the house which Mr. Renton had in Brus Laguna, having previously removed all the furniture, boards, wood roofing, cattle and deerskins, a stone for sharpening tools, and all that could be utilized, and they took same to "Cayo," where many of these articles remain; everything else that they could not take away they burned.

Result: That the witness Cuca declares that on the morning of one day of the year 1894, she heard three shots of rifles, which were discharged by Mr. J. Grosvenor Davve, Kittle, P. Johnson, Fernando, Sandham, Edgar Eude, and Isaac (*sic*, probably Ysert), from a mango tree which is in front of the house of Pascal Ordonez, aimed at the house of Mr. Renton; that after the last discharge the seven individuals entered the house of Mr. Renton, from which they took as prisoners himself, Mrs. Renton, Alfonso Lacayo, and an aged man, English or American, and also a little girl that the said Mrs. Renton had; that of these five prisoners Mr. Renton and Mrs. Renton were wounded, the former beside the left teat and the latter on the back of the left hand; that Renton, his wife, the little girl, and Lacayo, were led to the house of Ysist Cruz, there remaining as guards at the door of said house, with their rifles, Kittle, Sandham, Fernando, and Johnson, Mr. Davve, Isaac, and Eude, having entered together with the said prisoners; that about 12 o'clock in the day Davve and Isaac went to "Cayo," taking with them the Englishman whom they took with Renton, and the others remained at their posts; that at 6 o'clock in the evening Edgar Eude led Mrs. Renton out in order to embark her, together with the little girl and Alfonso Lacayo, taking with them as seamen Tinglas, Damaso, Robert, and Williams, and all of these embarked, going in the direction of "Patuca," Mrs. Renton having been compelled to do so by force, Messrs. Fernando, Kittle, Sandham, and Johnson having remained behind to guard Mr. Renton; that with regard to his wife, she learned from Tinglas that she had arrived at Patuca about 2 o'clock in the morning, and that the witness saw from her house that from the residence of Mr. Renton there issued smoke on all sides, but did not know who set it on fire.

Result: That the declaration of the witnesses Roberto, Maria W. Valeroso, Lucrica Mayren and others were taken, as well as the examinations of the individuals Davve, Ysert, Sandham, and Edgar Eude.

Result: That the experts Luis Refsman and Vertin Canales, in virtue of the declarations taken at the initial proceedings, asserted that the wound of Mr. Charles W. Renton, in accordance with the indications as to its location, and the weapon used in inflicting it, is believed by them to be dangerous, without being able to determine whether or not same would cause his death, or within what time he would have recovered; that with regard to the wound suffered by Mr. John Johnson, they did not believe it dangerous, and that it could be cured in thirty days, leaving a cicatrice; and they supposed that that of Mrs. Renton was slight and they believed she would recover from it in eight or ten days, adding that the wound of Mr. Renton not being mortal, he should recover from it within thirty days under medical treatment.

Result: That the experts Gregorio Torres and William Webb estimated the value of the following articles: The house of Mr. Renton at $1,700; pasture land, partly wire fenced and the remainder with natural fence, at $2,000; a cocoa plantation, containing 1,820 trees, in poor condition, at $3,000; 2 saddle mules at $200; an iron

stove at $32; a sewing machine at $35; 4 boxes lined with zinc, 2 large and the other 2 small, at $20 the former, and $12 the latter; 4 chairs at $12; 2 Winchester rifles at $80, and 1 double-barreled gun at $22; 1 grindstone at $8, and 3 dogs at $20; the sum total being $5,471.

Result: That the investigation having been closed the judge, under date of the 2d of June, 1895, decreed sentence of imprisonment on Arturo Ysert, Grosvenor Davve, A. J. Sandham, J. J. Kittle, Phillips Johnson, and Fernando and Edgar Eude for the crime of assassination committed on the person of Mr. Charles W. Renton; for setting fire to his house, which is situated on the outskirts of the village of Brus Laguna; for the wounds inflicted on John Johnson, and with the exception of Mr. Davve, for the offenses of illegal detention and forcible removal of the person of Mrs. Renton from this territory to that of Nicaragua.

Result: That the case having been carried to the court of the district of Trujillo it was set down for a full hearing, and after receiving all the evidence offered by the defense it was submitted to the jury, which declared proved the following facts:

1. That on the 15th of March, 1894, with their firearms, Grosvenor Davve and Fernando Eude exchanged shots with Renton.
2. That on the 16th of the same month Charles W. Renton, his wife, and servant Johnson were wounded by projectiles from firearms in Brus Laguna.
3. That on the same date the house which belonged to Renton in Brus Laguna was set on fire.
4. That on the same 16th of March, with their firearms, Grosvenor Davve, Fernando and Edgar Eude, Arthur Ysert, Arthur Sandham, J. J. Kittle, and Phillips Johnson shot at Mr. Renton.
5. That at Brus Laguna, on the date mentioned, Renton was detained and guarded in the house of Ysis Cruz.
6. That Grosvenor Davve, Fernando and Edgar Eude, Arthur Sandham, Arthur Ysert, J. Kittle, and Phillips Johnson detained and guarded Renton in the house of Ysis Cruz.
7. That Grosvenor Davve, Fernando and Edgar Eude, Arthur Sandham, Arthur Ysert, J. Kittle, and Phillips Johnson burned the house of Renton.
8. That Edgar Eude forcibly led Mrs. Renton up along the coast, in the direction of Cape Gracias.
9. That Fernando Eude removed from the house of Renton several articles belonging to the latter.
10. That some of these articles were conveyed to Brenes Lagoon Wood Produce Company.
11. That J. Kittle, Fernando Eude, and Arthur Ysert used the mules of Mr. Renton.
12. That Edgar Eude, Grosvenor Davve, and Arthur Ysert (used Mr. Renton's mules) have enjoyed an irreproachable reputation.
13. That Edgar Eude and Arthur Sandham remained in Canon Island the 15th of March, 1894.

Result: That the previous verdict was returned to the jury, in order that it might amplify same, on account of having omitted to propose some questions, and said tribunal answered:

1. That it is proved that from the shots fired by Fernando and Edgar Eude, Arthur Sandham, Jesse Kittle, and Arthur Ysert at Charles W. Renton there resulted wounded the latter, his wife, and the servant Johnson.
2. That it has not been proved who among the aggressors is the author of the wounds of Charles W. Renton, his wife, and servant Johnson.
3. That it has not been proved that Charles W. Renton died from the result of the wound that he received on the 16th of March, 1894, at Brus Laguna.

Result: That on March 16, 1896, the judge of the district of Trujillo pronounced the decision which he considered in conformity with the merits of the findings, and there was lodged an appeal on behalf of the accused Davve, Ysert, Edgar Eude, Jesse Kittle, and Arthur Sandham.

Result: That the appeal being heard in due form the court of Comayagua rendered its judgment on the 31st of August, 1896, condemning Jesse Kittle and Arthur Sandham for the crime of illegal detention of the person of Mr. Charles W. Renton to imprisonment for a period of one year and six months; Grosvenor Davve, Edgar Eude, and Arthur Ysert to six months' imprisonment for said offense; Kittle and Sandham for the crime of attempted homicide on the person of Mr. Renton to three years' imprisonment, and Davve and Edgar Eude, and Ysert for the same crime to imprisonment for two years and six months; sentencing the said Kittle and Sandham for the crime of burning the house of Mr. Renton to imprisonment for five years, and Davve and Edgar Eude, as well as Ysert, for the offense mentioned to imprisonment for three years and eight months; said terms to be served consecutively in the prison of Trujillo, commencing with the heaviest; to pay for the curing of Mr. Charles W. Renton, and to supply food to himself and his family during the time that he may be incapacitated for work; to pay the costs and all losses and damages;

to lose the arms with which they committed the crime, and all other accessories, and Kittle and Ysert were absolved from the crime of robbery. In the same sentence the judge at Trujillo is commanded to proceed, according to law, on account of the crimes of wounding less gravely John Johnson and the forcible removal of Mrs. Renton to Cape Gracias a Dios, which the jury in its verdict declared proved, and for which said functionary, in the appeal sentence, did not give judgment.

Result: That against the judgment of the court of appeals of Comayagua the representatives of the criminals interposed the plea of appeal, alleging the following infractions:

1. That of article 397 of the Penal Code, of 150 and 984 of that of Civil Procedure, and the second of the jury law, because in the suit there are not recorded all the circumstances required for the existence of the offense of attempted homicide, and consequently the crime is not proved, because it is clear that the nature of Mr. Renton's wound is not known, as the experts Luis Refsman and Vertin Canales did not see it; they did not personally examine it, as required by said article 984, and, therefore, their statements with regard to it, which were founded on the declaration of witnesses who assert having seen Mr. Renton wounded, have no legal value.

2. That of the same article 984 of the Code of Procedure, because the arson is not proved, as the experts Gregorio Torres and William Webb merely examined the charred remains of a house after a lapse of much time, and they said nothing as to whether the burning occurred through fraud, through the negligence of some person, or by accident, judging from the traces that they found in the burned house referred to, to which is added that the jury declared as authors of the burning the accused, basing its finding on the evidence of a witness who contradicted himself, which constitutes a substantial nullity, though not in form, such as are treated of in article 47 of the jury law, for which reason the verdict mentioned should be set aside and the decree of the supreme court, No. 3, dated October, 1889, should be complied with.

3. That of article 150 of the Code of Procedure, as the verdict of the jury should be declared void, on account of being contradictory in so far as the illegal detention of Renton in the house of Ysis Cruz, after being wounded, is concerned, it being declared at the same time that all the parties prosecuted were the authors of the burning, which, according to the sentence, occurred during the detention of Mr. Renton, and it is not possible for both deeds to have taken place simultaneously; this apart from the fact that the verdict is null also, because it has for a basis for considering established the detention the testimony of a witness which is void in substance, as demonstrated by the fact that Gregorio Torres de Manto, after having testified against the accused, acted as interpreter or translator of the declarations of the sambos Roberto, Cuca, Soris, and Valerosa, contrary to what is prescribed by article 315 of the Code of Procedure, there existing besides the circumstance that the simple sambo witnesses deserve little credit, because, in accordance with what is stated by Claudio Gren, ex-justice of peace of Yriona, on giving their testimony before him Cuca and Surcia Mayren, in the first hearing, which occurred in February, 1895, in making inquiry into the death of Mr. Renton, the burning of his house, and the wounding of Mrs. Renton and John Johnson, said witnesses declared that they knew nothing regarding these matters, because they were not present.

4. That of article 134 of the constitution, because there has been reopened a judgment that had terminated, because the first proceedings instituted against the accused, which were favorable to them, were declared void, and there was instituted that which served as a basis for this judgment; because Mr. Leonardo Yrias, the captain of Yriona, requested and obtained from the judge of peace having charge of the case the delivery of said initiatory proceedings.

5. That of decree No. 82, of the 6th of April, 1896, because there was omitted the recommendation of commutation solicited in favor of Davve, Eude, and Ysert, a commutation which they deserve; because the two first are merchants and the last is an engineer, all three being persons of good conduct, of laborious customs, and moral habits, and because in the crime for which they are judged passion influenced them more than depravity of mind, the solicitation having been presented to serve in case of their condemnation.

Result: The attorney-general (prosecuting attorney) was accordingly informed, and he is of the opinion that there is no ground for the appeal petitioned for;

Considering, that article 397 of the Penal Code consists of two parts, and it is not stated which of them is violated, and the petitioner, therefore, has not complied with what is stipulated in article 754 of the Code of Procedure regarding the statement of the specific and determined cause on which is founded the appeal;

Considering, that article 984 of the Code of Procedure literally says, "the State denies within its territory the existence of places of refuge where delinquents can obtain freedom from punishment for their crimes or a diminution of their sentences," and that this legal disposition can not be violated in the sense of its relation to the nature of the crime, in which sense the petitioner cites it as infringed;

Considering, that nothing can be said with regard to the violation of articles 150 of the Code of Procedure and 2 of the jury law, because that is alleged in an accessory manner to the other articles, which violation is not deducible from the reasons stated in the two preceding paragraphs;

Considering, that in regard to the crime of arson, the violation of article 984 of the Code of Procedure has not been proved, for the reason mentioned in the second paragraph (consideration) of this judgment, and that the nullity of the verdict of the jury obtains only in the cases clearly determined by the letter of the law, because the law does not in fact demand an account of the judges of the means by which they arrived at a conviction, nor does it prescribe rules for deducing the fullness and sufficiency of proof, and it only commands them to interrogate themselves and to seek sincerely in their consciences the impression that is produced in their minds by the proofs presented against and in defense of the accused;

Considering, that the judgment in question has been dictated in accordance with the merits of the case in respect to the illegal detention, notwithstanding what may be alleged regarding the nullity of the verdict of the jury, because to this point are applicable the same reasons expressed in the final part of the preceding paragraph, and, therefore, article 150 of the Code of Procedure has not been violated;

Considering that neither has article 134 of the political constitution been violated, because with the certification of the corresponding judgment it has not been proven that the initiatory proceedings, that might have remained closed, by being without result, were set aside in order to make inquiry into the same deeds to which this judgment refers;

Considering that the fact that the court of appeals overlooked the recommendation of commutation solicited in favor of the criminals Davve, Eude, and Ysert does not constitute the violation of the legislative decree of the 6th of April, 1896, because the disposition relative to that recommendation is within the power of the tribunal:

Therefore, the supreme court of justice, by a unanimous vote, and complying with articles 737, 738, 839, 750, 754, 760, and 762 of the code of procedure, declares inadmissible the appeal as based upon article 397 of the penal code, and there is no cause for appeal in respect to the remaining alleged infractions, and it decrees payment of the costs by the petitioner and the return of the antecedents to the tribunal whence they proceeded, with the respective certification.

Let it be communicated.

UGARTE.
ESCOBAR.
DURAN.
MALDONADO.
BONILLA VALLE.
B. ZEPEDA.

Interlined: Three dogs, at $20. Wood. Valid.
Between parentheses: They used the mules of Mr. Renton, invalid.
It corresponds with its original.
Tegucigalpa, February 25, 1897.

BUENAVENTURA ZEPEDA.

It is in conformity.
Tegucigalpa, March 2, 1897.

CESAR BONILLA.

(There is a seal of the department of government.)
It is in conformity.
San Salvador, March 26, 1897.

E. MENDOZA.

There is a seal, which says: "Office of Secretary of the Assembly of the Greater Republic, C. A."

[Inclosure 2 in No. 85.—Translation.]

I have just received advice from the consular agent at Truxillo that on March 18, Isert and Sandham, defendants in the case of Renton, escaped.

The minister informs that nevertheless it has been possible to recapture them. Only Dawe remains imprisoned.

W. M. LITTLE.

Which is contradictory.

The minister informs me that nevertheless every possible effort is being made to recapture them. Only Dawe remains imprisoned.

W. M. LITTLE.

Which makes sense by the change suggested in my No. 85.

Mr. Coxe to Mr. Sherman.

No. 99.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, May 10, 1897.

SIR: Referring to my No. 85, in the matter of Renton, and to Mr. Little's telegram, therein transmitted, announcing the escape of the defendants Isert and Sandham, the latter part of which telegram was blind, I beg to report that I have only to-day succeeded in obtaining the true reading. My efforts to this end through the telegraph offices were entirely without result, the repetition of the telegram handed me being precisely in the same words as the original.

I am to-day in receipt of a telegram from Mr. Little, in reply to my letter of April 4, inquiring on the subject, that the telegram was sent wrong, in that the word "no" should have been inserted before the words "se ha podido," indicating that it had not been possible to recapture the prisoners.

I have no doubt at all that Mr. Little's telegram was sent immediately upon the receipt of my letter of April 4. This transaction will give the Department a slight indication of the unreliability of the telegraphic system and the length of time it takes to communicate in these countries.

Mr. Little further informs me that the foreign minister of Honduras advises him that he has been informed that Isert and Sandham are now in New Orleans.

I have, etc., MACGRANE COXE.

ITALY.

LYNCHING OF ITALIANS AT HAHNVILLE, LA.[1]

Mr. Sherman to Baron Fava.

No. 194.] DEPARTMENT OF STATE,
Washington, March 17, 1897.

EXCELLENCY: In reply to your note of the 13th instant in regard to the lynching of three Italians at Hahnville, La., I have the honor to state that I have recommended to the President that Congress be advised of the facts in the case and requested, without reference to the question of the liability of the United States, to appropriate the sum of $6,000, to be distributed by your Government in such manner as it may deem proper among the heirs of the three Italians killed at Hahnville on the night of August 8, 1896.

When advised of the President's decision, I shall take pleasure in making it known to you.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Baron Fava.

No. 215.] DEPARTMENT OF STATE,
Washington, May 6, 1897.

EXCELLENCY: Referring to previous correspondence in regard to the lynching at Hahnville, La., of three Italian subjects, named Salvatore Arena, Giuseppe Venturella, and Lorenzo Salardine, I have the honor to inclose a copy of Document No. 37, House of Representatives, Fifty-fifth Congress, first session, containing the message of the President recommending the appropriation of $6,000, without admitting the liability of the Government of the United States in the premises, to be paid by this Government to that of Italy, and to be distributed by the latter Government in such manner as it may deem proper among the heirs of the three Italian subjects above named.

Accept, etc.,

JOHN SHERMAN.

Mr. Adee to Baron Fava.

No. 254.] DEPARTMENT OF STATE,
Washington, July 30, 1897.

EXCELLENCY: I have the honor to state, having regard to previous correspondence upon the subject, that the act of Congress approved July 19, 1897, entitled "An act making appropriations to supply defi-

[1] See Foreign Relations, 1896, pp. 396-422.

ciencies in the appropriations for the fiscal year ending June 30, 1897, and for prior years, and for other purposes," contains the following provision for the payment, out of humane consideration and without reference to the question of liability therefor:

Relief of subjects of Italy: To pay, out of humane consideration and without reference to the question of liability therefor, to the Italian Government, as full indemnity to the heirs of three of its subjects, Salvatore Arena, Giuseppe Venturella, and Lorenzo Salardine, who were taken from jail and lynched in Louisiana in eighteen hundred and ninety-six, six thousand dollars.

I inclose a check of the chief of the bureau of accounts and disbursing clerk of the Department of State, payable to your order, for the sum of $6,000; also receipt in triplicate, which I shall be glad to have you sign and return to this Department.

Accept, etc., ALVEY A. ADEE.

MEANING OF "AMERICAN SYSTEM" AS APPLIED TO CLOCKS IN THE ITALIAN TARIFF.

Mr. Sherman to Mr. Draper.

No. 14.] DEPARTMENT OF STATE,
Washington, July 7, 1897.

SIR: I inclose herewith copies of letters from the Ansonia Clock Company of New York. They complain that the Italian minister of commerce refuses to admit their clocks into Italy as clocks fitted up with American movements, thus preventing the continuation of their business in that country.

At the suggestion of the Department they have forwarded to you prepaid a sample package of their clocks, a memorandum invoice of which I inclose, together with a sworn declaration that all their goods, cases as well as movements, are manufactured in Brooklyn, and that they have no factories elsewhere.

You will present this matter to the attention of the Italian Government and do all you can to remove the strange impression that the works manufactured by this company are not "American movements."

Respectfully, yours,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

No. 25.] EMBASSY OF THE UNITED STATES,
Rome, July 27, 1897. (Received August 14.)

SIR: I have received your No. 14, with inclosures as stated, of the 7th instant, concerning a complaint of the Ansonia Clock Company of New York that the Italian minister of commerce refuses to admit their clocks into Italy as clocks fitted up with "American movements," thus preventing the continuation of their business with this country, and directing me to present the matter to the attention of the Italian Government and do all I can to remove the impression that the works manufactured by this company are not "American movements."

Your instructions will receive immediate attention, but the case will require some preliminary investigation.

A letter repeating the complaint as above has been received by me from the company. The sample package of clocks mentioned as having been sent to me has not yet come to hand.

I have, etc.,

WILLIAM F. DRAPER.

Mr. Sherman to Mr. Draper.

No. 33.] AUGUST 18, 1897.

SIR: I have to acknowledge the receipt of your No. 25, of the 27th ultimo, in regard to the case of the Ansonia Clock Company, whose clocks were refused admission into Italy.

The company advises the Department that the package of clocks was forwarded by Wells, Fargo & Co.'s Express on July 2, with the understanding that they would reach you by the 12th of that month.

They have requested the express company to investigate the matter.

Respectfully, yours,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

No. 61.] EMBASSY OF THE UNITED STATES,
Rome, Italy, November 1, 1897. (Received November 16.)

SIR: Referring to your instruction, No. 14, of date July 7, 1897, which inclosed copies of letters from the Ansonia Clock Company of New York, and directed me to look into their complaint that the Italian minister of commerce refused to admit their clocks into Italy as clocks fitted up with "American movements," thus preventing the continuation of their business with this country, also to present the matter to the attention of the Italian Government, and to do all I could to remove the impression that the works manufactured by this company were not "American movements," and referring to my dispatch No. 25, of date July 27 last, I now have to say:

It seemed wise, in my judgment, before approaching the Italian Government with a complaint, to learn privately and exactly what their attitude was toward the importation of clocks generally and toward those having American movements in particular, and Mr. Hector de Castro, consul-general of the United States at Rome, kindly undertook to make the necessary inquiries at the Italian custom-house department and elsewhere, if it seemed desirable. The result of Mr. de Castro's investigations will be read in detail in the inclosures herewith. I take this opportunity to express my high appreciation of the thoroughness with which the consul-general conducted his examination.

It seems certain that the trouble is largely due to the fact that the term "American system" (*sistema Americano*) was not closely enough defined when the commercial treaty with Austria-Hungary and with Germany was made, for, as I understand the complication, it is through the clauses of this treaty, in connection with the favored-nation clause in our own commercial treaties with Italy, that the Ansonia Clock Company looks for different treatment from what it has been receiving. American manufacturers mean one thing by the term "American movement" or "American system," while the Italian authorities mean another. What

the Italian authorities regard as the American system is limited to one specimen of the cheap, round, nickel-plate American clock with an alarm bell on top, which was exhibited and examined, as they say, when the treaty was under consideration; and they have ruled that nothing but that one kind of clock shall come into the Kingdom under the treaty. It simply must look like the picture in the official circular, as will be seen in inclosure No. IV. The quality of the works, the quality of the casing had nothing to do with it. Clocks which look like the one that they had seen when the treaty was signed are to them the entire American system, and nothing else can be imported that looks different, no matter whether it was made in America or was better or worse in any or every respect. The collector-general says frankly that the only reason why the Italian authorities agreed to allow the clocks to come in at all at the reduced rate (namely, 1.56 lire per kilo on the weight instead of 5 lire on each clock and 1.50 lire per kilo of weight in addition) was because they knew that the number must be limited. To give anything but a narrow construction to the clause of the treaty would have been to throw open the Italian market to large importations of clocks of different outside appearance. Naturally enough, perhaps, they do not mean to allow that. Their present position may be an afterthought based upon a technicality of appearance, but there is no doubt about their position.

If you have any further instructions in the matter I shall be glad to receive them. I may add that I have to-day written to the Ansonia Clock Company, telling them that I had reported to the Department of State in regard to their complaint, and referring them to you for further information.

I am, etc., WILLIAM F. DRAPER.

[Inclosure 1 in No. 61.]

Mr. de Castro to Mr. Draper.

CONSULATE-GENERAL OF THE UNITED STATES,
Rome, October 28, 1897.

SIR: In accordance with the request of the embassy to elicit from the Italian custom-house department some satisfactory explanation in regard to their tariff laws regulating the collection of duties upon the so-called clocks of "sistema Americano," I have the honor to transmit to you herewith translated copies of the correspondence exchanged upon the subject by me with the said department.

I am, etc., HECTOR DE CASTRO.

[Subinclosure 1 in No. 61.—Translation.]

Mr. Mozzo to Mr. de Castro.

MILAN, *September 19, 1897.*

SIR: As agreed upon in our conversation of a few days since, I take the liberty of submitting to you a few remarks on the subject of the application of the Italian tariff to "clocks, so called, of American system."

Among the sample clocks the embassy now holds you will find two round clocks, the Spark and the Bee Alarm, which the Italian ministry of finance considers as clocks so called of American system because they are inclosed in cylindrical cases. Besides these you will find two other clocks, the Midge and the Pert Gem, which,

owing to the fact of their being inclosed in rectangular casings, are not considered as "American clocks;" consequently, instead of paying 1.50 lire per kilo, as is the case with the Spark and the Bee Alarm (when accompanied by certificate of origin), they are made to pay 5 lire apiece plus 1.50 lire per kilo for the casing.

The Italian Government, in its ill-defined tariff, makes a special item of "American clocks," but instead of distinguishing the clocks by the "works," it applies its tariff according to the casing; so that, provided a clock is inclosed in a cylindrical case (like the Spark and the Bee Alarm), no matter whether the "works" be of the finest workmanship, it is considered as an "American clock" and taxed accordingly. On the other hand, if the works of a "clock, so called, of American system" are inclosed in a case of any shape (like the Midge and the Pert Gem), they are taxed at the rate of 5 lire apiece for the works plus 1.50 lire per kilo for casing.

Hoping you will forgive my having entered into so many details, and that you will succeed in obtaining from the ministry of finance of Italy its consideration of the matter,

I am, etc.,

GIUSEPPE MOZZO.

[Subinclosure 2 in No. 61.]

Mr. de Castro to Mr. Busca.

CONSULATE-GENERAL OF THE UNITED STATES,
Rome, September 23, 1897.

SIR: I have been instructed by my Government to prepare a detailed report on the commerce of the United States with Italy.

Among other items I find that of "clocks, so called, of American system" (customs tariff No. 251, letter C). I should be glad to know the exact meaning of said item and what articles are included in that category. I therefore beg that you will kindly give the desired information.

I take this opportunity to thank you for the numerous courtesies you are continually extending to us, and to say that I would gladly reciprocate them should occasion therefor arise.

I am, etc.,

HECTOR DE CASTRO.

[Subinclosure 3 in No. 61.—Translation.]

Mr. Busca to Mr. de Castro.

MINISTRY OF FINANCE,
OFFICE OF THE COLLECTOR-GENERAL OF CUSTOMS,
Rome, October 2, 1897.

SIR: In reply to your esteemed letter of the 23d ultimo I hasten to transmit to you the inclosed circular issued by this office in 1892, by which you will learn what the Italian customs office intends by "clocks, so called, of American system."

Yours, respectfully,

BUSCA,
The Collector-General.

[Inclosure in subinclosure 3.—Translation.]

MINISTRY OF FINANCE,
OFFICE OF THE COLLECTOR-GENERAL OF CUSTOMS,
Rome, May 30, 1892.

To the Customs Offices of I order, and II order 1 class.
To the Inspector of Customs.

Confirming the printed circular of January 25 last, No. 9346–3.514, a drawing is hereon given of the clocks which it is intended should be admitted by the treaties with Austria-Hungary and Germany to the duty of 0.150 lire per quintal as being "clocks, so called, of American system."

CASTORINO,
The Collector-General.

[Subinclosure 4 in No. 61.]

Mr. de Castro to Mr. Busca.

CONSULATE-GENERAL OF THE UNITED STATES,
Rome, October 8, 1897.

SIR: I have the honor to acknowledge the receipt of and to thank you for your letter of the 2d instant, inclosing a copy of the circular published by your office on May 30, 1892, relating to "clocks, so called, of American system."

I beg that you will allow me to return to the same subject to ask you what would be the tax on the same "clock works" if, instead of being inclosed in the cylindrical case, as shown by the illustration in the aforesaid circular, they were inclosed in a case of different shape and more expensive, though they were manufactured in America, and their origin were proved to the satisfaction of the honorable collector-general's office.

I have been requested to clear this point by American manufacturers who claim that if the clocks are not inclosed in a case similar in shape to that of which a drawing is in margin of the above-quoted circular, they were taxed at the rate of 5 lire apiece for the clock work plus 1.50 lire per quintal for the casing, although the clock work was identical to that of the "clocks, so called, of American system."

I should feel much obliged if you would kindly make clear to me this point, which is of the utmost importance to one of our chief industries.

Thanking you in advance for the information it will please you to give me on the subject, I am, etc.,

HECTOR DE CASTRO.

[Subinclosure 5 in No. 61.—Translation.]

Mr. Busca to Mr. de Castro.

MINISTRY OF FINANCE,
OFFICE OF THE COLLECTOR-GENERAL OF CUSTOMS,
Rome, October 22, 1897.

SIR: In your esteemed letter of the 8th instant you inquired as to this ministry's interpretation of the regulations of the commercial treaties with Austria-Hungary and Germany relating to "clocks, so called, of American system."

In reply I beg to state as follows:

The general customs tariff (No. 251, letter A–2) fixes the duty on clocks at 5 lire apiece plus the duty on the casing.

A favor treaty was established with Austria-Hungary and Germany for clocks, so called, of "American system;" but in establishing this favor treatment it was intended that it should apply only to the ordinary alarm clocks with plain casing of sheet nickel-plated metal of the pattern a drawing of which illustrated the circular I had the pleasure of transmitting to you. It was in consideration of the limited extension of this concession that it was agreed in the treaties to collect a duty of 1.50 lire per quintal on clocks of said species, casing included, thus renouncing to the provisions of the general tariff, according to which an extra duty is collected on the casing.

You will easily understand that in granting this exemption from tax on the casing it was intended that this favor treatment should apply only to clocks the casing of which corresponds to that of the clocks produced as samples and examined during the course of the commercial conference. All controversies arising on the subject have been settled on this principle, and all clocks were excluded from favor treatment which, although having the clock work of so-called "American system," were inclosed in casings of material and shape different from that of the alarm clocks of the pattern described in the above quoted circular.

Trusting that I have satisfactorily replied to your inquiry, I am, etc.,

BUSCA,
The Collector-General.

REMOVAL OF DISCRIMINATING RESTRICTIONS ON AMERICAN SWINE FLESH.

Baron Fava to Mr. Olney.

[Translation.]

ITALIAN EMBASSY,
Washington, February 22, 1897.

MR. SECRETARY OF STATE: By a decree of January 26, 1897, revoking a previous decree of the 7th of the same month, the royal ministry of agriculture, industry, and commerce provided for the regulation of importation into Italy, by sea, of cattle, salted hides, undressed skins, raw wool, horns, hoofs, and other animal products, and also the importation, by land and sea, of preserved swine's flesh.

I now have the honor, in pursuance of the instructions of my Government, to transmit to the Department of State a copy of the aforesaid decree, and I avail myself of this occassion to offer you, etc.,

FAVA.

[Inclosure.—From the Official Gazette, January 27, 1897.—Translation.]

The minister of agriculture, industry, and commerce, in view of the law of December 22, 1888, No. 5849, third series, for the protection of the public health; in view of the regulation for maritime health, approved by royal decree of September 29, 1895, No. 636; in view of the necessity of regulating the importation into the Kingdom by sea of cattle, salted hides, undressed skins, raw wool, horns, hoofs, and other animal products, and of preserved meats, hereby decrees as follows:

ARTICLE 1.

The prohibition still remains in force to import into the Kingdom—

(*a*) Cattle and sheep from the following States and countries: European and Asiatic Turkey, the Island of Cyprus, Egypt, Bombay, the Russian ports on the Black Sea and the Sea of Azov, Bulgaria, Greece, the Somali countries, Zanzibar;

(*b*) Cattle from the Island of Malta;

(*c*) Hogs from European and Asiatic Turkey, the Island of Cyprus, Egypt, and the United States of America.

ARTICLE 2.

The importation of sheep from the Island of Malta is allowed, provided they are subjected to the inspection of a veterinarian in the port of destination, at the expense of the parties interested.

ARTICLE 3.

The importation into the Kingdom of swine's flesh salted, smoked, or otherwise preserved from all States, except the following, is prohibited: Austria-Hungary, Servia, the German Empire, Switzerland, France, Denmark, and the United States of America.

Meats from the United States of America must be accompanied by a sanitary certificate of origin, issued by the competent local authorities, and viséed by the royal consul or consular officer residing or having jurisdiction in the place whence the meat is shipped. For meats from the above-named European countries certificates are valid if issued by the competent local authorities, without the necessity of a consular visa.

ARTICLE 4.

From all countries from which the importation of cattle and sheep into the Kingdom is prohibited the importation of salted hides is likewise prohibited, excepting those from the Island of Malta.

ARTICLE 5.

The importation of undressed skins, raw wool, bones, horns, hoofs, and other products of cattle and sheep from Asiatic Turkey, the Somali country, and Zanzibar is likewise prohibited.

ARTICLE 6.

From all other States the importation into the Kingdom of the above-named animals and animal products is allowed, provided that both the animals and the products are accompanied by the sanitary certificate of origin, issued by the competent local authorities, and viséed by the royal consul or consular officer having jurisdiction in the place whence the original shipment of the said animals or animal products takes place.

ARTICLE 7.

Salted entrails and washed or calcined wool may be freely introduced into the Kingdom from whatever place they may come.

ARTICLE 8.

The ministerial decree of January 7, 1897, which was inserted in the Official Gazette of the 8th of said month (No. 6, year 1897) is hereby revoked.

ARTICLE 9.

Prefects of the maritime provinces, port wardens, and custom-house officers throughout the Kingdom are charged with the execution of this ordinance, which is to take effect immediately.

GUICCIARDINI, *Minister.*

ROME, *January 26, 1897.*

Mr. Sherman to Baron Fava.

No. 192.] DEPARTMENT OF STATE,
Washington, March 15, 1897.

EXCELLENCY: In further reply to your note of the 22d ultimo, inclosing copy of the decree of the minister of agriculture, industry, and commerce, regulating the importation into Italy by sea of cattle, hides, skins, pork, etc., I have the honor to state that I have received a letter from the Secretary of Agriculture giving his views on the subject.

Mr. Wilson calls attention to the fact that, according to articles of the decree, meats from the United States must be accompanied by a sanitary certificate of origin issued by the competent local authorities and viséed by the Italian consul or consular officer residing or having jurisdiction in the place where the meat is shipped. In the case of most of the European countries the certificates of the local authorities suffice, without the necessity of the consular visé.

The reason for the discrimination against the United States is not apparent, and it may be the cause of much inconvenience and loss to our exporters. The inspection of meats in this country is a Federal inspection, and the certificates are issued by the Government as a guaranty that the animals were free from disease at the time of slaughter and that the meats are sound and wholesome. Mr. Wilson states that he is not aware that the general government of any other country has established an inspection of meats and provided for a government certificate to accompany them when exported to other nations; but whether this be so or not, it is certain that this Government has done everything in its power to meet the objections raised against its meat products, and there can be no reasonable ground for the least discrimination against this class of exports by any country.

Accept, etc.,

JOHN SHERMAN.

Baron Fava to Mr. Sherman.

[Translation.]

EMBASSY OF ITALY,
Washington, D. C., May 26, 1897.

MR. SECRETARY OF STATE: The Government of the King, to which I hastened (as I stated to your excellency in my note of the 16th of March last) to communicate the observations of the honorable Secretary of the Treasury (Agriculture) relative to the ministerial sanitary decree of January 26, 1897, which requires a consular visé for the certificates of origin issued by American authorities, and accompanying shipments of meat, has now informed me that the question will be submitted for examination to the zootechnic and epizootic board at one of its next sessions. His Majesty's Government, however, desires to perform a friendly act toward that of the United States by frankly forewarning it that could it in no case be induced to modify the provisions contained in the aforesaid decree in accordance with the desire expressed by the Federal Treasury Department (Department of Agriculture) if the United States should persist in retaining in the new customs tariff the exorbitant duties to which I have had the honor to call your excellency's attention in my preceding written and verbal communications.

The same warning has been communicated, with the same amicable intent, by my Government to the representative of the United States at Rome, who has presented a complaint similar to that which, after receiving your excellency's note of March 15, I transmitted to the royal ministry of foreign affairs.

Accept, etc., FAVA.

Mr. Sherman to Mr. Anderson.

No. 240.] DEPARTMENT OF STATE,
Washington, March 15, 1897.

SIR: I inclose for your information copy of a letter from the Secretary of Agriculture and copies of correspondence exchanged between the Department and the Italian embassy at Washington in reference to a recent decree of the Italian minister of agriculture, industry, and commerce regulating the importation into Italy by sea of cattle, hides, skins, pork, etc.

As you will preceive from the correspondence, the decree appears, in respect to the necessity of a consular visé, to discriminate against the United States as compared with some of the European nations.

You will use every effort with the Government of Italy to accomplish the removal of this discrimination.

Respectfully, yours, JOHN SHERMAN.

Mr. Anderson to Mr. Sherman.

No. 252.] EMBASSY OF THE UNITED STATES,
Rome, April 5, 1897. (Received April 19.)

SIR: I have the honor to acknowledge the receipt of the Department's instructions, numbered 240, of March 15 last, with regard to a recent decree of the Italian ministry of agriculture, industry, and commerce

regulating the importation into Italy of cattle, hides, skins, etc., and I beg to inform you that I at once addressed a note to the minister of foreign affairs on the subject, urging the removal of the discrimination which appears in the decree to the disadvantage of the American exporters. I took this note in person to the Marquis Visconti Venosta, and in an interview repeated the earnest hope that the Italian Government might see its way to a speedy removal of the regulation in question.

His excellency in reply stated that, while the subject was one to be dealt with by the minister of agriculture in the premises, yet he would use his offices with his colleague for such a solution as might seem proper. I shall have the honor of transmitting any further answer on the subject without delay, while pressing the matter.

I have, etc.,

LARZ ANDERSON.

Mr. Sherman to Mr. Draper.

No. 6.]

DEPARTMENT OF STATE,
Washington, June 22, 1897.

SIR: In January last, an Italian sanitary decree was issued relative to the importation into Italy of meats, etc., in which it was provided that in the case of shipments of meats from the United States our certificates of origin must be accompanied by an Italian consular visé. In the case of most of the European countries no consular visé was required.

At the suggestion of the Secretary of Agriculture the attention of the Italian Government was called to the discrimination, both through your embassy and through the Italian embassy at this capital.

I inclose copy of Baron Fava's note of the 26th ultimo, in which it is frankly stated that his Government can not be expected to modify the the discrimination above referred to, unless more satisfactory rates are accorded by the pending tariff bill to certain Italian products.

As the Secretary of Agriculture points out in his letter of the 14th instant (copy inclosed), the position of the Italian Government is not logical. No discrimination is enforced by the pending tariff bill. Its rates, deemed necessary for the purpose of collecting a revenue, apply uniformly to the products of all countries. The Italian decree discriminates against a country which has taken especial precautions to insure the healthfulness of its meat exports.

I inclose for your information, and to aid you in the representations which it is desired you shall make to the Government of Italy, copy of Department's instruction No. 2, of the 5th instant, to our minister to Belgium, setting forth the view which the Government of the United States entertains in regard to the matter.

Respectfully yours,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

[Telegram.]

ROME, *July 14, 1897—5.15 p. m.*

Your dispatch of the 22d (ultimo) relating to meat has been received. It may help me to know, by telegraph, which European countries do not require consular visé with shipments of meat.

DRAPER.

Mr. Day to Mr. Draper.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 16, 1897.

Italy and Greece only countries so far as known requiring consular visé. It is the discrimination of Italy in requiring visé for meats from United States to which this Government particularly objects.

DAY, *Acting.*

Mr. Draper to Mr. Sherman.

No. 22.] EMBASSY OF THE UNITED STATES,
Rome, July 23, 1897. (Received August 12.)

SIR: I have the honor to acknowledge the receipt of your telegram of the 22d instant, granting me leave of absence for sixty days. I will take advantage of it, beginning with August 1 next, as it may be desirable to await for a few days a reply to my note of the 15th instant, addressed to the minister of foreign affairs, concerning the importation of meats. I inclose herein a copy of the note, that you may be informed of the exact standing of the negotiation and may give further instructions should any be required.

During the month of August I expect to be at St. Moritz, Switzerland, only a few miles from the Italian frontier, and to keep in daily communication with the embassy.

I am, etc.,

WILLIAM F. DRAPER.

[Inclosure in No. 22.]

Mr. Draper to the minister for foreign affairs.

EMBASSY OF THE UNITED STATES,
Rome, July 15, 1897.

YOUR EXCELLENCY: I have the honor to state that I am instructed by my Government to address you upon a subject concerning which there has been some correspondence previous to my arrival in Rome.

I am informed that on January 26 last a decree was issued by the royal ministry of agriculture, industry, and commerce providing for the regulation of the importation into Italy by sea of cattle, meats, etc.

In the third section of the decree it appears that meats from the United States must not only be accompanied by a sanitary certificate of origin issued by the competent local authorities, but the certificate must be viséed by the Royal consul or consular officer having jurisdiction in the place from which the meat is shipped.

On the other hand, for meats from the European countries named in this section, the certificates issued by the local authorities are made valid without the necessity of the consular visé.

On April 1 last Mr. Larz Anderson, chargé d'affaires, addressed to your excellency a note on the subject of this discrimination in accordance with instructions received by him from the State Department at Washington.

I find an acknowledgment of this note on the files of the embassy

under date of April 7 last, but no further reply. If one was sent I would be greatly obliged for a copy.

Mr. Anderson's departure and the illness of his successor, Mr. Hale, during the month before my arrival may have interfered with the continuity of the negotiation, especially since I have only just been informed that the question was pending.

I now hear from my Government that the attention of the embassy of His Majesty the King of Italy at Washington was called to this discrimination some months since, and that under date of May 26, 1897, His Excellency Baron Fava notified the Department of State that the question would be submitted for examination to the zootechnic epizootic board at one of its next sessions.

This note is said, moreover, to make the following statements:

> His Majesty's Government, however, desires to perform a friendly act toward that of the United States by frankly forewarning it that it could in no case be induced to modify the provisions contained in the aforesaid decree in accordance with the desire expressed by the Federal Treasury Department (Department of Agriculture) if the United States should persist in retaining in the new customs tariff the exorbitant duties to which I have had the honor to call your excellency's attention in my preceding written and verbal communications. The same warning has been communicated with the same amicable intent by my Government to the representative of the United States at Rome, who has presented a complaint similar to that which, after receiving your excellency's note of March 15, I transmitted to the royal ministry of foreign affairs.

As before stated, there is no record at the embassy of the reception of "the warning with amicable intent" to which His Excellency Baron Fava refers, and as I am instructed by my Government to make further representations to your excellency on the subject, I would be glad of a reply covering Mr. Anderson's note and this one.

I also venture to express the hope that the views stated in the letter of Baron Fava, above quoted, are not the present views of His Majesty's Government.

I avail myself, etc., WILLIAM F. DRAPER.

Mr. Draper to Mr. Sherman.

No. 42.] EMBASSY OF THE UNITED STATES,
Rome, September 10, 1897. (Received October 2.)

SIR: Referring to my No. 33, of the 18th ultimo, relative to the regulation of the Italian Government requiring the Italian consular visé to be affixed to certificates accompanying our exports of meats, I now have the honor to inclose herein a copy, with translation, of a note received by me from the minister of foreign affairs, in which I am informed that the minister of agriculture and commerce submitted to the zootechnic council, as he had said he would, the request formulated by the Government of the United States to the end that the requirement of the consular visé should be abolished, and that the council had expressed an opinion favorable to such abolition. Also, that in consequence of this opinion the minister of agriculture and commerce had advised him (the minister of foreign affairs) that he would very shortly provide for a modification of article 3 of the decree of January 26, 1897, in conformity with the request of the United States.

I am highly gratified that this negotiation, which appeared very unpromising in view of Baron Fava's note to the Department of State, has terminated so favorably.

I am, etc., WILLIAM F. DRAPER.

[Inclosure in No. 42.—Translation.]

Mr. Bonin to Mr. Draper.

MINISTRY OF FOREIGN AFFAIRS,
Rome, September 7, 1897.

MR. AMBASSADOR: Pursuant to my note dated August 11, I have the honor to inform your excellency that the honorable minister of agriculture and commerce submitted, as he said he would, to the examination of the zootechnic council the request formulated by the Government of the United States to the end that the obligation for the consular authentication relative to certificates of origin for preserved meats imported from the United States should be abolished, and that the said council expressed an opinion favorable to such abolition.

In consequence of that opinion his excellency the above-mentioned minister has advised me that he will very shortly provide for a modification of article 3 of the ministerial decree of January, 1897, in conformity with the request of the Government of the United States.

I avail myself, etc.,

BONIN,
Under Secretary of State.

Mr. Draper to Mr. Sherman.

No. 77.] EMBASSY OF THE UNITED STATES,
Rome, Italy, November 2, 1897. (Received December 10.)

SIR: Referring to previous correspondence on the subject of the requirement of the Italian Government that an Italian consular visé must be affixed to certificates of origin accompanying our exports of meats to Italy, and particularly to my dispatch No. 42, of September 10, 1897, in which I reported that the minister of commerce had informed the foreign office that he would very shortly provide for a modification of article 3 of the decree of January 26, 1897 (article 3 being the one requiring the consular visé), in conformity with the request of the United States, and to your instruction No. 52, of October 6, 1897, in which you said you would be glad to receive any further information in regard to the matter, I have now the honor to report that, three months having elapsed without further formal communication on the subject from the foreign office, I took occasion yesterday to write to the minister for foreign affairs to ask when or about when the promised modification might be expected.

This morning I received a note from the minister for foreign affairs in which he says that, according to assurances received from the Royal ministry of commerce, article 3 of the decree of January 26, 1897, will without fail be modified in order to abolish the obligation of the consular visé upon the certificate in question, and that the modification will doubtless be made before the end of the current year. For your complete information I inclose copies of the correspondence, accompanied by a translation of the minister's note.

In view of these assurances it seems to me that there can be no doubt that the result sought by our Government in the matter will be attained.

I am, etc.,

WILLIAM F. DRAPER.

[Inclosure 1 in No. 77.]

Mr. Draper to the minister for foreign affairs.

EMBASSY OF THE UNITED STATES,
Rome, November 26, 1897.

YOUR EXCELLENCY: Referring to your excellency's note of September 7, and to our previous correspondence in regard to the removal of the special restriction on the importation of American meats into the Kingdom of Italy, I find that in your communication of September 7 you wrote as follows:

> According to this opinion, his excellency the honorable minister of agriculture and commerce informs me that he will shortly arrange for the modification of article 3 of the ministerial decree of January 26, 1897, in accordance with the request of the Government of the United States.

Nearly three months have elapsed since the receipt of this note, and as my Government is much interested in the matter, I venture to write again, asking when, or about when, the promised modification may be expected.

I avail myself, etc.,

WILLIAM F. DRAPER.

[Inclosure 2 in No. 77.—Translation.]

Visconti Venosta to Mr. Draper.

MINISTRY FOR FOREIGN AFFAIRS,
Rome, November 26, 1897.

MR. AMBASSADOR: In answer to your excellency's esteemed note of September 10 last, in regard to the importation into Italy of preserved meats coming from the United States, I can now confirm to you, according to assurances received from the Royal ministry of commerce, that article 3 of the decree of January 26, 1897, will, without fail, be modified, in order to abolish the obligation of the consular visé to the sanitary certificates to said meats. Such modification will doubtless be made before the end of the current year.

Accept, etc.,

VISCONTI VENOSTA.

Mr. Sherman to Mr. Draper.

No. 52.]

DEPARTMENT OF STATE,
Washington, October 6, 1897.

SIR: I have been gratified to receive your No. 42, of the 10th ultimo, reporting that the Government of Italy has agreed to modify, in the sense desired by this Government, article 3 of the decree of January 26, 1897, requiring an Italian consular visé to be affixed to certificates of origin accompanying shipments of American meats.

The Department will be glad to receive any further information you may obtain in regard to this matter.

Respectfully, yours,

JOHN SHERMAN.

JAPAN.

BOYCOTT UPON JAPANESE SUBJECTS AT BUTTE, MONT.

[Handed to the Secretary of State by the Japanese minister March 18, 1897.]

Japanese subjects residing and doing business at Butte, Mont., have presented a petition to the Japanese consul at New York, wherein they complain of interference with their business, in some cases amounting to actual violence, by members of a local labor organization. It appears that the Silver Bow Trades and Labor Assembly, Knights of Labor, have declared a general boycott in the following terms, as published in the Daily Inter-Mountain, Butte, Mont., on the 12th of January, 1897:

BOYCOTT.

A general boycott has been declared upon all Chinese and Japanese restaurants, tailor shops, and wash houses by the Silver Bow Trades and Labor Assembly. All friends and sympathizers of organized labor will assist us in this fight against the lowering Asiatic standards of living and morals.

America *vs.* Asia, progress *vs.* retrogression, are the considerations now involved. American manhood and American womanhood must be protected from competition with these inferior races, and further invasions of industry and further reductions of the wages of native labor by the employment of these people must be strenuously resisted.

By order of the Silver Bow Trades and Labor Assembly:

P. H. BURNS, *President.*
G. B. WALTERS, *Secretary.*

This boycott, it would seem, is not only directed against Japanese engaged in the occupations above enumerated, but against all Japanese however employed, and incidentally against all persons employing Japanese in any capacity who refuse to discharge them in compliance with the wishes of the labor assembly. As reported in the Butte Times of January 30 last, the boycott committee state it is their intention to boycott all such persons, to injure their business as much as possible, so that they may be forced to obey the committee's commands. Their object, they say, is to force every Chinese and Japanese in Butte to leave the town. This object they appear to be vigorously pursuing, going, in some instances, as alleged in the petition from the Japanese residing in Butte, to the extent of willfully destroying the property and threatening the bodily safety of the persons against whom their hostility is directed.

So far as is known, neither the State nor the local authorities have taken any steps to prevent these violations of the rights of peaceful and unoffending Japanese within their jurisdiction.

The Japanese consul at Tacoma reports that the legislature of the State of Idaho has passed and the governor has signed an act which reads as follows:

AN ACT to discourage the future increase of alien population in this State.

SECTION 1. It shall be hereafter unlawful for any county government or municipal or private corporation organized under the laws of this State, or organized under

the laws of another State or Territory, or in a foreign country, and doing business in this State, to give employment in any way to any alien *who is ineligible under the laws of the United States to become a citizen thereof*, or to give such employment to any alien who, being ineligible to become such citizen, has failed, neglected, or refused, prior to the time such employment is given, to become naturalized or to declare his intention to become a citizen of the United States.

SEC. 2. Whenever employment has been innocently given to any alien by any county government, municipal or private corporation mentioned in section 1 of the act, and complaint shall be made in writing by any person to the officers of the county government, or municipal corporation, or the general manager, superintendent, or foreman, or other agent, of the private corporation having charge or superintendency of the labor of such alien employed, that such employé is an alien, he shall forthwith discharge such employé from employment unless such employé shall produce his declaration to become a citizen, or his certificate of naturalization, or a duly certified copy thereof.

SEC. 3. Any public officer, or any county government or municipal corporation, or any general manager, superintendent, foreman, or other agent of any private corporation, or any contractor, or agent of any company engaged in public work, who shall violate any of the provisions mentioned in this act, or who shall knowingly give employment to any alien, or who, having innocently given such employment, shall, on complaint made to him by any person, fail or refuse to discharge such employé forthwith on the failure or refusal of such employé to produce for his inspection and the inspection of the complainant his declaration of intention to become a citizen or certificate of naturalization, as provided in section 2 of this act, shall be deemed guilty of a misdemeanor.

SEC. 4. Whereas an emergency exists, this act shall take effect and be in force from and after its passage.

No case, so far as has been reported, has been brought under this law, which went into effect on the 18th of February, 1897.

Mr. Sherman to Mr. Hoshi.

No. 27.] DEPARTMENT OF STATE,
Washington, March 31, 1897.

SIR: Referring to your complaint of organized opposition of labor unions to Japanese subjects seeking employment in the Western States and Territories, I have the honor to inform you that the Attorney-General, of whom I requested an opinion whether any act of Congress protects citizens of other countries in such employment and whether there is any remedy for the boycott complained of by you, advises me, under date of the 27th instant, that there is no statute of the United States which makes the acts you describe a criminal offense against the United States, and that redress for the legislation or acts complained of, if there is any, of which he expresses no opinion, is by suit or action by the person or persons injured.

Accept, etc., JOHN SHERMAN.

PROPOSED MONETARY REFORM.

Mr. Dun to Mr. Olney.

No. 454.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, February 23, 1897. (Received March 24.)

SIR: I have been informed by Count Okuma that during the present session of the Diet a Government coinage bill will be presented for the consideration of that body which will, if passed, change the standard of value in Japan from silver to gold.

It is proposed to fix the Government parity of or ratio between the two metals at 32 to 1. The unit of value will be a gold yen, which will be one-half the weight and fineness as the gold dollar of the United States. The proposed unit of value will therefore be the exact equivalent of 50 cents United States money, and approximately of the same value as the present unit of value in Japan, the silver yen, which at the current rate of exchange of to-day is worth about 51 cents United States money. It is proposed that the smallest gold coin minted shall be a 5-yen piece.

The further coinage of silver will be limited to subsidiary coins. The silver yen now in circulation will be maintained at par with the gold yen by the Government being prepared to redeem them in gold whenever called upon to do so. In this connection it is important to note that there are about 140,000,000 of Japanese silver yen in circulation, of which it is estimated that about 70,000,000 are in circulation as money in China and the English, French, and other colonies and settlements in the East. Should the ratio between gold and silver become greater than 1 to 32, the tendency would seem to be to drive the outstanding silver coin back to Japan for redemption.

The vernacular press reports considerable dissatisfaction among the manufacturing and commercial classes with the proposed change of standard, and it is reported that the Cotton Spinners' Association have prepared a protest against it to present to the Diet. Those interested in manufactures in Japan are at present very prosperous and satisfied with the returns their investments are bringing in. They are, naturally, as a class, not disposed to view favorably a proposed change the effects of which upon their interests they have no means of determining beforehand.

It is generally believed, however, that the Government bill will, in perhaps a modified form, become a law. It is supposed that the principal object the Government has in view in bringing about the change is to enable it, should such a measure become necessary or expedient, to negotiate a loan in Europe on better terms than would be possible, as they believe, if Japan remained on a silver basis.

I have, etc.,

EDWIN DUN.

MEXICO.

ARBITRATION OF THE CLAIMS OF CHARLES OBERLANDER AND BARBARA M. MESSENGER.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, December 26, 1896.

MR. SECRETARY: I have the honor to inform you that in view of the conversations which we have had respecting the claim of Charles Oberlander against Mexico, I submitted to the Government of Mexico the suggestion which I made to you that that claim should be decided by arbitration, and that I am authorized by my Government to propose that solution to you.

The Government of Mexico deems that, to the end of avoiding the expense incident to a mixed commission, which would be costly, as well as unnecessary, in view of the circumstance that a solitary case is in controversy, wherein the principal contention is as to the question of fact whether Oberlander was arrested in Mexico or in the United States, it would be expedient that both Governments should name a single arbitrator; that in order to preserve in this regard an absolute equality between the parties in interest this arbitrator should not be a citizen of Mexico or of the United States, and that he should decide the question by a simple proceeding; that is to say, that each Government submit to him the correspondence, documents, and proofs which justify the position it has assumed in the discussion of this matter, with a statement of its case, in which may be set forth its manner of looking at the question, so that the arbitrator may decide, in view of these respective presentations, without the necessity of hearing the lawyers of the parties in interest or of taking testimony, with the exception that, after examining the documents which are submitted to him, the arbitrator may deem it necessary, in order better to make his decision, to take evidence upon some particular point.

The arbitrator will decide whether Oberlander has or has not right to any indemnification on the part of the Government of Mexico; and, in case he may decide this point affirmatively, he will fix the amount of this indemnification, upon the indispensable condition that such indemnification may not exceed the sum which the Department of State has claimed of Mexico as indemnification for the injuries which it believes Oberlander suffered as a result of his imprisonment.

If these points should be acceptable to the Government of the United States, we can turn our attention at once to the designation of an arbitrator, or to the manner of selecting one.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, December 26, 1896.

MY DEAR MR. OLNEY: I received last night a cablegram from Señor Mariscal, in reply to the suggestion which I had made him, to the effect that Señor Don Carlos Calvo, a writer on international law and Argentine minister at Berlin, should be appointed arbitrator to decide the claim of Charles Oberlander against Mexico, wherein he states that he thinks that the appointment of the Argentine minister at Madrid would be more acceptable to both Governments, inasmuch as the latter gentleman is known to both. If you accept this suggestion we may conclude the arrangement at once.

I was writing this note when I received yours of to-day on the same subject, which is answered by what I have already said, and in view of the recommendation therein made by you I will send you an official note in which I will propose that this case be submitted to arbitration, and will specify the procedure to be observed by the arbitrator, leaving in abeyance the matter of the designation of that officer until you shall decide with regard to the aforesaid suggestion of the Government of Mexico.

I am, very sincerely, yours, H. ROMERO.

Mr. Olney to Mr. Romero.

No. 204.] DEPARTMENT OF STATE,
Washington, December 26, 1896.

SIR: In response to your two notes of December 26, 1896, relative to the claims of Charles Oberlander and Barbara M. Messenger against the Mexican Government, I have the honor to submit herewith for your consideration copy of a draft of a protocol which I believe will cover the suggestions contained in your notes. If this draft meets with your approval I shall be glad to sign it with you in duplicate. If, on the contrary, you perceive objection thereto, I should be glad to have a conference with you at your earliest convenience, with a view to so amending it as to remove the objections.

As soon as the agreement is signed it would be well for each Government to make known to the Argentine minister at Madrid its desire that he act as referee in the case. Each Government in so doing will, I presume, utilize the offices of its own representative at that capital for the purpose of explaining to Mr. Quesada that the papers will be submitted for his examination at any place he may choose to name.

Accept, etc.,

RICHARD OLNEY.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, January 27, 1897.

MR. SECRETARY: I have had the honor to receive your note No. 204, dated yesterday, with which you are pleased to send me a draft of a protocol containing the basis proposed in the note which I addressed

to you on the 26th of December last for the submission to arbitration of the claim of Charles Oberlander against Mexico.

I find that this protocol is not in accord with the instructions I have received from the Government of Mexico, and which I communicated to you in my aforesaid note, and it would not, therefore, be possible for me to sign it without submitting it to my Government and receiving its instructions.

The points of difference which I find are as follows:

(1) The Government of Mexico is prepared to submit to arbitration the claim of Charles Oberlander, but not that of Barbara M. Messenger, because in the correspondence which took place in regard to this matter I understand that the Government of the United States desisted from the latter claim.

(2) Inasmuch as, in the correspondence exchanged between the two Governments, the nature of the Oberlander claim and the manner in which it is regarded by the respective Governments are clearly set forth, the recital of the facts made in the preamble of the draft protocol appears to me to be unnecessary, and in order to accept it it would be needful to modify it in terms which would leave no doubt as to the position each Government has taken in this affair.

(3) It would be advisable to supplement article 5 by stating in terms that both Governments will pay in equal moieties, not only the compensation of the arbitrator, but also the remaining expenses occasioned by the arbitration.

I will at once consult my Government as to the dates of payment (plazos) proposed in the draft protocol.

If you are willing to modify the draft as above suggested, I will consider myself authorized to sign it in conformity to the instructions which my Government has given me; but in the contrary case I will have to await its new instructions.

For the rest, it appears to me appropriate that, when the two Governments shall have agreed upon the terms of the protocol, they should, through their respective diplomatic agents at Madrid, inquire of Señor Don Vicente G. Quesada, minister of the Argentine Republic, if he is prepared to accept the charge, at what place he wishes to have the respective documents laid before him.

If, after taking cognizance of these observations, you desire that we should have a conference upon this matter, I shall attend at the Department whenever you shall summon me.

Be pleased to accept, etc., M. ROMERO.

Mr. Olney to Mr. Romero.

No. 207.] DEPARTMENT OF STATE,
Washington, January 29, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, setting forth the objections to the draft of a protocol referring the claims of Oberlander and Messenger to arbitration.

The first objection is that your Government is not willing to include the claim of Mrs. Messenger in the reference to the arbitrator, because in the correspondence which took place in regard to the matter you understood that the Government of the United States had desisted from the Messenger claim.

I have caused the correspondence between this Department and our minister in Mexico to be carefully examined with reference to this claim. It will be remembered that the claims of Oberlander and Mrs. Messenger were jointly presented, although there were separate memorials, and that they have been treated together throughout the entire correspondence. On June 22, 1893, this Department sent to Mr. Gray, our minister in Mexico, the memorials of Oberlander and Mrs. Messenger, with instructions to bring the claims unofficially to the attention of Mr. Mariscal, with a view of obtaining from the Mexican Government such a report of the facts as would enable the United States to decide upon its proper course of action. On November 25, 1893, Mr. Butler, our chargé d'affaires ad interim in Mexico, was directed to present the claims for payment, with the hope that the Mexican Government would "give both these claims an early and favorable consideration and make to each claimant a just and substantial indemnity." In that instruction Mrs. Messenger's complaint and the grounds of her right to indemnity were set forth as follows:

Mrs. Messenger's complaint is of her illness and the injury to her nervous system resulting from the fright and shock she suffered when her house was violently broken into by the Mexican police officers on the occasion of Oberlander's abduction. Having given their hospitality and the shelter of their home to their unfortunate countryman, fleeing from his relentless pursuers, she and her husband might at least have relied upon ordinary feelings of humanity and common respect for the sanctity of a private dwelling as securing them from invasion. But they were mistaken; the Mexicans stealthily surrounded the house, and, availing themselves of the momentary absence of Mr. Messenger, who, suspecting evil, had gone to seek the aid of a neighbor for the defense of his unhappy guest, burst open the doors and, with disregard of all decency and propriety, to the great terror and indignation of the lady, after a violent scuffle, dragged their victim away, as Mrs. Messenger supposed, to his immediate death.

This lady was expecting in a few months from that time to become a mother, but the shock of these outrages brought on a severe illness, which resulted in a miscarriage on the 25th day of May, 1892. Since that time her health has been bad, though previously it had always been excellent; much of the time she has been sick in bed, is often unable to perform her household duties, and suffers great and distressing nervous disorders, tending, as her physician says, "to a permanent or chronic state."

Her condition is directly traceable to the conduct of the Mexican policemen at her house on the night of May 21, 1892.

The mere breaking into the house by the policemen would constitute a just ground for indemnity against Mexico, acting as they were under the orders of the Mexican Justice Fuertes for the arrest of Oberlander. The directly resulting injuries to the lady of the house greatly aggravate the damages she is entitled to claim.

On May 10, 1894, the Department called the attention of Mr. Gray, our minister, to the instruction of November 25, 1893, in reference to the claims of Oberlander and Mrs. Messenger, and instructed him to call attention to these cases and press for a reply. March 15, 1895, the Department wrote to Mr. Butler, chargé d'affaires ad interim, in regard to both claims, as usual. The closing paragraph is as follows:

The Department is disposed to admit the correctness of the view taken by the Mexican Government that Mrs. Messenger's illness was brought on, not so much by the forcible entry of her house as it was by her own conduct in pursuing the kidnaping party, and that she is therefore probably not entitled to the large damages claimed by her. But the fact that her house, or that of her husband, was broken into and their guest forcibly abducted undoubtedly gives them ground to demand adequate indemnity.

On June 7, 1895, Mr. Butler's attention was called to "the claims of Charles Oberlander and Mrs. Barbara Messenger," and he was informed that "this Government desires a prompt response from the Mexican Government to its latest representation in these claims." On Novem-

ber 30, 1895, this Department received the law and the evidence affecting both of these claims and said to Mr. Ransom, our minister:

> This Government, after careful consideration of all that has been said on both sides, is satisfied as to the facts, and is constrained to request payment of the indemnity, subject to the modification as to Mrs. Messenger's claim made in the instruction of March 15, last.

On May 15, 1896, Mr. Ransom was again instructed "in regard to the claims of Charles Oberlander and Mrs. Messenger," and informed that "as the matter now stands nothing seems to be left open for further discussion except the amount of the indemnity to which Oberlander and Mrs. Messenger are entitled." That was the last communication to our minister on the subject.

This Government modified its demand in behalf of Mrs. Messenger March 15, 1895, in the language above quoted, but the claim was never withdrawn, and the United States has never ceased to urge the payment of an adequate indemnity to Mrs. Messenger for breaking into her house and forcibly abducting therefrom a fellow-countryman whom she had received as a guest. The claim of Mrs. Messenger has always been regarded as practically inseparable from that of Oberlander; it grew out of the same facts and depends largely upon the same evidence. No reason is seen why it should not be referred to the arbitrator for consideration along with the claim of Oberlander. The reference to arbitration will carry with it not only Mrs. Messenger's memorial, but all that this Department and the Government of Mexico have said with reference to her claim, including the admission of March 15, 1895, above quoted.

Your second objection is to the recital of facts in the preamble of the protocol.

This precaution was intended merely as a brief description of the issues raised in the claim; but as the case is to be heard upon the correspondence, documents, and proofs which have passed between the two Governments, nothing is necessary in the preamble but such a description of the claim as will enable the arbitrator to identify it. I am, therefore, willing to waive anything in the preamble to which you object.

The third suggestion relates to article 5, and is to the effect that the expenses occasioned by the arbitration shall be borne equally by the two Governments. This suggestion is agreed to, and I propose that article 5 read as follows:

> Reasonable compensation to the arbitrator, and other expenses occasioned by the arbitration, shall be paid in equal moieties by the two Governments.

The expense of presenting its own case is, of course, to be defrayed by each Government.

With reference to other changes in the protocol orally suggested by you in our conference yesterday morning, a memorandum was taken of these and the draft for signature has been accordingly amended. I send you herewith a copy of the amended draft, as well as one of the draft as originally drawn—the latter to replace that which was sent to you January 26, but which has been used by us in noting the changes agreed upon.

I have endeavored to eliminate from the preamble all matter to which you object, but I hope you will still regard it as open to such further changes as will make it a more satisfactory description and identification of the subject matter in question.

Accept, Mr. Minister, etc.,

RICHARD OLNEY.

Mr. Romero to Mr. Olney.

[Translation.]

LEGATION OF MEXICO,
Washington, January 30, 1897.

MR. SECRETARY: I have had the honor to receive your note of yesterday, No. 207, whereby you were pleased to transmit to me the new draft of a protocol for the submission to arbitration of the claim of Charles Oberlander, said draft having been prepared after you had considered the observations which I made relative to that which you sent me as an inclosure to your note, No. 204, of the 26th instant in my reply of the 27th.

Referring to the claim of Mrs. Barbara M. Messenger, I must inform you that as this case has not been discussed by this legation with the Department of State, but by the United States legation in Mexico with the department of foreign relations of the Mexican Government, I am not thoroughly familiar with all its details, and I was under the impression that the Department of State had decided not to push Mrs. Messenger's claim. On examination of the case I find that Mr. E. C. Butler, chargé d'affaires of the United States in Mexico, wrote, in a communication which he addressed to Mr. Mariscal April 9, 1895, as follows:

> The Department is disposed to admit the correctness of the view taken by the Mexican Government that Mrs. Messenger's illness was brought on, not so much by the forcible entrance of her house as by her own conduct in pursuing the kidnaping party, and that she is therefore probably not entitled to the large damages claimed by her.

This circumstance left me under the impression that the Department of State had decided to drop Mrs. Messenger's claim. This, however, not being the case, I do not object to its being included in the pending protocol.

I am very glad of the acceptance of the other modifications proposed by me, both in my note of the 27th instant and in the interview which I had with you on the 28th instant at the Department of State, and I therefore only have to suggest that the official name of Mexico is the "United States of Mexico" (literally United Mexican States), and not the "Republic of the United States of Mexico," as it appears in the preamble of your draft, and to propose, in pursuance of the instructions of my Government, another modification which, if accepted by you, as I trust it will be, will permit me to sign the protocol. This modification is the extension to three months of the term of two months which is fixed in Article II for the submission to the arbitrator by each Government of the copies of the correspondence, documents, and evidence which it is to lay before him, so that my Government may have more time to prepare those copies and its argument.

In your note No. 204 you were pleased to refer to the desirability, after the signing of the protocol, of each Government apprising the Argentine minister at Madrid of its wish that he should act as arbitrator in the case. As I think it preferable to sign the protocol after ascertaining that Mr. Quesada is willing to accept the trust which it is designed to repose in him, I shall communicate with the Government of Mexico by cable requesting it to instruct the legation of Mexico at Madrid to inquire of Mr. Quesada whether he is willing to accept that trust, if you think this step preferable, and will make a similar inquiry of Mr. Quesada; then, in case of his acceptance, we will proceed at once to sign the protocol. If you prefer that we should sign it before

addressing Mr. Quesada, I will do so on receiving notice from you to that effect.

Be pleased to accept, etc., M. ROMERO.

Mr. Olney to Mr. Romero.

No. 210.] DEPARTMENT OF STATE,
Washington, February 3, 1897.

SIR: I have the honor to acknowledge the receipt of your note of Jauuary 30, 1897, in relation to the arbitration of the claims of Charles Oberlander and Barbara M. Messenger, and the expression of your readiness to sign the protocol after further modifications in one or two small particulars.

The words "Republic of" in the headlines of the preamble were inadvertently inserted and had not been observed. The official name of your Government was correctly given in the body of the instrument.

I agree to the extension of the time allowed for preparing and submitting the case of each Government from two to three months, and have accordingly changed the word "two" to "three" in line 1 of article 2 of the protocol.

At your suggestion, the word "common" has been inserted before "expenses" in article 5.

In accordance with your further suggestion, I have cabled the minister of the United States at Madrid to ascertain whether Mr. Quesada will act as arbitrator upon the joint request of the two Governments. As soon as his reply is received the substance of it will be communicated to you and when both Governments have been apprised of Mr. Quesada's acceptance, I shall be glad to sign the protocol in duplicate with you. Copies with the modifications agreed upon are now being prepared and will be ready for signature as soon as it is known that the arbitrator selected will act.

Accept, sir, etc., RICHARD OLNEY.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, February 12, 1897.

MR. SECRETARY: I have the honor to inform you, with reference to our conversation of yesterday in regard to the acceptance of Dr. Don Vicente G. Quesada, Argentine minister at Madrid, as the arbitrator in the case of the claim of Charles Oberlander and Barbara M. Messenger against Mexico, that having inquired by cable of Señor Mariscal, secretary of foreign relations of the United Mexican States, if he had received the acceptance of Señor Quesada, he replied informing me that Señor Quesada had expressed his willingness to accept the charge, but that in order to do so he needed the permission of his Government, which he had asked; and therefore his acceptance can not be considered as definitive until he shall have obtained such license.

It appears to me, in consequence, that the acceptance of the arbitrator will take place when his Government shall have given him the corresponding permission, of which we will be advised by cable, and we can thereupon proceed to sign the pending protocol.

Be pleased to accept, etc., M. ROMERO.

Mr. Olney to Mr. Romero.

No. 216.] DEPARTMENT OF STATE,
Washington, February 15, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant in regard to the acceptance by Don Vicente G. Quesada, Argentine minister at Madrid, as arbitrator in the matter of the claim of Charles Oberlander and Barbara M. Messenger, as soon as the permission of his Government, which has been requested, has been granted.

Referring to the concluding preamble of your note, I take pleasure in saying that two copies of the protocol in English submitting the claim to arbitration have been prepared for our signature as soon as intelligence shall be received that Señor Quesada has been authorized by his Government to accept the trust.

Accept, etc., RICHARD OLNEY.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, February 22, 1897.

MR. SECRETARY: Although I still have no notice of the Argentine Government having granted leave to its minister at Madrid, Señor Don Vicente G. Quesada, to accept the office of arbitrator in the claims of Charles Oberlander and Barbara M. Messenger against Mexico, which both Governments have agreed to submit to him, I transmit to you the Spanish text of the protocol, in order that two fair copies may be made which we are to sign as soon as that notice is received.

That text is a translation of the English text which you were pleased to send me with your note No. 207, of the 29th of January last, with the additions and modifications which I proposed and which were approved by you in your note No. 210, of the 3d instant, and which contains a slight modification in the second paragraph of the preamble which perhaps may not need modification in the English text, but which the Government of Mexico prefers and which in no way changes the points agreed on.

Accept, etc., M. ROMERO.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, February 27, 1897.

MY DEAR MR. OLNEY: Desiring to hasten the signing of the pending protocol submitting to arbitration the claims of Charles Oberlander and Barbara M. Messenger against Mexico, I asked Señor Mariscal by a cable on the 22d instant whether the Argentine Government had granted Señor Quesada permission to accept the office of arbitrator in the matter, and on the following day I received in like manner a telegram in answer informing me that Señor Quesada had not yet notified Señor Mariscal that he had received permission from his Government.

As this permission has been delayed longer than was natural to expect, and as it is possible that it may be delayed a few days longer, I believe it practicable to inform you that I am disposed to sign the protocol before the term of the present Administration expires without the

receipt of the modification in question; but in this case it will be necessary to amend Article II in the following terms:

Each Government shall, within three months from the day on which both Governments shall receive official notification from Señor Don Vicente G. Quesada that he accepts the office of arbitrator by permission of his Government, submit to be arbitrated copies of correspondence, etc.

I am, etc., M. ROMERO.

Protocol of an agreement between the Secretary of State of the United States and the envoy extraordinary and minister plenipotentiary of the United States of Mexico for submission to an arbitrator of the claims of Charles Oberlander and Barbara M. Messenger.

[English text.]

The United States of America and the United States of Mexico, through their representatives, Richard Olney, Secretary of State of the United States of America, and Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico, have agreed upon and signed the following protocol:

Whereas the United States of America, on behalf of Charles Oberlander and Barbara M. Messenger, citizens of the United States of America, have claimed indemnity from the Government of Mexico for injuries alleged to have been done to the said Oberlander and Messenger by Mexican citizens; and whereas the United States of Mexico deny the allegations of fact upon which these claims are based and the right of the United States of America to demand indemnity for either of those parties, it is therefore agreed between the two Governments, with the consent of the said Oberlander and Messenger, given through their respective attorneys of record:

I.

That the questions of law and of fact brought into issue between the two Governments in respect of these claims shall be referred to the decision of Señor Don Vicente G. Quesada, minister of the Argentine Republic at Madrid, who is hereby fully authorized thereto as arbitrator.

II.

That each Government shall submit to the arbitrator, within three months from the day on which both Governments shall receive official notice from Señor Don Vicente G. Quesada that he accepts the office of arbitrator by permission of his Government, copies of the correspondence, documents, and proofs which it has already submitted for the consideration of the other Government in respect of the two claims; and that the arbitrator in making his award shall take into consideration only such issues of law and fact as arise upon said correspondence, documents, and proofs.

III.

That each Government may submit with the papers above described an argument setting forth its own views of the two cases; but the arbitrator shall not be authorized or required to hear oral arguments or to call for new evidence, unless, after examining the documents submitted to him, he may deem it necessary to call for evidence or arguments elucidating a particular point not made clear to him.

IV.

The arbitrator shall render his decision within six months from the date of the submission to him of the proofs, documents, etc., by both parties. He shall decide on the proofs and arguments submitted to him whether the said Oberlander or the said Messenger is or is not entitled to any indemnification on the part of the Government of Mexico, and in case he shall decide this point affirmatively with respect of both or either of the two claimants he will fix the amount of the indemnity to which each or either is entitled: *Provided*, That the indemnity shall not in either case exceed the sum demanded by each claimant in the papers submitted by each to the United States.

V.

Reasonable compensation to the arbitrator and the other common expenses occasioned by the arbitration shall be paid in equal moieties by the two Governments.

VI.

Any award made by the arbitrator shall be final and conclusive, and if in favor of the claimants or of either of them and of the contention of the United States of America, the amount so awarded be paid by the Government of Mexico as soon as appropriated by the Mexican Congress, but not later than two years from the date of such award.

Done in duplicate at Washington this 2d day of March, 1897.

RICHARD OLNEY.
M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 228.] DEPARTMENT OF STATE,
Washington, March 12, 1897.

SIR: I have the honor to apprise you, having reference to your note of the 27th ultimo, of the receipt of a telegram from Mr. Hannis Taylor, minister of the United States at Madrid, of the 10th instant, saying that Señor Don Vicente G. Quesada, Argentine minister there, formally accepts, with the consent of his Government, the post of arbitrator under the protocol signed by the Hon. Richard Olney and yourself on the 2d instant, in the matter of the claims of Charles Oberlander and Barbara M. Messenger against the Government of Mexico.

Accept, etc.,

JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, March 12, 1897.

MR. SECRETARY: I have the honor to inform you that I have received a cablegram from Señor Mariscal, secretary of foreign relations of the United States of Mexico, dated to-day, in the city of Mexico, in which he tells me that yesterday he received the news that the Government of the Argentine Republic had authorized its minister at Madrid, Señor Doctor Don Vicente G. Quesada, to accept the post of arbitrator

in the claims of Charles Oberlander and Barbara M. Messenger against Mexico.

Likewise I have received your note No. 228, of this date, in which you are pleased to inform me that Mr. Hannis Taylor, minister of the United States in Madrid, sent you the same news in a message of the 10th instant.

This circumstance will permit the agreement to be carried out which I signed with your predecessor on the 2d instant, to submit to arbitration the said claims.

Be pleased to accept, etc., M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 237.] DEPARTMENT OF STATE,
Washington, March 31, 1897.

SIR: I have the honor to inclose a copy of dispatch No. 664, dated March 12, 1897, from our minister at Madrid, and with it copy (in Spanish) of a communication, dated March 10, 1897, received by him from Señor Don Vicente G. Quesada, the arbitrator selected by the United States and Mexico to settle the Oberlander and Messenger cases, giving notice that he, the arbitrator, will not take up the matter until August next.

In view of this fact, and of the further fact that this Department has been unexpectedly required by the arbitrator to present the case of the United States in the Spanish language, I have the honor to propose that the time for submission of the cases to the arbitrator be extended until August 1, 1897. By the terms of the protocol (Article II) the time for such submission will expire about the middle of June, and it is not certain that this Department, with its limited facilities, will be able to prepare in a reliable Spanish translation the voluminous documents necessary for the arbitrator's consideration.

The proposed postponement of the date for submission of the cases will also give the arbitrator more time for their consideration. Article IV of the protocol requires him to render his award within six months from the date of submission, and if the cases are submitted in June a month and more of the time will expire before the arbitrator gives the cases his attention.

Accept, etc., JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, April 9, 1897.

MR. SECRETARY: I have the honor to inform you that I have been authorized by the Government of Mexico to accept the suggestion of Mr. Vicente G. Quesada, who has been named as arbitrator by the Government of Mexico and that of the United States to decide concerning the claims of Charles Oberlander and Barbara M. Messenger against Mexico, viz., that the time for the submission of the cases to the arbitrator be extended to August 1, as proposed by you in your note No. 237, of March 31 last.

We may thus sign a new protocol, in which it shall be stated that the time fixed by Article II of the protocol of March 2 is extended to

August 1, 1897, or consider this modification as having been made by the mere exchange of the respective notes, as you may think preferable. Either of these methods will be satisfactory to me.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 242.] DEPARTMENT OF STATE,
Washington, April 13, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant in reply to mine of the 31st last, expressing the willingness of your Government that the term for the arbitration of the Oberlander-Messenger claims shall not begin to run until August 1, 1897, in view of the fact that the arbitrator will not be ready to take up the cases before that time, and of the further fact that the United States is under necessity of preparing the cases in Spanish as well as English.

Article II of the protocol signed March 2, 1897, provided:

> That each Government shall submit to the arbitrator within three months from the day on which both Governments shall receive official notice from Señor Don Vicente G. Quesada that he accepts the office of arbitrator by permission of his Government, copies of the correspondence, documents, and proofs which it has already submitted for the consideration of the other Government in respect of the two claims.

With the consent of your Government that provision of the protocol is superseded, and I understand that it is now agreed that each Government shall submit to the arbitrator on or before August 1, 1897, copies of the correspondence, documents, and proofs which it has already submitted for the consideration of the other Government in respect of the claims.

An exchange of notes to this effect is ample provision for this new change in detail of the agreement as contained in the protocol of March 2, 1897. Upon receipt of your reply accepting the new provision in lieu of the old the matter will be regarded as arranged.

Accept, etc.,

JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, April 14, 1897.

MR. SECRETARY: I have the honor to acknowledge receipt of your note No. 242, of yesterday, wherein you are pleased to propose that Article II of the protocol of March 2, 1897, last, whereby our respective Governments agreed to submit to arbitration the claim of Charles Oberlander and Barbara M. Messenger against Mexico, be modified in the sense that the term of three months therein fixed for the submission by each Government to the arbitrator of the correspondence, documents, and evidence previously submitted to the other Government with respect to said claims, be extended until the 1st of August of the present year.

Being duly authorized by my Government to accept such modification, I hereby admit it as effectively made in the protocol in question, without the necessity of other formalities.

Be pleased to accept, etc. M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 243.] DEPARTMENT OF STATE,
Washington, April 19, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, stating that you are authorized by your Government to accept the modification, proposed by my note of the preceding day, of Article II of the protocol of March 2, 1897, for submission to arbitration of the claims of Charles Oberlander and Barbara M. Messenger, by which modification the term of three months fixed therein for the submission by each Government to the arbitrator of the correspondence, documents, and evidence previously submitted to the other Government with respect to said claims, is to be extended until the 1st of August of the present year. You add that you admit the modification as effectively made in the protocol in question, without the necessity of other formalities.

The minister of the United States at Madrid has been instructed to inform Mr. Quesada of this fact, and to give him a copy of your note.

Accept, etc.,

JOHN SHERMAN.

Award of arbitrator.

I, Don Vicente G. Quesada, envoy extraordinary and minister plenipotentiary of the Argentine Republic, having been appointed sole arbitrator by the high Governments of the United States of America and the United States of Mexico, as appears from the agreement concluded in the city of Washington on the 2d day of March, 1897, by their representatives, Hon. Richard Olney, Secretary of State of the United States of America, and Don Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico, by which agreement the high contracting parties define the matter which is to be submitted to arbitration and the course to be pursued by the arbitrator in the discharge of his functions in passing a final decision concerning the claims presented by Mr. Charles Oberlander and Mrs. Barbara M. Messinger against the Government of Mexico through the Secretary of State of the United States of America and through the diplomatic channel:

Being actuated by a sincere desire to acknowledge, by an impartial and unbiased decision, the great honor that has been conferred upon me;

Having duly examined and carefully studied the documents and statements which have been laid before me by the legations of those high Governments at this capital, which is the place designated for the rendering of my award within the time fixed, which time has been extended by agreement of the high contracting parties;

Whereas it appears, as regards the facts:

That Charles Oberlander, in the memorial which he addressed to the President of the United States of America on the 10th of January, 1893, presented as a document in support of his claim, among others, the statement made by him before a notary public of the United States of America, whereby he confesses that his object, when he crossed over into the territory of Mexico, was to procure evidence for use in a criminal case, i. e., that of Crossthwaite *v.* The Mexican Cruz, who was charged with kidnapping, and consequently for the furtherance of a private interest;

That he was arrested on the 20th of May, 1892, at Tijuana, in Mexi-

can territory, as is admitted by Mr. Ryan, United States minister in Mexico, by a telegram addressed to Mr. Blaine, Secretary of State, on the 24th of May of that year;

That the vice-consul of the United States at Ensenada, Mexico, under date of May 27 of the aforesaid year, in an official note, reproduces the telegram sent by him to the United States minister in Mexico, informing him that Oberlander has been arrested in Mexican territory, without any doubt whatever, which assertions are of an official and conclusive character;

That Oberlander held, at that time, the office of deputy sheriff at San Diego, and was a police officer of Upper California, and had in his pocket the warrant of arrest issued by the township judge in the case of the Mexican Donaciano Cruz, who was accused by the very person in whose interest Oberlander had gone to Mexico in quest of evidence;

That he was arrested by the Mexican authorities in Mexican territory, for having endeavored, it is said, to effect the arrest of Cruz, in obedience to the warrant of which he was the bearer;

That when he was arrested and searched by the territorial authorities, the aforesaid warrant of arrest, a pistol and cartridges were found in his possession;

That the nickel handcuffs which are put upon the hands of prisoners, both in Mexico and in some States of the American Union, are used by police officers to secure persons under arrest, but in nowise for the purpose of torturing them;

That Oberlander, if he thought his arrest illegal, ought to have brought a criminal and civil charge before the territorial courts, asking for the punishment of the guilty parties, and for indemnity on account of the injuries done him, having failed to do which, he renounced his right;

That instead of taking legal steps before the courts of the country, he admitted, in the declaration made by him at Tijuana May 25, 1892, before the Mexican judge, which declaration, in view of the nature of the facts, was a charge or accusation, "that on the night of Saturday, between 7 and 8 o'clock, he sent a man named Melon Santos, whom he did not know, and who was acting as his custodian or guard, to buy some cigars, he remaining with a Frenchman who also guarded him, and availing himself of that opportunity he ran out of the room, giving the Frenchman a push and thus making his escape toward the line; that owing to the precipitancy of his flight he fell on the road and received the scratches which he has on his body." Second, as to his capture, he said "that they seized him and brought him back under arrest;" "that they maltreated him in prison;" "that in addition to the aforesaid scratches he hit his head in trying to get out of a window of the room in which he was imprisoned;"

That the escape by means of force and violence used against the guard set over him by the judicial authorities of Mexico constitutes in itself an additional crime which aggravates the offense for which he was arrested, even if his arrest was originally unjust and illegal.

That this declaration of Oberlander was made subsequently to the issuance of the permit to absent himself, which was given him by the judge of first instance of Ensenada, on his mere promise that he would return to make his declaration, he crossing to the Territory of California, where he remained for twenty-four hours, and thence returned to that of Mexico, as he had promised to do, without compulsion or fears that his life would be threatened by those who arrested him, and made his declaration before the territorial judge;

That a man who was at liberty to make his declaration before the

territorial judge and who could do so in safety was also at liberty to bring a criminal and civil action against those who had arrested him;

That before the territorial judge, who was the only magistrate competent to take cognizance of and decide concerning the arrest and the matters connected therewith, he did not specify the acts of violence to which he had been subjected, or state who had tortured him, as he has since endeavored to show by unofficial specific charges, or designating any persons, he rendered it impossible to elicit the truth and to punish the guilty parties, if any such there were;

That he claims that, on the night of his escape, he reached the territory of the United States of America, and that there, in Messenger's house, "his pursuers entered and took him prisoner," which facts it was incumbent upon him to prove (and this proof was admissible and legal before the Mexican judge only who had charge of the case against his captors), since there was no impossibility or force that prevented him from doing so;

That before said judge, and in the same declaration which recognizes as "the true declaration" because "he could tell the truth without danger" (Mr. Olney to Minister Ransom, November 23, 1895), the aforesaid Oberlander adds, "that on the way they took him in a carriage and he suffered no ill treatment;"

That he stated, in the same instrument, "that Messenger's wife did not see the way in which they took him;"

That the witness Joseph Messenger is not a competent witness, owing to the interest which he has in the case, since his wife and he, as the owners of the house, claim an indemnity of $50,000; that his statement is liable to exception for that legal reason, according to the laws of Mexico, and that it is, moreover, of no value, since he states "that he does not know in what way Oberlander was arrested, or for what reason;"

That the witness Mrs. Messie Mosser says that "Oberlander spoke with a son of deponent at the door; that she does not know at what hour or in what way the aforesaid Oberlander was arrested."

That the witness Sirl states "that he saw some men near by, whom he did not know, coming down the hill; that he saw their figures only; that he does not know how the occurrence took place or in what way Oberlander was arrested."

That the judge of Ensenada de Todos Santos thought that there was no reason why Oberlander should be detained any longer, and from the evidence obtained on the occasion of the preliminary examination he ordered the preliminary arrest of the persons who were charged with arresting Oberlander in United States territory, turning them over to the district judge of Lower California, as being presumably guilty of the offense against the external security of Mexico.

That a warrant of arrest is, in its nature, a document that is not final, and that an appeal may be had from it.

That, it having been affirmed by the circuit court of Mexico, the accused parties availed themselves of the right granted them by the laws of the country to apply for release on bail, while the criminal case was continued;

That, the case being continued in the second district court of Lower California, the judge ordered a discontinuance of proceedings in the case of the first one of those accused, and acquitted the four others;

That this decision was affirmed by the circuit court of Mexico, after the proceedings had been held which are provided for by the law of the country;

That, Oberlander being charged by Donaciano Cruz with an attempt to kidnap in Mexican territory, and Cruz and others being charged by Oberlander with kidnaping in the territory of the United States of America, the territorial judge received the evidence in both cases, the same Oberlander making his statement or charge, and the judge decided and enforced the territorial law according to what had been alleged and proved, and this decision was affirmed and remained valid;

That, finally, it is alleged on the part of Mexico that Charles Oberlander was arrested in pursuance of a judicial warrant at Brewerton, eight years ago, being charged with the crime of robbery, whereupon he fled to California;

That he was afterwards accused of endeavoring to obtain the consent of two young girls named, respectively, Katie Kehse and Louisa Hawing, for an immoral purpose, and of outraging a girl named Nellie Dagwell, all of whom were inmates of the orphan asylum at Mount Tabor;

That in that criminal case, application was made judicially for the appointment of a commission of physicians, it being supposed that Oberlander had lost his reason;

That Judge Row, of New York, appointed three physicians, and Drs. Kauffman and Walsh, as witnesses, stated that they had known Oberlander since his childhood; that he was not in his right mind, and that his conduct had always been that of a person whose mental faculties were unsound;

That in virtue of the evidence furnished in the aforesaid case, the district attorney and Oberlander's counsel held that Oberlander's insanity began in his childhood, it having been observed while he attended school, and having afterwards continued without interruption; that the form of insanity from which he suffered was the persecution monomania;

That the conclusions reached by the experts in their report were that "Oberlander is suffering from a mental disease which is specially developed in persons who inherit a disordered mind, and which continues during their lifetime, it being known as a form of dementia called paranoia;"

That, in view of these antecedents, Judge Row declared that Oberlander was not responsible for the offenses with which he was charged, and ordered that he should be removed to the insane asylum at Utica, and not to the asylum for insane criminals at Matteawan.

Whereas it appears, in respect to Mrs. Barbara M. Messenger, that, by a note from the United States legation in Mexico, bearing date of April 9, 1895, addressed by Mr. Butler to the minister of foreign relations of the United States of Mexico, it is positively declared that "the Department of State is prepared to admit the correctness of the opinion expressed by the Mexican Government that, as to the illness of Mrs. Messenger, it was caused not so much by the forcible entrance of her house as it was by her own conduct in pursuing the kidnapers, and that she is therefore probably not entitled to the large indemnity that she claims; but it (the Department of State) considers it certain that the fact that her house, or that of her husband, was forcibly entered, and that her guest was removed therefrom by force, undoubtedly entitles them to demand an adequate indemnity."

That, in view of the foregoing limitation of the demand, it is not pertinent to examine the statements made with regard to Mrs. Messenger's alleged illness;

That, in the statement made by the department of foreign relations of Mexico, July 15, 1895, and officially sent to the United States lega-

gation with a note of July 16, of the same year, it is said, in connection with this claim:

"As regards Barbara Messenger's demand, it is a subject of satisfaction that the United States Government has agreed with that of Mexico that the illness of this woman was caused not so much by the alleged forcible entrance of her house as it was by her own conduct in pursuing the so-called kidnappers, and that she is consequently not entitled to the indemnity which she claims. It then states, however, that the fact that her house or that of her husband was forcibly entered and her guest removed therefrom by force entitled them to demand an adequate indemnity;"

That the Government of Mexico denies that the house was forcibly entered, and therefore this fact, which is differently stated by the two high parties, is fundamental, and should be juridically appreciated in the award;

That Mr. Ransom, United States minister in Mexico, in a note addressed to Mr. Mariscal, minister of foreign relations of the United States of Mexico, dated December 11, 1895, positively states that the demand of his Government is based upon the aforesaid note of Mr. Butler, and that sent by him with its inclosure; consequently, the basis of the two claims, on the merits of which the award is to be pronounced, is clearly established;

That it is a doctrine of international law that "within the jurisdictional limits of every sovereign State, the representatives of authority are personally responsible to the extent established by the internal public law of each State. When they fail to perform their duty by going beyond their powers or violating the law they create, according to the circumstances, for those whose rights have been disregarded, a legal right of appeal through the executive or judicial channels; but, with respect to third parties, whether native or foreign, the responsibility of the Government that has appointed them is a purely moral one, and can only be made direct and effective in case of complicity or denial of justice." (Calvo, International Law, Vol. III, p. 120.)

That in the present case the demanding Government has declared "that it has no complaint to make of the proceedings taken against those who arrested Oberlander, if such proceedings are considered as a purely domestic matter" (Mr. Richard Olney, Secretary of State, to Mr. Ransom, United States minister in Mexico, Washington, Nov. 30, 1895); that, in view of this recognition of the demanding Government, there was no complicity or denial of justice, and therefore the decision of the territorial judges which declares that it has not been shown that Oberlander's arrest took place in territory belonging to the United States, was legal and valid in Mexican territory, in virtue of such being the legal truth, against which neither the executive nor the legislative branch of a government can take action without committing an outrage upon the independence of the judicial branch;

That, although the demanding government denies that the claim of res judicata, raised by that against which the demand is made, has no extraterritorial power to exclude a civil action, in the present case it is not questioned that that decision of the Mexican courts is valid in the territory of the United States, but, on the contrary, that there is no diplomatic claim having annulling power to revise that decision and to claim, diplomatically, that, within the sphere of the sovereignty of the courts, information must be accepted that is designed to overthrow the juridical effect of the res judicata, and to dispose of the taxes paid by the inhabitants (which is a "domestic matter" in its very nature) for the benefit of foreigners who have been unwilling, through bad faith,

or owing to ignorance or what they consider expediency, to have recourse to the courts of the country in order to assert their alleged rights, as it was their duty to do;

That, it would be offensive to the independence and sovereignty of nations if the statements of witnesses made before notaries in a foreign country, without being subject to any of the guaranties and safeguards established by the laws of procedure in courts of justice, such statements being freely produced at different times, the husband declaring in favor of his wife, the son in favor of his mother, the servant of her mistress, and the interested parties themselves in their own favor, could be presented, diplomatically, as a basis to give them extraterritorial legal force, annulling the legal validity of the res judicata;

That, it is a doctrine of international law "that all that other nations can ask of a government is that it shall show that it is actuated by a deep feeling of justice and impartiality; that it shall remind its subjects, by all the means in its power, of the respect which they owe to international obligations, and that it shall not leave unpunished such transgressions as may have been committed by them; finally, that it shall act in everything with good faith and in accordance with the precepts of natural law; to go farther than this would be to raise a private injury to the height of a public offense, and to impute to a whole nation an offense committed by one of its members" (Calvo, op. cit., p. 134, Vol. III);

That, it is a doctrine of international law "that the moral bounds which unite nations are of the same order, and imply an absolute character of solidarity; a State could legitimately neither claim among others a privileged situation which it was not prepared to allow foreigners to enjoy, nor could it claim for its own subjects advantages greater than those allowed by the common law of the inhabitants of the country" (op. cit.);

That the high contracting parties have recognized as principles of international law those clearly stated by the mixed commission which sat at Washington in pursuance of the treaty of July 4, 1868, which, in deciding the case of the town (people?) of Cenecu, laid down as a doctrine of conventional law between the United States and Mexico the following:

> The following matters can alone form the basis of a claim of one nation against another: Offenses or acts of injustice committed by the supreme authority of a country against which no recourse can be had to any other authority of the same country; or such as, having been originally committed by subordinate authorities, have not been made good by the superior authority whose duty it was to do so when so requested, in the manner provided by the local laws. The cases in which an injury done to a citizen of a country may furnish grounds for an international claim are, then, reduced to two categories: either the injury has been done by so high an authority that there is no remedy provided in the laws of the country to furnish redress for its acts, or to prevent the damage that may arise therefrom; or the remedy exists, it has been tried and has produced no effect, because those who ought to correct the error affirm it or refuse to correct it, thereby making it irremediable. Where there has been no sovereign and irresponsible action in the country of the supreme power, nor any denial of the justice for which application has been diligently made, there is no ground for an international claim.

That, in the present case, both Oberlander, who complained of the act by a statement made before the territorial judge, and Mrs. Messenger, whose husband made, freely and spontaneously, a statement before the same judge, did not bring the criminal and civil actions which they had a right to bring before the courts of the country, but had recourse to diplomacy without any good cause to do so, and without having any privilege or right to claim that exceptional proceedings should be taken in their cases, in violation of the doctrines of international law above quoted;

That the demanding Government has established precedents in this matter by rejecting the claims of foreigners who demanded indemnity, being protected and supported by a diplomatic claim, as appears in the case of President Cleveland in his message to Congress of May 6, 1886, relative to the claims presented by the legation of Great China. Mr. Cleveland refused to accept diplomatic intervention, although he admitted that "scandalous occurrences had taken place at Rock Springs, in Wyoming Territory," and added that the facts in evidence were: "That a number of Chinese subjects in September last (1885) were murdered at Rock Springs, that many others were wounded, and that all were robbed of their property, after the unfortunate survivors had been driven from their homes;"

That in that document President Cleveland declared that the United States Government was not under obligations to pay an indemnity for the losses caused by these crimes, thus disregarding the claim of the Chinese legation;

That the words of President Cleveland in his message are clear and decisive, where he says:

> When the Chinese minister, in virtue of his instructions, shall make these the basis of an appeal to the principles and convictions of humanity, there is no ground for any redress. But when he goes further, and, taking as a precedent the action of the Chinese Government in past cases, in which the property of American citizens in China has been injured, maintains that there is a reciprocal obligation on the part of the United States to indemnify the Chinese subjects who were injured at Rock Springs, it becomes necessary to refute this argument, and most emphatically to deny the conclusions which the minister seeks to reach with respect to the existence of similar responsibility and to the right of the Chinese Government to insist upon it.

That, in view of what has been officially stated by the President of the United States, and in the foregoing considerations, that is the doctrine of international law which should be enforced in the present case; on these grounds, finally deciding;

I declare that the Government of the United States of Mexico is under no obligation to pay indemnity of any kind to Mr. Charles Oberlander or to Mrs. Barbara M. Messenger.

Done at Madrid, this 19th day of November, 1897, in two copies, the contents of which are the same.

VICENTE G. QUESADA.

TRESPASSING OF INDIANS UPON MEXICAN TERRITORY.

Mr. Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, March 1, 1897.

SIR: I have the honor to inform you that a number of Yuma Indians, whose names appear in the annexed list of the Fort Yuma Reservation in California have crossed into Mexican territory and established themselves on the ranch called "Algodones," situated in the territory of Lower California, and owned by Señor Don Guillermo Andrade, without the consent of the latter.

Mr. W. C. Hefferman, a superintendent in the Indian school service, informed Señor Andrade that the said Yuma Indians had quitted the territory of the United States because they did not like the present agent in the reservation, and because they did not wish to send their children to the school; but that in distributing the lands of the Fort

Yuma Reservation among the Indians of that tribe those who are now on the Algodones ranch had made application for their share, which indicates that they purpose to keep their position in the United States.

In view of this Señor Andrade applied to the Government of Mexico, praying that the aforesaid Indians be expelled from his lands by force, and before giving orders to that end the Government of Mexico desires to know whether, in virtue of the jurisdiction which the Government of the United States exercises over the Indians, it could make them return to the Yuma Reservation, since in case this can not be done the Government of Mexico would have to use force to eject them from the lands they are unrightfully occupying.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure.]

List of Yuma Indians who are in Algodones, Mexico, December 11, 1896.

1. Cho mitz cu ran.
2. Lo co queran.
3. Se yen un you.
4. Ant net cu lan.
5. Ki un ya.
6. Ka fe.
7. Mat kes ho mar.
8. Quil lit a liver.
9. Cot tu quiz.
10. Ar a sep.
11. Su dits uel luet.
12. Part ma tan.
13. Ets hors hou urick.
14. Na ma ku ran.
15. Ets hou cul mol.
16. So ro.
17. Lyon.
18. Che po quo co.
19. Sen yam mit tak.
20. Chip co pet.
21. Et yor u yi.
22. Her pou qui kou.
23. Sin yike.
24. Sin yan qu wa.
25. Quo auk.
26. Sen witz.
27. Es par wayr.
28. Sen you cu wak.
29. Nu mitz mi don.
30. Ka yuck.
31. Chap put.
32. Mut te ma son cu ran.
33. Luc qui tack.
34. Co ahl.
35. Co ten cu u witch.
36. So nu mon.
37. Pet lou hu.
38. Pat tu witch.
39. So mott quen cu.

Mr. Sherman to Mr. Romero.

No. 227.] DEPARTMENT OF STATE,
Washington, March 10, 1897.

SIR: In connection with the Department's note of the 5th instant in reply to yours of the 1st, stating that certain Indians of the Fort Yuma Reservation in California have crossed over into Mexican territory and have established themselves on the ranch of Mr. Guillermo Andrade, I have the honor to inform you that the Department is now in receipt of a letter from the Secretary of the Interior, of the 6th instant, stating that the matter has been referred to the Commissioner of Indian Affairs for immediate consideration and report.

Upon the receipt of a statement of the result of the investigation I shall take pleasure in duly advising you thereof.

Accept, Mr. Minister, etc.

JOHN SHERMAN.

Mr. Sherman to Mr. Romero.

No. 231.] DEPARTMENT OF STATE,
Washington, March 16, 1897.

SIR: Referring to my note of March 10, touching the matter brought to the Department's attention by yours of the 1st instant, of the Fort Yuma Reservation Indians who have crossed over into Mexico and

established themselves on the ranch of Guillermo Andrade, I have the honor to inclose herewith copy of a letter from the Commissioner of Indian Affairs to the Secretary of the Interior, showing the action taken by him to induce the Indians to return to their reservation.

Accept, sir, etc.,

JOHN SHERMAN.

[Inclosure in No. 231.]

Mr. Browning to Mr. Bliss.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 10, 1897.

SIR: I am in receipt, by your reference for early report, of a communication from the Secretary of State, dated March 5, inclosing a note of March 1 from Mr. Romero, the Mexican minister at this capital, informing him that a number of Yuma Indians, belonging to the Yuma Reservation in California, have crossed into Mexican territory and established themselves on the ranch called "Algodones," situated in the territory of Lower California, and owned by Señor Don Guillermo Andrade, without the consent of the latter; that Mr. W. C. Hefferman, a superintendent in the Indian-school service, informed Señor Andrade that the said Yuma Indians had quitted the United States because they did not wish to send their children to school, but that in allotting the lands of the Yuma Reservation the Indians now on the Algodones ranch made application for their share, which indicates a purpose to retain their status in the United States; that Señor Andrade applied to the Government of Mexico to have the said Indians expelled from his land by force, but before giving orders to that end the Government desires to know whether the United States Government can compel them to return to the Yuma Reservation. Mr. Romero incloses a list of the names of these Indians—39 in number.

I have the honor to report that heretofore it has been found impracticable, if not impossible, to return Indians to and confine them upon a reservation against their will, without keeping them in actual confinement under guard, and for this there is no authority of law. Local authorities in this country have reported unlawful settlements by Indians and they have been uniformly advised of the difficulty of keeping Indians on a reservation, and that as they were amenable to the local police laws, they should be punished for any violations thereof.

In appreciation, however, of the courteous action of the Mexican Government in calling our attention to this trespass, I have, by letter of this date, instructed the United States Indian Agent, Mission Agency, California, within whose jurisdiction the Yuma Indians of California are located, to proceed at once to Mr. Andrade's premises, in Mexico, and use every legitimate means in his power to induce the trespassers to return to their reservation, or, failing in that, to at least effect their removal from the Territory or Lower California. Should he also fail in this effort this office will, upon receipt of his report to that effect, submit such suggestions for the consideration of the Mexican Government as the facts found may appear to warrant.

Very respectfully, etc.,

D. M. BROWNING, *Commissioner.*

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, March 16, 1897.

MR. SECRETARY: I have had the honor to receive, with your note No. 231, of to day, the copy which you were kind enough to inclose of the communication which the Commissioner of Indian Affairs sent to the Secretary of the Interior the 10th instant, with regard to the recommendation that I made to the Department of State in my note of the 1st March, for the returning to this country of the Yuma Indians, of the Yuma Reservation, Cal., who have established themselves illegally upon the ranch of Los Algodones, Lower California, the property of Mr. Guillermo Andrade.

I have the honor to inform you that I have forwarded to the Government of Mexico your note and the communication of the Commissioner of Indian Affairs, and I do not doubt it will await the later information which that officer promises to furnish, in order to proceed to act in this case in common accord with the Government of the United States.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 19, 1897.

SIR: In connection with the Department's note of March 5, last, in reply to yours of the 1st of the same month, touching the alleged illegal occupancy of certain lands in Lower California, owned by Señor Don Guillermo Andrade, by a number of Indians said to belong to the Yuma Reservation, and the desire of the Mexican Government to have them removed to the United States, I have the honor to inclose herewith copy of a report of the Acting Commissioner of Indian Affairs to the Secretary of the Interior, to whom the matter had been referred for investigation.

It will be seen therefrom that the case does not come within the purview of the provisions of the extradition treaty of 1861, and that no demand on the part of this Government for the return of these absentee Indians seems warrantable, unless they are charged with some crime, as provided in said treaty. On the other hand, if the Government of Mexico insists upon removing them from its territory, this Government will be prepared to receive them in the manner suggested in the report of the Acting Commissioner of Indian Affairs, and will make every proper and lawful effort to induce them to remain within the territorial jurisdiction of the United States.

I avail myself, etc.,

JOHN SHERMAN.

[Inclosure 1.]

Mr. Smith to Mr. Bliss.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 12, 1897.

SIR: On March 10 last this office submitted a report to the Department in the matter of the alleged illegal occupancy of certain lands in Lower California by a number of Indians said to belong upon the Yuma

Reservation in California. The matter was brought to the attention of the State Department by Mr. Romero, the Mexican minister at this capital, and in the said office report of March 10 it was stated that the United States Indian agent, Mission Agency, Cal., was directed by letter of that date to proceed at once to the premises occupied by the Indians and use every legitimate means in his power to induce the trespassers to return to their reservation; or, failing in that, to at least effect their removal from the territory of Lower California, and to make prompt report thereon.

The said office report concluded with the statement that should the agent fail in his effort to secure removal, this office would, upon receipt of his report to that effect, submit such suggestions for the consideration of the Mexican Government as the facts found might appear to warrant.

I am now in receipt of a report from Agent Estudillo, dated April 12, in which he states that he met and talked with the Indians in question through an interpreter in the presence of Judge Christena Fonseca, Jose Bustamenta Jendame, and Jesus Garcia Rural, of Lower California; that he found that they have lived where they now are for ages; that they never knew any difference as to what Government owned the country; that it was always theirs, and is theirs yet; that they showed him commissions given to them by Governor Sanguines, (?) of Encenada, Lower California, which are several years old, and they concluded by refusing to leave their native land and remove to American soil.

The agent further reports that while these Indians are doubtless Yumas they have lived on the Colorado River without reference as to what Government they were under or answerable to for many years, and he can not see that anything can be done further than to let them remain where they now are.

For the purpose of securing further information in the matter the papers were referred April 24 to Miss Mary O'Neil, superintendent Fort Yuma School, for investigation and report.

Under date of May 1 Miss O'Neil reports that the Indians unquestionably belong in this country, and suggests that if they be put across the boundary by the Mexican authorities the Indian police can handle them on this side.

It being found that the Indians refuse to voluntarily return to this country the question presents itself as to how their removal from Mexican territory can best be effected, provided of course that the Mexican Government shall insist upon their entire removal from the country, and not merely from the Algodones ranch, upon which they are located.

The case does not appear to be one covered by the provisions of the extradition treaty with the Republic of Mexico proclaimed by the President December 11, 1861 (12 U. S. Statutes at Large, 1199), unless the Indians shall be charged with some crime, as provided in said treaty.

Their condition appears to be similar in some respects to that of a number of British Cree Indian refugees from the Dominion of Canada, who are thought to have been implicated in what was known as the Riel rebellion during the year 1885, and who settled upon land in this country.

October 6, 1885, certain reports respecting the matter were transmitted by this office to the Department with recommendation that the subject be referred to the Department of State with request that arrangements be made with the Dominion authorities for the return of the fugitives to the British territory.

October 13, 1885, the Secretary of State replied, in a letter addressed to the Department, as follows:

* * * On the state of facts shown by your letter and its inclosures, I beg to say that unless there should be a specific demand from the Dominion authorities, such demand being good under the extradition treaty and followed by a warrant of surrender, the Indians in question can not be returned by us to Canada, nor can the United States authorities, military or civil, properly connive at their being kidnapped and sent over the line. If, however, there is satisfactory proof that a demand is coming in due form, they can be arrested to await such demand. If they are guilty of offenses within the jurisdiction of the United States, they can be proceeded against for such offenses; but they can not be prosecuted in our courts or before our military tribunals for offenses committed in the Dominion of Canada.

Although the British Cree Indians were alleged to be criminals, no demand appears to have been made by the Dominion of Canada for their extradition. They were found to be well behaved and law-abiding, and this Government not only permitted them to remain for a number of years but fed them while they were in destitute condition.

It appears, however, that in April, 1892, the Canadian government expressed a willingness to take these Indians back, provided they were taken to the border by the authorities of this country; but they continued to remain until the summer of 1896, when they were removed to the boundary line and delivered to the Canadian authorities under the act of Congress approved May 13, 1896, which appropriated the sum of $5,000 to defray the expense of such removal. (29 Stats., 117.)

In 1862, when a portion of the Sioux tribe fled to Canada after the Indian massacre in Minnesota, the Canadian government assigned them to a reservation within her territory, and while since then she has endeavored to persuade them to return to the United States, they still continue to occupy, with the consent of that government, the reservation set apart for them. I allude to the British Cree and refugee Sioux incidents to show the action of the two governments in dealing with these unfortunate people.

No demand was made by the Government in either case for their return. No demand is made by this Government for the return of the refugees, or more properly stated, the absentee Yumas, by the Government of Mexico. They are, however, entirely welcome to a home in this country, and upon their return they will receive the same care and attention that is given their brethren. But their evident preference for Mexico is the obstacle that will make their retention in this country, if returned, a matter of difficulty.

If, therefore, the Government of Mexico insists upon removing them from her territory, I can only suggest that they be carried to the border line and delivered to the Indian police of the Yuma Reservation. This being done, every proper and lawful effort will be made to induce them to remain. But if, despite such efforts on the part of the Government, they persist in returning to Mexican soil, and the Government of that Republic will not permit them to occupy a tract of unappropriated land by sufferance, there will probably be no consideration other than that of humane regard for their condition that will prevent the Government dealing with them as trespassers as provided by the laws of Mexico relating to trespass.

I inclose copy of Agent Estudillo's report, and have the honor to recommend that it be transmitted to the honorable Secretary of State, with the duplicate of this letter, which is also herewith inclosed.

Very respectfully, etc.,

THOS. P. SMITH,
Acting Commissioner.

[Inclosure 2.]

Mr. Estudillo to Mr. Browning.

UNITED STATES INDIAN SERVICE,
MISSION TULE RIVER CONSOLIDATED AGENCY,
San Jacinto, Cal., April 12, 1897.

SIR: I have the honor to say in answer to your letter of March 10 (Land 8912), 1897, that I went to Yuma, thence by team to Lower California.

I had previously notified the Indians to meet me on a given day at the house of the judge.

Upon my arrival I found all awaiting me except a few Indians and the judge, who had gone to Ensenada, Lower California, for the purpose of seeing the governor.

I conversed with the Indians through an interpreter in the presence of Judge Christena Fonseca, second judge; José Bustamenda Juidame, and Jesus Garcia Rural, of Lower California.

I found the Indians opposed to leaving their old homes. They claim that they have lived where they now live for ages; that they never knew any difference as to what Government owned the country; that it was always theirs, and is theirs yet.

They showed me commissions given them by Governor Sanquenees, of Ensenada, Lower California, which are several years old. They coincided on refusing to leave their native land and remove to American soil. While these Indians are Yumas, no doubt they have lived on the Colorado River, without reference as to what Government they were under or answerable to, for many years. I can not see that anything can be done further than to let them remain as they are and where they are.

Respectfully,

FRANCISCO ESTUDILLO,
United States Indian Agent.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, May 20, 1897.

MR. SECRETARY: I have had the honor to receive your note, No. 255, dated yesterday, with which you were pleased to accompany copy of the information which the Acting Commissioner of Indian Affairs directed to the Secretary of the Interior the 12th instant, respecting the incident of the Yuma Indians who have illegally occupied the lands of the ranch Algodones, and whose removal the Mexican Government asked.

I have the honor to inform you in reply that I already transmitted to my Government your note and the information attached thereto, in order that in view of the considerations expressed in both documents it may determine what may seem convenient.

Be pleased to accept, etc.,

M. ROMERO.

RIGHT OF CONSULS TO INQUIRE RESPECTING JUDICIAL PROCEEDINGS AGAINST UNITED STATES CITIZENS.

Mr. Sepulveda to Mr. Sherman.

No. 268.] LEGATION OF THE UNITED STATES.
Mexico, April 23, 1897. (Received April 29.)

SIR: Referring to Department's No. 356, of the 10th instant, relative to the imprisonment of the American citizen, R. H. Doane, in Monclova, Mexico, I have the honor to state that in obedience to your instructions I addressed a note to the foreign office here, calling its attention to the failure of the judge to reply to the perfectly proper inquiry made of him by the consul for information in the case.

Replying to my note Mr. Mariscal states that he would obtain from the governor of the State of Coahuila a report as to the status of the case of Doane, and would inform this legation of the result.

Mr. Mariscal, it will be observed, adds that the mere fact that the judge did not give any answer to the consul's inquiry does not justify any complaint against the official conduct of the judge, because Mexican judges are not compelled to give foreign consuls any information, nor have the latter the right to ask it, pursuant to Mexican consular law.

On receipt of further information about the Doane case I will report to the Department.

With high regards, etc.

Y. SEPULVEDA.

[Inclosure in No. 268—Translation.]

Mr. Mariscal to Mr. Sepulveda.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, April 19, 1897.

MR. CHARGÉ D'AFFAIRES: I have received your note of to-day's date, in which you set forth that Mr. R. H. Doane, who claims to be an American citizen, was arrested in the month of December, 1896, at Monclova, State of Coahuila, under the accusation of complicity in a robbery, and that in March of the current year the consul of the United States at Piedras Negras addressed two communications to the judge of that place, asking him for information as to Doane's case, and that he received no answer, to which fact you call this department's attention under instructions from the Department of State.

In answer I have the honor to inform you that the governor of the State of Coahuila will be asked to report as to the status of the proceedings in the case of Doane, so as to communicate the same to that legation. I must observe, however, that the simple fact that the judge did not answer the questions which the consul might have made in his letters does not justify any complaint against the official conduct of said judge, for the reason that the Mexican judges are not obliged to give any information to foreign consuls, neither have the latter a right to ask it, as may be seen in the law of the 26th of November, 1859, which is always sent to said officials when they are furnished with their exequatur.

I renew, etc.,

IGNO. MARISCAL.

Mr. Sherman to Mr. Sepulveda.

No. 376.] DEPARTMENT OF STATE,
Washington, May 5, 1897.

SIR: I have to acknowledge the receipt of your No. 268, of the 23d ultimo, inclosing copy of a note from the Mexican foreign office, stating that while the governor of Coahuila has been called on for a report in the case of R. H. Doane, under arrest on the charge of complicity in a robbery, the consul of the United States at Piedras Negras has no ground for complaint against the judge at that place for not answering two of his communications asking information as to Doane's case, because, by the Mexican consular law, judges are not obliged to give such information to foreign consuls, nor have the latter the right to request it.

Mr. Mariscal's language is as follows:

> The Mexican judges are not obliged to give any information to foreign consuls, neither have the latter a right to ask it, as may be seen in the law of 26th November, 1859, which is always sent to said officials when they are furnished with their exequaturs.

The law in question has been carefully examined by the Department, but it does not find in it any prohibition forbidding in express terms a consul to ask information of a judge in regard to the course of a criminal case affecting an American citizen.

Article 10, section 2, gives the consuls the right to offer to a judge information touching a case so pending, providing the consul shall not assume to act as attorney or lawyer for the defendant.

Article 12 requires the authorities and public officers of the consular district to "use the same decorum and civility in their replies" to the consuls, and prescribes the way in which the consuls may complain "when they think that their official actions do not receive due attention." This certainly seems to contemplate a civil and decorous reply on the part of a judge to a consular request for information, even should the reply deny the consul's right to ask it. It surely does not appear to absolve the judge from all obligation to reply, as Mr. Mariscal maintains.

The Mexican law, therefore, at most only excludes by omission the right of a consul to request proper information in regard to a pending case affecting one of his countrymen.

Such inquiries are usual in the consular intercourse of nations. They are often made by our consuls under express instruction from the Secretary of State.

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 the 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 Governmert to be one of "the regular good offices which the legitimate interests of their compatriots may demand." (Law of 1859, art. 10, par. 1.) It anticipates a courteous response to such inquires made by its consuls abroad, just as it expects like courteous response by the judicial officers of the United States to the inquiries of foreign consuls in this country.

If the inquiry be not proper, it would seem at least due to ordinary

courtesy that the consul should be advised of the inability of the judge to answer and the reason thereof.

This Government has taken this position as to all foreign countries where the case has arisen, and our position has been uniformly recognized as just and proper. It can not yield this ground in our consular intercourse with Mexico without acquiescing in a marked exception to the usage which obtains elsewhere.

You may make known the Department's views to the Mexican Government.

Respectfully, yours, JOHN SHERMAN.

Mr. Clayton to Mr. Sherman.

No. 6.] LEGATION OF THE UNITED STATES,
Mexico, May 18, 1897. (Received June 2.)

SIR: I have the honor to acknowledge the receipt of the Department's No. 376, of the 5th instant, addressed to the chargé d'affaires ad interim, in which, referring especially to the case of R. H. Doane and the fact that the judge at Piedras Negras did not answer the communications of the consul at that place asking for information as to Doane's case, the views of the Government regarding the right of a consul to ask information in regard to the course of a criminal case affecting an American citizen and the right to receive a courteous response, are set forth.

On the 15th instant I addressed a note to Mr. Mariscal, minister for foreign affairs, a copy of which I send herewith, inclosing a copy of the Department's No. 376.

I have, etc., POWELL CLAYTON.

[Inclosure in No. 6.]

Mr. Clayton to Mr. Mariscal.

LEGATION OF THE UNITED STATES,
Mexico May 18, 1897.

MR. MINISTER: Referring to your note of April 19, 1897, in relation to the case of the American citizen R. H. Doane, who, upon the charge of complicity in a robbery at the express office at the Monclova Railroad station, was arrested and imprisoned in Monclova, I herewith respectfully submit for your consideration a copy of a letter from the Department of State upon the same subject.

I indulge in the hope, Mr. Minister, that upon a review of the case you may find it consistent to accept the views of my Government.

Awaiting your further pleasure, I have, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 41.] LEGATION OF THE UNITED STATES,
Mexico, June 28, 1897. (Received July 7.)

SIR: Referring to the Department's No. 376, of May 5, 1897, addressed to Mr. Sepulveda, and to my No. 6, of the 18th ultimo, in relation to the right of a United States consul to ask information of a judge in regard

to a criminal case affecting an American citizen and the right to receive a courteous response, I have the honor to inclose herewith copy and translation of a note received from the minister for foreign affairs, setting forth the position of the Mexican Government, and stating that the governor of Coahuila has been requested to charge the judge of Monclova with the performance of the social duty of replying to the letters of the consul at Piedras Negras asking information regarding the arrest and imprisonment of R. H. Doane.

I have, etc., POWELL CLAYTON.

[Inclosure in No. 41—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, June 18, 1897.

MR. MINISTER: I have received your excellency's note of the 15th ultimo, with copy of a communication from the Secretary of State of the United States in relation to the fact that the judge of Monclova had not replied to two letters sent him by the American consul at Piedras Negras, asking information regarding the arrest and imprisonment of R. H. Doane, accused of complicity in the robbing of the express office in the railway station in the city of Monclova.

In reply I have the honor to say that the authorities of the Republic can not recognize in consular agents faculties not expressed in the laws that define their attributes, as in the following case.

Therefore this department does not consider that the judge of Monclova has incurred any official responsibility in not replying to the letters addressed to him by the consul at Piedras Negras. However, the fact that the judge did not reply to the two letters mentioned should be considered a mere lack of social courtesy, aggravated by the official position occupied by the commercial agent of a friendly government; and in this light the governor of the State of Coahuila has been requested to charge the said functionary with the performance of that social duty.

I renew, etc. IGNO MARISCAL.

DEMARCATION OF BOUNDARY.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Spring Lake, N. J., August 9, 1897.

MR. SECRETARY: The International Boundary Commission of Mexico and the United States, created by the convention of July 29, 1882, to replace the monuments marking the dividing line from Paso del Norte to the Pacific Ocean, noticed in the execution of its labors considerable differences between the dividing line agreed upon in the treaty of December 30, 1855, and that laid off on the spot by the respective commissions which were at work up to the year 1856, especially in the measurement of 100 miles along parallel 31° 47′ north latitude, from the River Bravo west, and thence south until striking parallel 31° 20′, and following

that parallel to the west to the meridian 111° west of Greenwich. The progress of science, the perfection of scientific instruments, and the use of the telegraph enabled this commission to discover the mistakes of the first.

As it is proper that the demarcation of the dividing line on the ground should be in conformity with the provisions of the treaty in question, the Mexican Government thinks that the line should be rectified so as to agree with the treaty which fixed it, and to prevent either of the contracting countries being in possession, although by mistake, of portions of territory which it was not the intention of the treaty to grant it.

To this end the Mexican Government has instructed me to propose to the United States Government the conclusion of a new convention to rectify the demarcation of the dividing line in accordance with the treaty of 1853, between the River Bravo (monument No. 1) and the Colorado River (monument No. 205), or throughout its whole extent, if the United States Government should prefer to have the rectification made along the whole line, although the differences found in the dividing line between the Californias are insignificant.

If the United States Government considers these observations well founded, and if you desire it, I will draw up a draft of a convention for the exact demarcation of the dividing line throughout its whole extent, or in the part mentioned.

Accept, etc. M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 288.] DEPARTMENT OF STATE,
Washington, September 22, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 9th ultimo, in which, by direction of the Government of Mexico, in view of the differences in the boundary line as marked by the commission pursuant to the convention of July 29, 1882, and that agreed upon under the treaty of December 30, 1853, you propose the conclusion of a new "convention to rectify the demarcation of the dividing line in accordance with the treaty of 1853, between the River Bravo (monument No. 1) and the Colorado River (monument No. 205), or throughout its whole extent, if the United States Government should prefer to have the rectification made along the whole line, although the differences found in the dividing line between the Californias are insignificant."

To arrive at a just and proper conclusion of this matter, I deem it necessary not only to present the facts regarding the differences existing between the two lines, viz, the one determined by the commission of 1853–1856, and the other determined in 1891–1895 by the commission organized pursuant to the convention of 1882, but to submit a few observations as to the propriety of reopening the question for the purpose of correcting certain errors made by the first commission.

As to the first point, Colonel Barlow, to whom the matter was referred, and who was the engineer in chief of the United States of the last commission, has this to say:

Without going into minute details, all of which are specifically given in the report of the commission, it may be stated that two quite important errors in the original survey were noticed:

First. A mistake in the measurement of the section along parallel 31° 47′, west

from the Rio Grande. This distance was found to be 159,193.4 meters instead of 160,933.0 meters (100 miles) as prescribed by the treaty. As a result of this error the meridian section connecting the parallel of 31° 47′ with the parallel of 31° 20′ was located approximately 1 mile (1,739.6 meters) east of its proper position, thus giving to the United States a strip of land about 31 miles long from north to south by about 1 mile in width, which was not intended by the treaty. The present Commissioners are very confident in regard to the accuracy of their determination of this length, as four independent measurements of this section were made as follows:

By the United States Commission: (1) A measurement by chain; (2) a measurement by stadia; (3) a measurement by telegraphic exchange of local time.

By the Mexican Commission: (4) A measurement by stadia.

These four measurements agreed within small limits, and by mutual consent the astronomical determination was adopted.

Second. The longitude of the monument marking the western terminus of the section along parallel 31° 20′, which should have been at the one hundred and eleventh meridian, was found by our determination, both by stadia measurements carried forward independently by the United States and Mexican parties, and also from telegraphic determination of longitude, to be in longitude 111° 4′ 34.45″, about 4½ miles west of its proper position. This error was also favorable to the United States as a triangular area, of which one side is 4½ miles on the parallel, the other two sides being the lines connecting the extremities of this short line with a point on the Colorado River, about 234 miles distant. This area is not an exact triangle, as the original error in longitude gave rise to corresponding errors in azimuth, which caused the resulting boundary to deviate from its true character, and as this line was not carried all the way to the Colorado River, but was joined to one which had previously been ran eastward from the required point on the river, this deviation was not then noticed.

The number of square miles of land of which Mexico was deprived by these errors is approximately as follows:

By the first error about	30
By the second error about	290
Total	320

No other error of importance was noticed; the determinations for latitude along the two sections upon the parallels by the two commissions agreed within reasonable limits. Nor is it at all remarkable that the longitudes of the early commission should have differed from ours to the extent noticed, when it is considered that the state of the country at that time, owing to lack of supplies, and the presence of hostile Indians rendered a continuous measurement of the line impracticable, and, without the aid of the telegraph, the accurate determination of astronomical longitude was well nigh impossible.

The present commissioners can testify to the general excellence of the former work, and are of the opinion that, taking into consideration the difficultles then existing, no better results than were attained could have been expected. Indeed, the final difference in longitude between the Rio Grande and the Pacific coast as determined by that commission differs only from that determined by the latter and more precise method by about 1.6 miles.

As to the question of a new convention for the rectification of the boundary in accordance with the treaty of December, 1853, I may say in all candor, in which the interests of both Governments are to be considered in forming a conclusion, that it is one of propriety. I shall endeavor to be as explicit as possible and am indebted to Colonel Barlow for some data on which to found a reply to that particular part of your proposition.

Article I of the treaty of December, 1853, states:

That line shall be alone established upon which the commission may fix, their consent in this particular being considered decisive and an integral part of this treaty, without necessity of ulterior ratification or approval, and without room for interpretation of any kind, by either of the parties contracting.

The dividing line thus established shall, in all time, be faithfully respected by the two governments without any variation therein, unless of the express and free consent of the two, given in conformity to the principles of the law of nations, and in accordance with the constitution of each country, respectively.

Great stress seems to have been laid upon the importance of a final and permanent settlement of the boundary which shall in all time be faithfully respected by the two Governments. * * *

The delimitation by that commission was made an explicit part of the treaty, and it would seem that the line thus established should not be changed except for very weighty and serious reasons. It is questionable if the transfer of a comparatively few square miles of land, then practically valueless, and now of but small intrinsic worth, can be considered a sufficient reason to disturb the satisfactory condition that exists on the frontier and give occasion for all sorts of private claims for damages on the part of the owners of adjacent lands. As has been previously remarked, these lands are generally of little value, but it is natural to suppose that should any chance arise by which the owners could bring claims against either Government, it is difficult to foretell how much their value would increase by reason of such claims. The people on the border are, so far as is known, entirely satisfied with the line as now marked. To change it would, I feel convinced, give rise to much dissatisfaction. None of the land in question can be said to be agricultural. The area of 30 square miles along the meridian section is a cattle range. A portion at the northern end has been carefully prospected for minerals. At present I am advised these prospects are all abandoned, the ore found being of low grade, not worth the cost of mining.

The section along the azimuth line west of the one hundred and eleventh meridian is much less valuable, nearly the whole tract being a hopeless desert; a region of sand plains and rocky, barren ridges. At the eastern end, in the Pajaritos Mountains, there are some mining claims, a few of which were, it was ascertained, being worked at the time of the recent survey, but it was not learned that these enterprises were profitable. West of these mountains a few cattle ranches have been located, but the scarcity of both grass and water renders the business exceedingly precarious. Beyond these ranches the country is almost without inhabitants; one or two Mexican families and a few Indians constitute the total population in the vicinity of the boundary for a distance of about 200 miles between the Pozo Verde Mountains and the Colorado River.

It would seem, in the Department's judgment, that all the purposes of the several treaties have been subserved; a boundary was established and marked, in compliance with the treaty of 1853, which has been known and accepted by both Governments as well as the people living along the border. It is true this line may perhaps have been inadequately marked at first, and several of the marks may have disappeared, but its approximate location was recognized, and private rights were acquired in accordance with its location. In compliance with the treaties of 1882 and 1889 this boundary was reestablished and carefully marked, and, as such, is apparently satisfactory to the people in its vicinity. The monuments as now located are permanent and intervisible; no dispute can arise in regard to the boundary, which is practically the same that has been known and recognized during the preceding forty years. It would seem, therefore, a useless refinement to change it now. The matter at issue, so far as the two Governments are concerned, it is respectfully submitted, is but a trifle, while to the individuals to be affected the results of a change might be very serious.

While the work proposed, should it ultimately be determined to make

the rectification referred to, would not be specially difficult and would involve no very intricate scientific problems, yet the more serious and expensive part of it would doubtless be the removal and reerection of all monuments along the meridian section, 14 in number, three being of stone; also those on the azimuth line from the one hundred and eleventh meridian to the Colorado River, 80 in number, 10 being of stone. Apparently the request of the Mexican Government contemplates the rectification of the whole line from the Rio Grande to the Colorado, involving the removal of 205 monuments, although in this connection I have observed your statement that "the differences found in the dividing line between the Californias are insignificant." Still, as there are some deviations on the California azimuth line, it would seem proper to include that section also if the work is to be undertaken.

In this connection, it is well to bear in mind that all surveys, even when carried out with the greatest precision, are necessarily approximate. There is therefore no reason to believe that the survey of the commission of 1891–1895 was infallible, or that should the line be now changed to conform to its results a future generation would be equally justified in changing it again on the plea that a further advance in scientific methods had discovered errors in the present work.

I submit these views for the information of the Mexican Government. In the President's judgment no sufficient reasons have been adduced why either Government should be put to the expense of endeavoring to rectify a line, that future generations may be able to say is not the true one, after it has been so thoroughly and competently surveyed, in the light of all modern and scientific methods, by the joint commission organized pursuant to the convention of July 29, 1882. The results of that commission should stand, since the differences indicated are of practically no intrinsic value so far as the few square miles of land are concerned, and the boundary line so marked is practically the same that had been known and recognized during the preceding forty years.

Accept, Mr. Minister, etc.,

JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

LEGATION OF MEXICO,
Washington, September 23, 1897.

MR. SECRETARY: I have had the honor to receive your note, No. 288, bearing date of yesterday, in reply to that which, in obedience to the instructions of the Government of Mexico, I addressed to you on the 9th ultimo, proposing the negotiation of a convention for the purpose of rectifying the demarcation of the boundary line between Mexico and the United States in accordance with the treaty of December 30, 1853, between the Rio Grande (monument No. 1) and the Colorado River (monument No. 205) or throughout its extent if this should be preferred by the United States Government.

You were pleased to state, in your aforesaid note, the objections which the United States Government has to accepting the proposition of the Mexican Government, and in order that the latter Government may be enabled to examine them properly, I shall send it a copy of your note without delay.

Be pleased to accept, etc., M. ROMERO.

WATER BOUNDARY COMMISSION.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, September 30, 1897.

MR. SECRETARY: I have the honor to inform you that I have received instructions from Señor Mariscal, secretary of foreign relations of the Mexican United States, dated the 18th instant, in which he states that in the remaining three months of the International Water Boundary Commission, organized according to the convention of March 1, 1889, the term of which has been prolonged by later conventions, it will not be possible for it to examine and decide matters now pending and new ones that have been brought before it, for which reason the Government of Mexico thinks proper that a new convention be signed for the purpose of extending for one year the term stated, and with this object he has authorized me to sign the new convention if the Government of the United States be inclined to conclude it.

I will have the honor to forward to you a draft of the convention which may serve as the basis of such negotiations in case the Government of the United States be disposed to enter into it.

Accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 291.] DEPARTMENT OF STATE,
Washington, October 8, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, proposing, by instruction of your Government, the conclusion of a new convention, extending for the period of one year from December 24, 1897, the provisions of the convention of March 1, 1889, in order that the International Water Boundary Commission may be enabled to conclude the examination and decision of the cases before it.

I favor the proposition, and inclose herewith a draft of a convention in the English language. If it prove acceptable to you and you will furnish me with the Spanish text, I shall be pleased to have the convention prepared in the two languages for signature.

Accept, etc.,

JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, October 9, 1897.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note No. 291, of yesterday, in which, referring to the communication which I made to you in my note of September 30 last, that I had received instructions from the Mexican Government extending the time of the convention of March 1, 1889, in order that the International

Water Boundary Commission may be enabled to finish the business which it has still pending, you were pleased to send me the English text of a convention on the subject.

As this draft is taken word for word from the convention signed and approved by the two Governments on the 6th November, 1896, extending the time of the convention of 1889 one year, I find it acceptable; and, in conformity with the suggestion which you were pleased to make, I inclose you the Spanish text of the convention (proposed), taken likewise, with some immaterial changes of form, from the convention of November 6, 1896.

As I have received full powers to sign this convention from the Mexican Government, I shall be obliged to you if you will be so good as to inform me when you are ready to sign it.

Accept, etc., M. ROMERO.

Convention extending for a period of one year from December 24, 1897, the duration of the convention of March 1, 1889.

[Concluded October 29, 1897; ratification advised by the Senate December 16, 1897; ratified by the President December 20, 1897; ratified by the President of Mexico, November 2, 1897; ratifications exchanged December 21, 1897; proclaimed December 21, 1897.]

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the convention concluded and signed in Washington March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the 12th of November, 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado rivers in those parts which serve as a boundary between the two Republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, and November 6, 1896, expires on the 24th of December, 1897;

And whereas the two high contracting parties deem it expedient to extend the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, and that of November 6, 1896, in order that the International Boundary Commission may be able to conclude the examination and decision of the cases which have been submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Sherman, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico in Washington;

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:

ARTICLE.

The duration of the convention of March 1, 1889, by the United States of America and the United States of Mexico, which according to the provisions of Article IX thereof, was to remain in force for five years, counting from the date of the exchange of its ratifications, which period was extended by the convention of October 1, 1895, to December 24, 1896, and by the convention of November 6, 1896, to December 24, 1897,

is extended by the present convention for the period of one year counting from this last date.

This convention shall be ratified by the two high contracting parties in conformity with their respective constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the city of Washington, on the 29th day of October, of the year one thousand eight hundred and ninety-seven.

JOHN SHERMAN. [SEAL.]
M. ROMERO. [SEAL.]

REFUSAL OF UNITED STATES TO EXTRADITE JESUS GUERRA.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, September 28, 1897.

MR. SECRETARY: This legation, in its notes of July 17, 1893, and May 22, 1894, requested of your Department the extradition of Ines Ruiz, Jesus Guerra, and Juan Duque, guilty of the crimes of murder, robbery, arson, and plagio, committed in the town of San Ignacio, State of Tamaulipas, Mexico, on December 10, 1892. The appropriate judicial proceedings being held in the United States circuit court for the western district of Texas, Commissioner L. F. Price adjudged the evidence against Ruiz, Guerra, and Duque legally sufficient and valid, and that, being guilty of those crimes, they should be held as prisoners to await the determination of the President of the United States.

In its note of July 9, 1894, your Department informed this legation that Ines Ruiz and Jesus Guerra, having appealed to a court of the United States for a writ of habeas corpus, it considered itself compelled to postpone its decision regarding the request for the extradition of these persons until the court should decide upon this appeal. Judge Maxey, of the United States district court for the western district of Texas, granted the appeal for habeas corpus for Jesus Guerra, as well as for Ines Ruiz and Juan Duque, but this decision having been appealed from the Supreme Court of the United States, the latter tribunal, by its decision of March 16, 1896, reversed that of Judge Maxey on the ground that Commissioner Price having had jurisdiction there was no room for an appeal for habeas corpus, for which cause your Department on the 9th of July, 1896, ordered the surrender of Ines Ruiz and Juan Duque.

Having received this day notice that Sheriff Shely, of Starr County, Tex., has apprehended Jesus Guerra and handed him over to the United States marshal, and the legal requirements relating to the extradition of this person and his surrender to the Mexican authorities according to the treaty of extradition between the two countries having been all fulfilled before Commissioner Price, I beg you to be pleased to obtain and transmit the necessary warrant for the surrender by the respective functionaries of this country of Jesus Guerra.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 295.] DEPARTMENT OF STATE,
Washington, November 13, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 28th September, requesting the issuance of a warrant for the surrender to Mexico of Jesus Guerra, charged with the commission of certain crimes growing out of an attack by an armed expedition upon San Ignacio, Mexico.

After mature and careful consideration of the evidence adduced in the case before the extradition commissioner at San Antonio, I have the honor to inform you that this Department can find no sufficient ground on which to grant the extradition. From an attentive reading of that evidence it appears that Guerra was a member of the expedition making the attack, but it does not appear that he is implicated, either as an abetter or participant, in the commission of any offense against private parties. Therefore he is not deemed culpable for those offenses committed without his privity; and as the evidence shows the expedition to have been revolutionary in its origin and purpose, the offense of being a member thereof was of a purely political character, outside of the purview of the extradition treaty between the United States and Mexico.

Accept, sir, etc.,

JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, November 15, 1897.

MR. SECRETARY: I have the honor to-day of receiving your communication No. 295 of the 13th instant, in which you tell me, in answer to the one I sent you the 28th of September, asking for the extradition of Jesus Guerra, accused of crimes committed in the assault at San Ignacio, Mexico, that, according to the evidence presented in this case before the extradition commission at San Antonio, the Department has not found reason for granting the extradition; that said evidence shows that Guerra was a member of the expedition that perpetrated the assault at San Ignacio, but that it does not appear that Guerra took part as an author or accomplice in the commission of offenses against individuals, and consequently should not be considered responsible for offenses in which it is not proven that he directly participated; and that since the said evidence shows that the assault was revolutionary in its origin and object, crimes committed by a member of the expedition are of a purely political nature, and, in consequence, excepted from extradition, in conformity with the treaty between Mexico and the United States.

I can not refrain from expressing, Mr. Secretary, my regret at seeing that you have reversed the decisions given by your two predecessors in the high post that you occupy. Permit me to recall to you that the Hon. Walter Q. Gresham, Secretary of State of the United States, decided in a communication addressed to this legation on April 6, 1893, following the opinion of the then Solicitor of the Department of State, that the assault at San Ignacio, committed December 10, 1892, by a party of bandits organized in Texas to commit depredations against

persons and property in Mexico, was of a political character; but in view of the observations made to him, in a communication of this legation dated April 7, 1893, and in a conference between us in the presence of the Solicitor of the Department, he became convinced that the said assault was not of a character purely political, of the nature to warrant its exception from extradition by the treaty of December 11, 1861, and revoked his decision in a letter of May 13, 1893. I think it proper to subjoin the account given by the said Secretary of State in this letter of the assault at San Ignacio, and of the reasons on which he relied in deciding that this assault was not of a purely political character.

Benavides was in charge of a party of bandits, numbering some 150, who on December 10 last passed over the Rio Grande from Texas into Mexico and assaulted a Mexican garrison of about 40 men stationed at San Ignacio, a ranch immediately on the Mexican border of the river. A number of the garrison were killed, a number wounded, and all the survivors made prisoners by the bandits. Benavides himself proposed that the prisoners be shot, but his purpose was frustrated, or at least not executed, and the members of the garrison who had been taken prisoners were released on the Mexican side of the river.

Several private citizens, noncombatants, were violently assaulted, but none were killed. All the horses of the garrison were taken by the bandits, and at least two belonging to private citizens. Several small sums of money were taken from women. The supplies and equipments of the garrison were also taken.

It further appears that the bandits, in the course of the assault upon the garrison, fired the barracks and also burned some buildings belonging to private parties.

The idea that these acts were perpetrated with bona fide political or revolutionary design is negatived by the fact that immediately after their occurrence, though no superior armed force of the Mexican Government was in the vicinity to hinder their advance into the country, the bandits withdrew with their booty across the river into Texas.

In view of this decision the Mexican consul at San Antonio, Tex., began proceedings for extradition, among the other bandits who composed the company of Benavides, of Ines Ruiz, Jesus Guerra, and Juan Duque, and the commissioner, L. F. Price, decided that the evidence presented against these three prisoners was enough, according to the law, to consider them guilty of the said offenses, and declared that they should be retained in confinement awaiting the decision of the President of the United States. The accused then had recourse to habeas corpus before the Federal court of the western district of Texas, which granted it, giving as reason that the assault at San Ignacio was an offense of a political character. The Mexican consul at San Antonio, considering this decision unfounded, appealed to the Supreme Court of the United States from the sentence of Judge Maxey, and that high tribunal, in a decision of March 16, 1896, revoked the decision of Judge Maxey, asserting that, since Commissioner Price had had jurisdiction, recourse to habeas corpus could not be had, and that the offenses of which Inez Ruiz, Jesus Guerra, and Juan Duque were of a common order and not of a purely political character. I think it proper to quote the following extracts from the decision of the Supreme Court:

The district judge entertained different views from those of the secretary and arrived at a different result from that reached by the commissioner on the evidence on which the latter proceeded, and so was induced to substitute his judgment for that of the commissioner, in whom was reposed the authority of decision, unless jurisdiction was lacking.

Can it be said that the commissioner had no choice on the evidence but to hold, in view of the character of the foray, the mode of attack, the persons killed or captured, and the kind of property taken or destroyed, that this was a movement in aid of a political revolt, an insurrection, or a civil war, and that acts which contained all the characteristics of crimes under the ordinary law were exempt from extradition because of the political intentions of those who committed them? In our opinion this inquiry must be answered in the negative.

The sentence of Judge Maxey having thus been revoked, the Mexican Government again asked, through a letter from this legation sent to the Department on the 18th of March, 1896, the extradition of Inez Ruiz, Jesus Guerra, and Juan Duque, and on receiving advices of the arrest of Ruiz and Duque the legation asked for their delivery, in letters dated May 21 and July 2, 1896, respectively. The Hon. Richard Olney, Secretary of State of the United States, successor of Mr. Gresham, granted that of Inez Ruiz and Juan Duque, sending to this legation the orders for their delivery, with letters Nos. 137 and 138 of July 9, 1896. The delivery of Jesus Guerra was not insisted upon, because he had fled; but on receiving notice of his arrest I sent you the letter of September 28.

It appears from the above that your two predecessors as Secretary of State and the Supreme Court of the United States decided that the assault at San Ignacio was not an offense of purely political character. You now inform me that the evidence shows that the assault was revolutionary in its origin and purpose, and that consequently its character was purely political; and this decision, which is contrary to that expressed by your two predecessors and by the Supreme Court, reverses the decisions granted by them after mature consideration.

If the assault on San Ignacio was not of a purely political nature, as has been recognized by your predecessors and by the Supreme Court, the persons who took part in the same are responsible for the crimes committed, even if they did not personally commit them, inasmuch as the crimes were committed by the organization created by the assailants and in virtue of the direct cooperation of all; although they may not personally have committed them. I therefore think it unnecessary to discuss the point of the direct participation which Guerra may have had in the commission of the crimes, since you have thought it best to revoke the decision of the Department in regard to the true character of the offenses.

Before closing I should recall to you that, as I have informed the Department, armed expeditions were organized for three years in Texas to attack the defenseless people of Mexico, with the object of assassination and robbing individuals and of exercising personal vengeance, the chief incitement of such expeditions being the immunity which the said bandits enjoy in the United States, and that from the time that the authors were delivered to the Mexican Government to be tried for actions committed in Mexican territory the expeditions ceased.

It is also a fact that the persons delivered to Mexico by the United States Government have been tried with all impartiality by Mexican tribunals, and that in no case has the most severe punishment been decreed.

I beg you to accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 302.] DEPARTMENT OF STATE,
Washington, December 17, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant in reply to the refusal of this Government to grant the extradition of Jesus Guerra.

While it is not the usage of the Department to enter at large into the reasons of its decisions in such cases, yet the ordinary usage is

departed from in this instance, as well from the sense of respect and deference for your excellency's wishes and opinions as to exhibit more fully to your excellency's consideration the reasons on which the decision was reached.

While unable perhaps to concur in the correctness of the conclusion reached, nevertheless your excellency will appreciate that the decision was arrived at after a most careful consideration of the premises and was actuated by a spirit of comity and absolute equity.

In the communication to your excellency of the ground of the refusal to grant the extradition, the language which was used appears not to have been felicitously chosen, since in your excellency's communication that reason is stated as follows:

> Since the said evidence shows that the assault was revolutionary in its movement and object, crimes committed by a member of the expedition are of a purely political nature, and in consequence exempted from extradition in conformity with the treaty, etc.

With your excellency's permission, I quote the precise language used in the note of the 13th instant, to which the reply was addressed:

> From an attentive reading of that evidence it appears that Guerra was a member of the expedition making the attack, but it does not appear that he was implicated either as an abettor or participant in the commission of any offenses against private parties. Therefore, he is not culpable for these offenses committed without his privity, and as the evidence shows the expedition to have been revolutionary in its origin and purpose, the offense of being a member thereof was of a purely political character, outside of the purview of the extradition treaty between the United States and Mexico.

The discrimination between the decision actually rendered and as indicated in your excellency's communication more clearly appears by reference to the petition filed before the magistrate for extradition, which charges Guerra with murder, to wit, shooting certain named Mexican officers and soldiers; with arson, to wit, the burning of the barracks; with robbery, to wit, the taking of cavalry horses, etc., with kidnaping, to wit, the taking of Mexican soldiers as prisoners. This is the gravamen of the charge; for while the complaint makes a vague general charge of robbery, it is so vague as not to warrant the detention or extradition of any man.

The decision was necessarily based on the complaint made and the evidence adduced in support of it, secundum allegata et probata. The ground of the decision, and what actually was decided, was that the evidence shows that the assault was revolutionary in its origin and object, and that the aforesaid acts, which were in aid thereof, being incidents of regular military warfare, can not be characterized as common crimes; that they were shown to be committed, not from motives of revenge or pecuniary gain, but for the political one of revolution. The evidence fails to show the presence of a merely criminal motive of the actors, except in so far as it may be inferred from the nature of the acts. But to argue that the acts themselves were intrinsically wicked and therefore demonstrate the presence of the intent characteristic of common crimes would have the effect in all cases of unsuccessful revolutionary movements, conducted by force and bloodshed, to destroy the right of asylum to political offenders and refugees. It was therefore by no means intended to be decided that since the assault was revolutionary, "crimes committed by a member of the expedition are of a purely political character." The decision was that, as the movement was revolutionary, acts done in aid thereof are not common crimes; and as Guerra was not implicated, either as principal or accessory, in the commission of offenses against private persons, the

guilt of such crimes could not be imputed to him any more than if, during a lawful political assemblage, some one of those present should commit a lawless act could the commission of that offense be imputed to the entire assembly.

Your excellency observes that—

> If the assault on San Ignacio was not of a purely political nature, * * * the persons who took part in the same are responsible for the crimes committed, even if they did not personally commit them, inasmuch as the crimes were committed by the organization created by the assailants, and in virtue of the direct cooperation of all, although they may not personally have committed them.

Without assenting or dissenting from this position in the absence of a distinct understanding of what is meant by the assault being "not of a purely political nature," it may be observed that if what is meant that when the movement is revolutionary in its origin and object it ceases to be of a purely political character, because lawless acts not germane to the object of the movement may be committed by individuals without authority or privity of their leaders or associates, the contention, if interpreted in that sense, could not be acceded to, since it would be an unwarranted extension of the doctrines of principal and accessory so as to implicate all political offenders engaged in the same revolutionary movement in the guilt of such acts and render them all common criminals. If it is meant that the expedition had a dual object, to wit, the overthrow of the Mexican Government and the plunder of the Mexican people, the two objects would seem inconsistent, except so far as the overthrow of organized resistance was incidentally necessary to the pursuit of plunder. The evidence wholly fails to show that object; the course pursued by the expedition seems utterly inconsistent with that object, for after the Mexican soldiery had been captured or disabled in battle and all resistance overcome, and San Ignacio and the surrounding country lay at the mercy of Benavides and his followers, and pillage was at length within their easy grasp, the evidence fails to show any attempt to pursue and accomplish the very thing which your excellency deems to have been the main or sole object of the assault.

The point on which the decision turns is the question of fact whether the expedition was organized and conducted for the accomplishment of a political object. This question your excellency passed over and conceded that it was partly political by the contention that it was not purely political; and Guerra's extradition was sought on the assumption of fact that the expedition was either not political or at least was only partly so. And on that assumption guilt was constructively imputed to Guerra for all isolated acts of lawlessness committed by any other individual or group of individuals without his participation, cognizance, or privity. This would seem a dangerous extension of the doctrine of principal and accessory unsupported by any authority, and in the absence of which, or of evidence of his participation in such lawless acts, the ordinary presumption of innocence should prevail. Such is the humanity of the law.

The solution of the question in this case is complicated by the want of a definition of the phrase "crime or offense of a political character;" and by the further question of the significance and force of the term "purely" political. "What constitutes an offense of a political character has not yet been determined by judicial authority." (In re Ezeta, 62 Fed. Rep., 997.) In the Castioni case (1 Q. B., 149) Lord Denman said:

> I do not think it is necessary or desirable that we should attempt to put into language in the shape of an exhaustive definition exactly the whole state of things, or every state of things, which might bring a particular case within the description of

an offense of a political character. * * * The question really is whether, upon the facts, it is clear that the man was acting as one of a number of persons engaged in acts of violence of a political character, with a political object and as part of the political movement and rising in which he was taking part.

Judge Hawkins said:

I can not help thinking that everybody knows that there are many acts of a political character done without reason, done against all reason; but at the same time one can not look too hardly and weigh in golden scales the acts of men hot in their political excitement. We know that in heat, and in heated blood, men often do things which are against and contrary to reason; but none the less an act of this description may be done for the purpose of furthering and in furtherance of a political rising, even though it is an act which may be deplored and lamented, as even cruel and against all reason, by those who calmly reflect upon it after the battle is over. (62 Fed. Rep., 999.)

Calvo, speaking of the exemption from extradition of persons charged with political offenses, says:

The exemption even extends to acts connected with political crimes or offenses, and it is enough, as says Mr. Faust in Helio, that a common crime be connected with a political act—that it be the outcome of or be in the execution of such—to be covered by the privilege which protects the latter.

In the International American Conference in Washington, Mr. Silva, of Colombia, discriminating between an offense of a political character and a common crime, said:

In the revolutions, as we conduct them in our countries, the common offenses are necessarily mixed up with the political in many cases. A revolutionist has no resources. My distinguished colleague, General Caamano (of Ecuador), knows how we carry on wars. A revolutionist needs horses for moving beef to feed his troops, etc.; and since he does not go into the public markets to purchase those horses and that beef, nor the arms and saddles to mount and equip his forces, he takes them from the first pasture or shop he finds at hand. This is called robbery everywhere, and is a common offense in time of peace, but in time of war it is a circumstance closely allied to the manner of waging it. (62 Fed. Rep., 1000.)

Calvo says:

All treaties, except that concluded between Belgium and the United States April 30, 1874, article 3, declare the general rule that extradition shall not be accorded for an act connected with a political delict without discriminating whether the separation of the delicts can be made. The connected delict is considered as an incident of the principal delict and is excluded from extradition

We consider as delicts of common law those which are connected with political events only in a very indirect manner—those which have been committed in favor of the insurrection without being otherwise related to it; that is to say, those which a private vengeance or personal hatred has inspired, as for example, the murder of an adversary, the burning of his house.

We regard as criminals at common law the perpetrators of acts connected with the insurrection but which the law of nations disavows; for example, those who assassinate hostages, prisoners.

The practice is more favorable to the authors of such acts; none of the members of the commune, refugees in foreign lands in 1871, has been surrendered to France by the various powers. (Calvo (Paris, 1896), Droit International, sec. 1036.)

The treaty with Belgium, referred to by Calvo, by a special exception, makes certain "connected" crimes extraditable. In his opinion in all our other treaties "connected" crimes are not extraditable.

Rivier advocates the extension of extradition treaties so as to include the more heinous offenses, regardless of the political motives or objects of their authors, yet he says:

The political offense for which extradition should never be granted is the act considered as punishable solely and exclusively because of its political character. These are absolute political offenses. The qualification according to which the offense should be characterized as such and punishable by similar analogous penalties in the two States will suffice in the majority of cases to exclude extradition. If offenses which do not constitute common crimes, exhibiting the gravity just now characterized, have been committed with a political object, this object can, in the view of the

impartial and disinterested State, impart to them a special character different from that which they would have if they had been committed for the purpose of gain or of political or private revenge. These are offenses connected with political offenses, which may thus be called relative-political; that is, not absolute. They have a political character by reason of their object, and this political character may suffice to exclude extradition. We are considering now the political object which the accused has wished to attain. We are not considering a political motive; a political motive does not suffice to give to an offense the political character relieving the requested State from the duty of extradition. It follows, moreover, from the very tenor of the most of the extradition treaties, that when they exclude political offenses, it is precisely connected, complex, or relative-political offenses which are meant, the non-extradition for absolute political offenses being considered as implied. (Rivier, Principles du Droit des Gens, p. 353).

Had it not been for the use of the word "purely" in the treaty Guerra was clearly not extraditable, since the evidence adduced by him stood uncontradicted that the object of the expedition was political. Does the term "purely" extend the scope of the right to extradition? According to Rivier it is tacitly implied in all extradition treaties that when they exclude political offenses, connected or complex crimes are not included, since crimes of an absolutely or purely political character are excluded by implication, and the use of the word "purely," therefore, according to Rivier, would seem not to give any extension to the right of extradition. If, however, it does not give any such extension it must be by construction, since the meaning of the term is not defined by treaty; but the right to personal liberty may not be taken away by mere judicial construction, especially where, in cases of doubt, the obligation of extradition is interpreted in a limitative manner and in favor of the right of asylum.

But it not being necessary to decide the question whether or not the word "purely" should be construed to extend the right of extradition between the two Governments, it may be suggested that it receive in this case the construction contended for by your excellency, namely, that a private offense committed by one or a few members of a revolutionary body should be imputed to all the rest of that body, although the rest may not have been in anywise privy to it, it would in effect make all political offenses extraditable, since there perhaps never was a political revolution without some of the elements of lawlessness attending it, even against the will of its leaders. Such construction would also put the ban of the treaty on all political revolutions conducted by force and violence, and subject all engaged in them to extradition for acts done causing bloodshed and the capture of prisoners and their equipments.

In your excellency's note it is stated that—

> Your two predecessors, as Secretary of State, and the Supreme Court of the United States decided that the assault at San Ignacio was not an offense of a purely political character. You now inform me that the evidence shows that the assault was revolutionary in its origin and purpose, and that consequently its character was purely political. This decision, which is contrary to that expressed by your two predecessors and by the Supreme Court, reverses the decisions granted by them after mature consideration.

Being unable to assent to the above conclusion as a whole, I beg leave to suggest to your excellency that, as shown by your excellency's communication, Secretary Gresham decided the same question twice, and in opposite ways, the then solicitor of this Department concurring with his first decision that the offense was of a purely political character, while Secretary Olney does not appear to have rendered any opinion at all; and if there appear any aberration of decision on this question it does not appear in the decision now under consideration, since, with the single exception mentioned by your excellency, this decision is in

harmony with all former decisions of this Department on analogous states of fact having the same essential legal character.

In support of this statement, I would respectfully call your excellency's attention to the decision by Secretary Bayard, on February 17, 1897, in the Cazo case, and other decisions cited in Moore on Extradition, section 217 and notes; Wharton's Digest of International Law, section 272.

Being unable to concur in the conclusion expressed by your excellency that the Supreme Court decided "that the offense of which Ines Ruiz, Jesus Guerra, and Juan Duque (were accused) were of a common order and not of a purely political character," it is due to the distinguished consideration entertained for your excellency's opinions that the grounds of this dissent be stated.

In deciding cases it not unfrequently happens that the courts use, arguendo, expressions which are not intended to be taken in all their literal amplitude of meaning, but their meaning is restricted to and construed in connection with what is actually decided. The judgment itself determines what is decided. And what the Supreme Court decided in this case is expressed in the concluding paragraph of its opinion:

> We are of the opinion that it can not be held that there was substantially no evidence calling for the judgment of the commissioner as to whether he would, or would not, certify and commit under the statute, and that therefore, as matter of law, he had no jurisdiction over the subject-matter; and this being so, his action was not open to review on habeas corpus. (Ornelas *v.* Ruiz, 161 U. S., p. 512.)

From which it does not seem that the Supreme Court decided "that the assault at San Ignacio was not an offense of a purely political character." What it did decide was, that there was evidence calling for the decision of the commissioner one way or the other, and that, on the state of the case, the Federal Court could not review his decision. The Supreme Court did not pass upon the weight or probative force of the evidence, nor any portion of it, since according to its own decision it had no authority to do so. I am therefore unable to share the regret expressed by your excellency that the decision of the Supreme Court has been reversed; and whatever regret may be felt at not apparently following the last decision rendered by Secretary Gresham, it is greatly lessened by the consideration that it is in harmony with the first decision rendered by that distinguished Secretary and with the decisions rendered on analogous states of fact by Secretary Bayard in 1887, and by Acting Secretary Hunter in 1880; and, in short, with every decision rendered by this Department since the negotiation of the treaty with Mexico in 1862; and in harmony with the traditionary policy of this Government.

Referring to the point made in conclusion in your excellency's reply that "armed expeditions were organized for three years in Texas to attack the defenseless people of Mexico," it may be observed that said consideration would have its appropriate and, doubtless, great weight with the treaty-making power, as such, in the formation of a treaty; but in the execution of the treaty the parties to it are bound by its terms and can not arbitrarily wrest if from its true intent for the accomplishment of political objects foreign thereto, however laudable those objects might be, and that in the absence of a treaty provision for the extradition of political offenders, the neutrality laws afford a remedy for hostile incursions of a political character across the border of the two countries.

In reaching this conclusion, the Department wishes to state that this

is a very close case and the decision announced has resolved the doubts in favor of liberty.

It is placed upon the distinct ground that as far as Guerra is concerned, whatever others may have done, it does not appear from the testimony that he committed any extraditable offense, and for that reason could not be delivered. The Department is not prepared to say that others may not, in the same expedition, have committed offenses of a character which would warrant their extradition under the terms of the treaty. Should cases arise or further consideration of this matter be asked, the Department is at all times ready to hear any representation your excellency may wish to make, and when consistent with its sense of duty, to accede to the same. The Department feels that no less than this is due to friendly relations with the Government which your excellency represents with so much ability and fidelity at this capital.

Accept, etc., JOHN SHERMAN.

Mr. Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, December 18, 1897.

MR. SECRETARY: I have had the honor to receive your note No. 302, bearing date of yesterday, in reply to mine of the 15th ultimo, in which I made certain observations in relation to your note No. 295 of the 15th ultimo, in which you decline to grant the extradition of Jesus Guerra, for which the Mexican Government had applied.

In the state which this case has now reached, there is nothing for me to do but to send a copy of your note to my Government, in order that, in view thereof, it may reach such decision as it thinks proper.

I do not think, nevertheless, that I should allow this occasion to pass without stating that, in my opinion, it can not be doubted that, when the Hon. Richard Olney, your immediate predecessor, granted, by his notes to this legation Nos. 137 and 138, of July 9, 1896, the extradition of Ines Ruiz and Juan Duque, who were guilty of the same crimes with which Jesus Guerra is charged, he admitted that the attack on San Ignacio was not a crime of a merely political character, and that, consequently, those who took part in it were not exempted from extradition by the treaty of December 11, 1896. As his predecessor, the Hon. Walter Q. Gresham, had decided this point in his note of May 13, 1893, in the sense that that attack was not of a merely political character, Mr. Olney did not need to examine the same question, and would have needed to do so only in case he had thought it necessary to revoke the decision of his predecessor, and for that reason he did not enter into special considerations with respect to the attack, but confined himself to issuing a warrant for the surrender of the accused persons, whereby he undoubtedly admitted that the crime with which they were charged was not of a purely political character.

I understand that the Department of State observes the wise system of maintaining the decisions reached by the Secretaries who have been at its head, and of not revoking them unless new incidents arise or fresh evidence is obtained of a nature so clear and conclusive that, if they had been considered by the Secretary who reached the decision concerned, they would have led him to form a decision at variance with that which he did form. In view of this circumstance the Government

of Mexico hoped that the decision reached by Mr. Gresham and upheld by Mr. Olney would be considered valid in the case of Jesus Guerra, since no evidence or incidents have arisen of such a nature as to change the character of the attack on San Ignacio, which has been considered by your predecessors as not having been a purely political offense.

Referring to the decision of the Supreme Court of the United States pronounced March 14, 1896, in the habeas corpus case of Ines Ruiz, Jesus Guerra, and Juan Duque, I must say that I clearly understand that the point which was submitted to it on appeal was to decide concerning the validity or invalidity of the decision which granted a writ of habeas corpus to the accused persons, and which revoked the decision granting their surrender which had been pronounced by the United States commissioner at San Antonio, and that it was not to determine whether the crime with which they were charged was or was not of a purely political character; nevertheless, the statement contained in the extract from that decision, which I inserted in my note of November 15 last, in which it is positively stated that the attack on San Ignacio was not of a purely political character, is, in my opinion, not without force, and is entitled to high respect. I frequently see quoted, in decisions pronounced by the courts of this country, declarations made in the "whereases" and not in the resolutory part of the decisions of the Supreme Court of the United States.

It is a generally recognized principle that those who are guilty of political crimes are not subject to extradition, and the citations contained in your note on this point refer to really political crimes, even though in case of crimes of this nature common crimes are incidentally committed, but when, in order to conceal common crimes, political pretexts are invoked, the case is different, and for the very purpose of authorizing the extradition of persons charged with these latter crimes the provision was inserted in the extradition treaty signed in the City of Mexico December 11, 1861, between Mexico and the United States, that persons guilty of purely political crimes were not subject to extradition, which, in the opinion of the Government of Mexico, means that when a crime is of a common character, and, in order to conceal it, the attempt is made to make it appear to be a political crime, as in the present case, it is considered as a crime which renders its perpetrator subject to extradition. The treaty signed between the United States and France November 9, 1843, is the only one containing a clause similar to that of the treaty with Mexico, and the one signed with Belgium April 30, 1874, authorizes the extradition of persons guilty of certain common crimes connected with others of a political character. The circumstance that Mexico and the United States are neighbors renders special stipulations necessary with regard to extradition still more ample than those contained in the treaty with Belgium.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Sherman to Mr. Romero.

No. 303.] DEPARTMENT OF STATE,
Washington, January 6, 1898.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 18th ultimo touching the extradition of Jesus Guerra, and again invoking the doctrine of stare decisis in support of your excellency's contention. I concur entirely in your excellency's opinion of

the wisdom of a uniform rule of decision in all cases when the facts are of the same essential legal character. And from this standpoint the refusal to extradite Guerra finds sufficient vindication, since the refusal was in keeping with the uniform rule of decision in all such cases except in the single case, on which your excellency relied for the reversal of all other previous decisions.

I observe with pleasure—and it does great credit to your excellency's character for candor and sincerity—the abandonment, in your excellency's note, of the former contention that the Supreme Court decided that "the assault at San Ignacio was not an offense of a purely political character," and the admission that the question for its decision "was not to determine whether the crime with which they were charged was or was not of a purely political character." But the contention now made is that an isolated dictum of the Supreme Court is "not without force and is entitled to high respect." In this opinion I fully concur, and as the court studiously refrained from deciding a question over which it virtually held that it had no jurisdiction, I should have felt wanting in respect to its great character had I imputed to it any intention to decide indirectly and with great impropriety what it could not do directly, and therefore abstained from doing.

I concur entirely in your excellency's view that "when political pretexts are invoked to conceal common crimes," such pretexts, or any others, can not be allowed to shield the guilty. But in the Guerra case there is such evidence to show the revolutionary character of the expedition, and no evidence to contradict it.

In the absence of any reference to historical evidence in support of it, I can neither assent to nor dissent from your excellency's opinion of the object of the insertion of the word "purely" in the extradition treaty. The word is sometimes used interchangeably with the word "absolutely," and if it is used in this sense, then, as shown in my last note, nonextradition for absolute political offenses is always implied in treaties without making any express exception; when they exclude political offenses, it is precisely connected or complex offenses which are meant.

It being unnecessary in this case to construe the treaty, no opinion is expressed as to the construction placed on it by your excellency. But it may be doubted whether it was the intendment of the treaty to include connected or complex offenses in the category of extraditable offenses. For, on the one hand, the exclusion of absolutely or purely political offenses is implied without express exception, while the express exception of political offenses excludes mixed or connected offenses; and, on the other hand, if so wide a departure from the traditional policy of this Government had been intended, it is reasonable to suppose that the inclusion of such offenses would have been clearly and specifically indicated, as was done in the treaty with Belgium. And if the intent in the insertion of the word had been such as your excellency supposes, it is remarkable that no allusion appears to have been made to it heretofore either in the Cazo case or in the case of the eight Mexican revolutionists, when extradition was refused for the same reasons as in this case.

Over thirty years have elapsed since the adoption of the treaty, and so far as I am informed the construction of the treaty now made by your excellency is made for the first time, and if it had been made and accepted in the two cases above mentioned, extradition should have been granted instead of being refused.

Accept, etc., JOHN SHERMAN.

NICARAGUA.

NICARAGUA CANAL.

Mr. Sherman to Mr. Baker.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 3, 1897.

Maritime Canal Company apprehends Nicaraguan Government may declare concession forfeited. As concession does not expire until October, 1899, you are instructed to watch carefully, and if such intention appear, interpose discreet remonstrances for protection of rights of this American corporation, promptly reporting your action.

SHERMAN.

Mr. Baker to Mr. Sherman.

[Telegram.]

MANAGUA, *April 6, 1897.*

Am assured by the President of Nicaragua they do not intend at present to declare the Nicaraguan Canal concession forfeited.

BAKER.

Mr. Baker to Mr. Sherman.

No. 778.] LEGATION OF THE UNITED STATES,
Managuá, Nicaragua, April 7, 1897. (Received May 3.)

SIR: On the night of April 3 I received your cable instruction regarding the apprehension of the Maritime Canal Company that the Nicaraguan Government may declare the forfeiture of their concession.

On the morning of the 6th I had an informal and unofficial talk with President Zelaya on the general subject suggested, without making known to him the instruction contained in your cable message.

We hastily reviewed the arguments pro and con as to the claim that the concession would end by limitation on the 24th of the current month. In the course of this conversation the President assured me more than once of his intention to act in absolute good faith toward the Maritime Canal Company and toward the United States, under whose authority the company is chartered.

At the close of the conversation the President requested me to submit to him a memorandum of the statements I had verbally made to him. This I did on the following day, marking the paper "unofficial memoranda."

I inclose herewith a copy of these notes.

I have the honor, etc.,

LEWIS BAKER.

[Inclosure in No. 778.]

Unofficial memoranda regarding the date of expiration of the concession to the Maritime Canal Company.

From a cable message which I have received from Mr. Sherman, our Secretary of State, I am surprised to learn that apprehensions exist that the Nicaraguan Government may declare the concession of the Maritime Canal Company as having been forfeited for some cause not stated.

I prefer to believe, Mr. President, that the apprehension referred to is not well founded, that Nicaragua will continue to act in the future as she has acted in the past while under your guidance, in absolute good faith toward this company, notwithstanding the fond wishes of the people of Nicaragua, of the people of the United States, and of the commercial nations of the earth have not been realized, because of the financial crisis which swept over the civilized world during the last few years.

You have always consistently and frankly assured me that your Government would do nothing to embarrass the efforts being made to raise the means to complete this enterprise, which, in the words of Mr. Sherman in a recent speech delivered on the floor of the United States Senate, "will be the greatest achievement for the good of mankind that is likely to happen in the course of a hundred years."

Secretary Sherman is no stranger to you, Mr. President. As member of the United States Senate, as chairman of the leading committee of that body, and in his capacity as a citizen, he has at all times been a loyal, able, and persistent advocate of the building of this canal by Government aid. You know he stands with you and by your interests. Therefore you can afford to treat what he says with respect and confidence. He states in a cable which I hold in my hand that the concession of the Maritime Canal Company does not expire until October, 1899.

Let us suppose that the Nicaraguan Government proceeds to declare the concession forfeited. The other party in interest must, in self-defense, join issue with you. Who is to decide? Will you wrangle until October, 1899, or will you propose arbitration? In either case, nothing has been done to promote the one great object—the building of this canal. Valuable time has been lost, possibly bad blood created, and expenses incurred—nothing more.

Your excellency will remember—and it is doubtless a matter of record in the archives in this palace—that, after some differences which had sprung up between Nicaragua and the Maritime Canal Company had been adjusted in the year 1889, your Government officially approved the surveys of the company and the work already done. By this agreement an official recognition was given that the work of construction actually commenced on the 8th of October, 1889. From that date the contract had ten years to run. This term will not expire until the 8th of October, 1899.

This is the view held by Mr. Blaine, who was also your friend, and it is the view held by Secretary Sherman, as evidenced by his cable message.

It may be profitable for us to make a brief review of the circumstances attending the commencement of the work, and therefore the beginning of the concession.

"The provisions of Article XLVII of the concession, relating to the final surveys and the location of the line of the canal by a commission of competent engineers, two of whom were to be appointed by the Government of Nicaragua, have been fully complied with, and the Government of Nicaragua has officially issued its decrees to that effect. The company undertook at its own expense the final surveys of the ground and the location of the line of the canal by a commission of competent engineers, two of whom, Messrs. Blanchet and Climie, were appointed by the Government of the Republic, as required by the concession.

"This commission completed the final surveys and the location of the canal, and their plans were afterwards signed, indorsed, and approved in New York by Mr. Blanchet, who went on for the purpose of assisting the engineers in tabulating and formulating the data which they had obtained during the months which were spent on the ground. The plans were then forwarded to the Government of Nicaragua, which raised certain objections in reference to the same, claiming that the surveys relating to the Tipitapa Canal were not as complete as were required. The plans were elaborated so as to conform with these objections, and were then returned to the Government, but Nicaragua having taken exception to the concession which had been obtained by the company from Costa Rica, refused at first to ratify and approve the same, on the ground that they did not show that the entire line of the canal would run through Nicaraguan territory only.

"On the strength of this objection, they refused to allow the expedition which had been sent down in June, 1889, to commence work on the canal, and this state of affairs existed until October 8, 1889, on which date the Government issued a decree approving and ratifying the final surveys and plans as submitted, and authorizing the commencement of the work of construction.

"The same article of the concession granted to the company a term not exceeding one year in which to commence the final surveys for the canal, and one year and a half additional time for completing them. These terms were to begin to be counted on the date of the ratification of the contract, which took place on April 24, 1887, so that the period within which to commence the final surveys expired on April 24, 1888, and the time within which to complete them expired on October 24, 1889.

"As already stated, on October 8, 1889, the Government decreed that the plans had been commenced and completed within the said periods, and the same were accepted.

"So it will be seen that the company has fully complied in every respect with the provisions of the concession in reference to these plans.

"Article XLVII of the concession also provides that within the period commencing April 24, 1888, and expiring October 24, 1889, the Maritime Canal Company of Nicaragua was to be organized and the work of construction commenced. The canal company was incorporated by act of the United States Congress in February, 1889, and its board of directors organized on the 1st day of May, 1889, and, as already stated, the Government admitted in its decree that the work of construction was commenced on the 8th day of October, 1889. The concession required that during the first year of the work, viz, from October 8, 1889, to October 8, 1890 (the said work having been commenced, as admitted by said decree, on the 8th day of October, 1889), at least $2,000,000 should be expended, and on the —— day of ——, 1890, the Government having appointed two commissioners to ascertain what moneys had been expended on the work, issued another decree to the effect that this provision of the concession had been fully complied with.

"It appears, therefore, that the Government has admitted that every provision of said Article XLVII has been complied with by the company and that the corporation has no further obligations to perform under this article of the concession.

"Article XLVIII of the concession grants to the corporation a term of ten years for the construction, completion, and opening of the canal for maritime navigation. That is to say, the concession grants to the company a period of two years and a half within which to commence and complete the final surveys, to organize the Maritime Canal Company of Nicaragua, and to commence the work of construction, and grants them an additional term of ten years in which to construct, complete, and open the canal. As already stated, the first term of two years and a half would have expired on the 24th of October, 1889, so that the additional term of ten years granted will not expire until the 24th of October, 1899. If, however, it should be claimed that the said term of ten years for the construction of the canal was to commence from the date on which the work of construction was begun, irrespective of whether or not the aforesaid term of two years and a half had expired, then the said term of ten years will expire on the 8th day of October, 1899, instead of on the 24th day of October, 1899."

This unofficial memoranda is respectfully submitted, as you suggested, for your excellency's personal convenience.

In conclusion, I will express my gratification at the whole tone of friendliness toward the prosecution of the canal enterprise under American auspices which characterized your conversation with me yesterday, and especially for the personal assurance you were pleased to give me that the franchise of the Maritime Canal Company would not be interfered with by the Nicaraguan Government until it lapses by its own limitation in October, 1899, unless, to use your own words, "the Government of the United States may desire to make a contract direct with this Government to build the canal itself."

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN NICARAGUA AND COSTA RICA.[1]

Mr. Lewis Baker to Mr. Sherman.

No. 790.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, May 15, 1897. (Received June 2.)

SIR: The commission of engineers on the Nicaragua-Costa Rica boundary-line question will meet in San Juan del Norte to-day and begin their labors, which are expected to extend over a period of twenty months.

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[1] See also under Costa Rica, p. 111, *ante*.

The members of the commission representing Nicaragua are William Climie, an English subject, and Salvador Castrillo, a prominent lawyer of Managua. The Costa Rica members are Louis Matamoros and Leonidas Carranza. The fifth member of the commission, and arbitrator, is E. P. Alexander, who was recently appointed by President Cleveland.

The ministers of Fomento of the respective Governments, José Antonio Roman, of Nicaragua, and J. J. Ulloa, of Costa Rica, will be present during the preliminary meetings of the commission. Pedro Pérez Zeledón will act as interpreter for the Costa Rica commissioners. The alternates acting for Nicaragua are Andres Urtecho and Pablo J. Thur de Koós.

I have, etc., LEWIS BAKER.

Mr. Lewis Baker to Mr. Sherman.

No. 852.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 12, 1897. (Received Nov. 2.)

SIR: Great satisfaction has been expressed here over the decision of General Alexander, the referee as to the true meaning of the Cleveland award, as to the starting point on the Atlantic side of the boundary line between Nicaragua and Costa Rica.

I assume that the final settlement of this question will be favorably received in the United States, and especially by the friends and promoters of the Inter-Oceanic Canal. As long as the exact location of the line was questioned, it afforded opportunities for embarrassments to the company having this work in charge. It is now settled that the line of the canal will be entirely within the territory of one government, viz, Nicaragua.

I have, etc., LEWIS BAKER.

Mr. Sherman to Mr. Lewis Baker.

No. 618.] DEPARTMENT OF STATE,
Washington, November 3, 1897.

SIR: I have to acknowledge the receipt of your dispatches Nos. 852 and 857, dated, respectively, the 12th and 18th ultimo, both relating to the award of Gen. E. P. Alexander,[1] the engineer arbitrator of the commissions of limits of Costa Rica and Nicaragua. The first-named dispatch states that great satisfaction has been expressed in Nicaragua over the decision, and the latter transmits a copy of the award.

In this connection I inclose herewith for your information a copy of a note, dated the 29th ultimo, from the Costa Rican minister at this capital announcing that his Government has accepted the award.

You will report to the Department as early as possible whether Nicaragua also accepts.

Respectfully, yours, JOHN SHERMAN.

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[1] Printed on p. 113, *ante*.

Mr. Baker to Mr. Sherman.

No. 875.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 29, 1897.
(Received Jan. 3, 1898.)

SIR: Referring to your No. 618 of the 3d instant, I have to report that on the 25th instant I addressed a note to President Zelaya, asking him for an official expression as to the position of Nicaragua upon the award of Gen. E. P. Alexander, the engineer arbitrator of the commissions of limits of Costa Rica and Nicaragua.

I inclose herewith a copy of President Zelaya's reply and a translation of the same. You will observe that the Government of Nicaragua has accepted the award, and the people of the country have received it with pleasure.

I have the honor, etc., LEWIS BAKER.

[Inclosure in No. 875.—Translation.]

President Zelaya to Mr. Baker.

NATIONAL PALACE,
Managua, November 27, 1897.

MR. MINISTER: In reply to your estimable communication of the 25th instant, in which you were pleased to ask me, in the name of your Government, if Nicaragua has accepted the award of the arbitrator appointed by the President of the United States to determine the points of disagreement between the commissions of Nicaragua and Costa Rica, charged with the tracing of the division line, the award relating to the starting point on the Atlantic, I must indicate to your excellency that my Government has accepted with pleasure the said award, because it was inspired by justice, based upon impartial and honest judgment, and the Nicaraguan people have received it with equal pleasure.

It is my duty to indicate again the gratitude of the Government of Nicaragua for the wise appointment of the engineer arbitrator made by the President of the United States in the person of the honorable Mr. Alexander, whose illustrious and honored procedure has contributed to give a pacific solution to the boundary dispute between Nicaragua and Costa Rica.

Taking this opportunity to repeat to your excellency, etc.,

J. S. ZELAYA.

CONCESSIONS TO THE ATLAS STEAMSHIP COMPANY.

Mr. Baker to Mr. Sherman.

No. 802.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, June 14, 1897. (Received July 3.)

SIR: I inclose herewith a printed copy of a contract, and a translation of the same, made by the Government of Nicaragua with the Atlas Steamship Company, limited, a British corporation, for the exclusive navigation of the San Juan River and Lake Nicaragua. This exclusive right

is in contravention of a provision of the constitution of this Republic, which prohibits the giving of exclusive privileges for the navigation of any of the waters of the State. One of the most prominent features that will probably challenge your attention is the interference that this is bound to create with any treaty that may hereafter be proposed for the building of the canal. While this contract assumes to protect the present concession of the Maritime Canal Company, it makes no provision for a future treaty with the United States. This is submitted for the consideration of the honorable Secretary, and I await any observations upon the subject you may desire to make.

I have, etc., LEWIS BAKER.

[Inclosure in No. 802.—Translation.]

CONTRACT

Greater Republic of Central America, State of Nicaragua. Official Daily, Third Epoch.

No. 256.] OFFICE OF PUBLIC WORKS,
Managua, Sunday, June 13, 1897.

Manuel Coronel Matus, minister of public instruction, temporarily in charge of the office of public works, representing the Government of the State, and Louis Wichmann, representing the Atlas Steamship Company, Limited, according to the authority given him, have arranged the following contract with the idea of developing the steam navigation of Lake Nicaragua and the River San Juan del Norte, which each day becomes less navigable, and to facilitate the communication to the Atlantic, on which great interests depend, and with the expectation of developing the commerce and agriculture and thus improving the situation in the country.

1. The Government, in consideration of the great expenses to which the Atlas Steamship Company, Ld., will be subject, gives it the exclusive right of steam navigation in the Silico lagoon for 30 years from the final approval of this contract, and the exclusive right for the same time of constructing tramways and railroads along the line, and at the best places to avoid the obstacles in the River San Juan.

2. The company is obliged to construct on its own account a narrow-guage railroad which will place in communication a point at the Colorado Junction and another convenient point on the Silico lagoon, avoiding the navigation of the dry and most difficult part of the River San Juan, thus making more rapid the transit during the summer to the port of San Juan del Norte. The length of this line will be, more or less, five miles, and at the terminals of the line the company shall build houses and wharfs, which are necessary for passenger and merchandise traffic and other services.

3. The Government will give the company $5,000, silver, for each mile of railroad constructed, in successive monthly payments of $1,000, from the time the governor of San Juan del Norte has been advised that the work of railroad construction has been begun. In case the work is interrupted the payments will be suspended until the work is continued.

4. The Government declares this a work of public utility. Therefore, the company can appropriate the lands of private parties which are required for the right of way, observing the laws which govern such action. The company will have the right to occupy, without paying for the same, the national lands which the line crosses and a strip of land 100 varas wide for the entire length of the line between the expressed terminals.

5. The Government, in the same manner, gives the company the right to cut in the national woods adjacent to Lake Nicaragua and the River San Juan, without payment all the wood which is required for the use of steamers, tramways, railroads, wharves, houses, shops, etc., etc.

6. The Government concedes to the company the right to occupy, in the ports and places of transit, the national lots of land which are necessary for the establishment of warehouses, tramways, offices, shops, stations, etc., etc. It is understood that the lots will be selected satisfactory to the Government, and in case any of them belong to private parties the Government will authorize appropriation of the same. The company will pay all damages if the prices can not be agreed upon with the respective owners.

7. The employees and operators of the company will be exempt from civil and mili-

tary service and the authorities will extend this exemption in all cases that may be for the good service of the company.

8. The steamers, railroads, tramways, stations, shops, houses, etc., etc., used by the company will be free from national and municipal taxation during the term of this contract.

9. The company can import free of custom-house and local duties all machinery, tools, materials, coal, provisions, and other articles necessary for the service, excepting strong liquors, which will be subject to the strict fiscal regulations and orders of the minister of the treasury.

10. The company will have the free use of the national telegraph for its own service.

11. The railroad being finished from the Silico lagoon, the Government, if it thinks advantageous to its interests and to those of the company, will move the custom-house at Castillo to a point which will hinder, in the least possible way, the rapid transportation of merchandise.

12. The company is obliged to make with its steamers at least three trips a month between Granada and San Juan del Norte and vice versa, and to touch at least once a month in all the inhabitant ports of the lake where the steamer *Victoria* can enter, or other steamer of the same tonnage. On all its trips the company will carry, without remuneration, the mails of the State. The indicated trips will be subject to an itinerary, the Government and public being notified, which can not be changed without three months' notice. For each violation of the itinerary, which is not justifiable, the company will be fined from $25 to $100, which will be paid to the Government.

13. The passenger and freight rates will be in the money of the country and the most moderate which the expenses of the company will admit. The Government will have the right of 30 per cent discount in the passage of its employees and other persons who go on account of the Government, and 50 per cent discount on its cargo and troops.

14. In case of war the steamers of the company will be under the order of the Government, and they may be used for its account. On their return such losses and damages will be recognized as their use has occasioned, which will be valued by an engineer appointed jointly and by two arbitrators, one by each party. If the arbitrators do not agree on the damages a third will be appointed by them, and the decision will be final.

15. The company is obliged, when it is possible, to begin work on all parts of the River San Juan so that navigation can be carried on during the entire year without interruption and with facility. If the work to carry on these improvements requires large capital the Government may make new concessions to the company, in accordance with the surveys and information presented, with the idea of deepening the river six feet in the shallow parts and opening the bar for steamers of heavy tonnage.

16. The present contract may be transferred to another person or foreign company but in no case to another government, either all of it or part of it, directly or indirectly. In case it is turned over to a company which has its headquarters outside of this country, a representative must be maintained in this country amply instructed and authorized for all judicial and extrajudicial business, and the said company will be subject to the laws of the State of Nicaragua.

17. The company will have an agent in Nicaragua to carry into effect the preceding clause. The differences which may occur concerning the interpretation and application of this contract will be subject to arbitration in the manner outlined in clause 14.* The arbitration tribunal will be established at least 15 days after notification has been made by either side, and its final decision will be given within six months, which will be without appeal.

18. If within three years from date the railroad from Salico lagoon to the River San Juan is not completed this contract will be considered null. The work of construction of the said railroad line must be commenced at the latest within one year after signing this agreement, and in case it is not done the company will lose its deposit of $5,000 gold, which it is obliged to deposit within six months in the national treasury of the State under penalty of forfeiting this contract. This deposit will be returned to the company on the completion of the railroad.

19. This concession will not be an obstacle in the way of the contracts which the Government has relative to the opening of the Inter-Oceanic Canal along the same line, nor will it affect the contract for the same which has been made.

20. It is understood that the Government can not, during the time of this agreement, give a concession to any other steamship company which may be established in Lake Nicaragua.

In faith of which we sign in Managua the 5th of June, 1897.

M. C. MATUS,
LOUIS WICHMANN,
For the Atlas Steamship Co., Ld.

Approval of the foregoing contract.

Observing the foregoing contract, and agreeing to its contents, the President of the State gives notice of his approbation.

Managua, June 8, 1897.

ZELAYA,
The Minister of the Treasury, in charge of the Office of Public Works.
LOPEZ.

Mr. Baker to Mr. Sherman.

No. 849.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 1, 1897. (Received Nov. 2.)

SIR: Referring to my No. 802, of June 14 last, concerning the concession granted by the Government of Nicaragua to the Atlas Steamship Company, a British corporation, for the navigation of the San Juan River and Lake Nicaragua, I have to report that the Congress of Nicaragua approved on September 29 the concession with two additions, viz, articles 21 and 22. I inclose a copy of the same with a translation. The idea conveyed in article 21 is that for all money expended by the Atlas Company in making improvements in the San Juan River it shall be reimbursed by the canal company. The Government of Nicaragua will not be obliged to indemnify the Atlas Company on any account.

I have, etc.,

LEWIS BAKER.

[Inclosure in No. 849. Translation.]

ARTICLE 21.

In case of expropriation on account of the opening of the Interoceanic Canal and in consideration of the expenses which the company shall have defrayed, the company shall be indemnified for the material value of the undertaking by said (canal) company, which company shall have to pay the indemnity, it being understood that the Government of Nicaragua will in no case be obliged to pay (the Atlas Company) any indemnity.

ARTICLE 22.

In no case nor on any account will the company or its representative have the right to ask diplomatic interference. The home of the company shall remain in Nicaragua.

Mr. Baker to Mr. Sherman.

No. 870.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 22, 1897. (Received Dec. 13.)

SIR: I beg to call your attention to the inclosed clipping from the New York Herald of October 11 last, and particularly to the statement in the second paragraph, which reads:

Fearing injury to the rights of the American corporation, the State Department recently cabled to Minister Baker, at Managua, directing him to examine the concession, and in case it conflicted with that of the canal company to enter a strong protest. The result of Mr. Baker's examination is not known to the Department, which is awaiting with some eagerness the receipt of a copy of the concession.

I have received no instructions, up to date, from the State Department, either by cable or mail, upon this subject.

You will observe from my No. 802 of June 14 last, that I called your attention to the leading features of the concession, and concluded with the following words: "I await any observations upon the subject you may desire to make." With this dispatch, I inclosed a copy of the concession signed by President Zelaya and the minister of public works. In my No. 849 of October 1, I reported that this same concession, with two additional sections, which I then inclosed, had been approved by the Congress of Nicaragua.

Awaiting your instructions, I am, etc.,

LEWIS BAKER

Mr. Sherman to Mr. Merry.

No. 8.] DEPARTMENT OF STATE,
Washington, December 17, 1897.

SIR: I have to acknowledge the receipt of Mr. Baker's dispatch, No. 870, of the 22d ultimo, calling attention to a clipping from the New York Herald of October 11 last, in which the statement is made that the Department had a short time before sent him a telegram directing him to examine the concession granted by Nicaragua to the Atlas Steamship Company for the navigation of Lake Nicaragua and the River San Juan del Norte, and in case he should find that said concession conflicted with the rights of the Nicaragua Canal Company to enter a strong protest against it.

In reply, I have to inform you that no instructions on the subject have been sent to Mr. Baker. You will, however, examine the matter of the concession and report your views thereon to the Department, but you will take no other action until you are further instructed.

Respectfully, yours,

JOHN SHERMAN.

PROTECTION OF CHINESE IN NICARAGUA AND SALVADOR.

Mr. Baldwin to Mr. Baker.

No. 470.] DEPARTMENT OF STATE,
Washington, July 3, 1896.

SIR: I inclose herewith copy of a note from the Chinese minister at Washington, who asks, in consequence of the absence of any treaty relations of China with Nicaragua and Salvador permitting China to appoint consular representatives, that you and our consular officers may be allowed to exercise your and their good offices in behalf of the Chinese subjects living in those Republics.

Your efforts are to be confined to the friendly intervention in case of need for the protection of the Chinese in their person and property from unjust and harsh treatment. You are not to hold any representative character or function as respects the Chinese Government, and are to act informally. Before taking any steps in the matter, however, you should represent to the Governments of Nicaragua and Salvador, respectively, the wish of the Chinese Government and the willingness of your

Government to accede thereto, as herein indicated, provided the assent of the authorities of Nicaragua and Salvador is entirely favorable.

Their decisions upon the subject should be reported to the Department.

I am, etc., W. WOODWARD BALDWIN,
Acting Secretary.

Mr. Olney to Mr. Baker.

No. 535.] DEPARTMENT OF STATE,
Washington, February 6, 1897.

SIR: Referring to the Department No. 470, of July 3 last, respecting the exercise of the good offices of our diplomatic and consular officers to Chinese subjects residing in Nicaragua and Salvador, and to your No. 693, of September 4 last, reporting that Salvador will allow the representatives of the United States to exercise their good offices unofficially in behalf of Chinese subjects, I inclose herewith copy of a note from the Chinese minister at this capital, stating that a delegation of Chinese who called upon the consul at San Salvador was informed by him that he deemed it necessary to receive explicit instructions from this Government before he would feel authorized to exercise his good offices.

The terms upon which protection is granted, at the request of the Chinese Government and with the acquiescence of that of Salvador, are stated in the correspondence had with your legation, and the Government of Salvador has been informed of the scope of such protection, good offices being extended in behalf of Chinese persons by you and the consular officers without assumption of any representative function as agents of China. It of course follows that our officers so acting can not originally certify to the fact of Chinese citizenship for a passport or other documentary attestation to that end, which could only be issued by a responsible agent of the Chinese Government.

This being so, a form of certificate to be used by you and the consul at San Salvador should be prepared in consultation with the Salvadorean minister for foreign affairs, in order that it may correctly express the character of the protection afforded and the degree to which it is recognized by Salvador. Something like this would probably suffice:

I, ——— ———, of the United States of America, *certify:* That ——— ——— claims to be a subject of the Emperor of China, resident in Salvador, and that upon proving his status as such Chinese subject he is under the protection of the Government of the United States and entitled to the good offices of the diplomatic and consular officers thereof in case of need, in pursuance of an understanding between the Governments of Salvador and China to that end.

Similar action should be taken as regards Nicaragua, who, your No. 687, of August 21 last, reported, had likewise conceded the exercise of your good offices.

You will inform the consul at San Salvador of the situation and send him a copy of this instruction.

I am, sir, etc., RICHARD OLNEY.

PERSIA.

PROHIBITION OF THE IMPORTATION OF BOOKS INTO PERSIA.

Mr. McDonald to Mr. Olney.

No. 278.] LEGATION OF THE UNITED STATES,
Teheran, Persia, January 25, 1897.

SIR: I herewith transmit a translation of an order from the foreign minister, by direction of the Shah, prohibiting the importation of books into Persia, except under certain vexatious restrictions. I shall protest against this edict as unjust to foreigners residing in the Kingdom and as contrary to the spirit of the age.

I have, etc.,

ALEX. MCDONALD.

[Inclosure in No. 278—Translation.]

The Minister for Foreign Affairs to Mr. McDonald.

TEHERAN, *January 20, 1897.*

SIR: In accordance with the will of His Imperial Majesty, the Shah, it has been ordered that all books, whether of a sacred, religious, or other description, which subjects of foreign states may desire to introduce into Persia, the importation and sale thereof are to depend upon the special permission of the ministry of science of this Government.

And furthermore, the transportation of such books from any city of the cities of Persia to other districts or provinces of this State is to rest upon the authorization of the above-mentioned ministry of science. And the transit permit of this ministry must contain the names, the number, and other necessary descriptions of the books; and without permission and transit pass of the science department any book imported into Persia or is transported and delivered at various cities, such books will be confiscated and attached, and the offender be required to answer for his action.

I now beg most respectfully to inform your excellency that thirty-three days from this date this order will take effect.

You will be good enough to bring this order to the notice of the citizens of your Government and communicate the announcement wherever it may be necessary.

I avail myself, etc.,

(Seal of the Mushir-ed-Dowlah.)

Mr. McDonald to Mr. Olney.

No. 282.] LEGATION OF THE UNITED STATES,
Teheran, Persia, February 25, 1897.

SIR: Referring to my dispatch No. 278, concerning certain restrictions placed on the introduction of books into Persia, I have the honor to forward further correspondence on the subject. After receiving the response of the foreign minister to my protest, herewith inclosed, I called on his excellency by appointment, and had an interview with him in further elucidation of the matter. I stated to him that my countrymen were complaining of the hindrance and hardship that the order, if executed, would work on their educational and religious operations, and that they were urging me to endeavor to have it rescinded. His excellency responded that so far as books for educational, scientific, and literary purposes were concerned there was no desire or purpose to restrict them, and that the necessary permits would be freely issued; but as to books of a religious character, if designed for distribution among Mohammedans, it would be different; that trouble had been caused in the south of Persia by the distribution by English missionaries of such books, and even money among the Mohammedans, which had greatly excited the mohlus or priests, who are so powerful with the people, and that serious trouble was feared, for which the Government could not be responsible. Therefore it had taken this step to preserve the peace and quiet of the country, and not simply to enforce vexatious conditions on the missionaries. As far as the circulation of religious books among the anti-Mohammedans, Jews, etc., was concerned, there was no purpose or desire to interfere with that.

This is the status of the question at the present moment, and if the Department has any instructions to give concerning it I would be pleased to receive them.

I have, etc., ALEX. MCDONALD.

[Inclosure 1 in No. 282.]

Mr. McDonald to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES.
Teheran, January 28, 1897.

YOUR EXCELLENCY: I have to acknowledge the receipt of your communication informing me of certain restrictions and obstructions placed on the importation of books into Persia. I have to express my regret at this edict, which will, I fear, work serious inconvenience and hardship on my countrymen in the prosecution of their educational and other pursuits, and which seems so at variance with that liberal spirit of the age which encourages the circulation of books and the dissemination of intelligence.

I beg leave to make respectful protest against this obstructive and vexatious order and to express the hope that His Majesty, in his wisdom and for the good of his Empire, will, on second thought, deign to countermand it, and allow the continued entrance of all proper books into his dominions with as little hindrance as possible.

I take this opportunity, etc.,

ALEX. MCDONALD.

[Inclosure 2 in No. 282—Translation.]

The Minister for Foreign Affairs to Mr. McDonald.

TEHERAN, *February 20, 1897.*

YOUR EXCELLENCY: In explanation of my communication of the 20th of January, I beg further to inform you that all books of a scientific, historical, or what may be called of a scholastic character, to be used in the tuition of either native or foreign children, will, with the permit and certificate of the ministry of public instruction, be free from all interference, as they always have been and always will be. Sacred and religious books for the sole use of the professors of such religions, may with the permit of the ministry of public instruction, be imported, but all such books brought for the purpose of being distributed gratis amongst the people, and of propagating an alien religion in Persia, are forbidden and strictly prohibited.

And if such books should get into the hands of the authorities they will be confiscated and destroyed and they will not be responsible for the consequences.

I take this opportunity, etc.,

(Seal of the Mushir-ed-Dowlah.

Mr. Sherman to Mr. McDonald.

No. 194.] DEPARTMENT OF STATE,
Washington, April 6, 1897.

SIR: I have to acknowledge the receipt of your No. 282, diplomatic series, of February 28 last, concerning certain restrictions placed on the introduction of books into Persia.

The Department reserves instructions should well-grounded complaint of interference with any just right of citizens of the United States be brought to its knowledge with due averment of all necessary facts upon which to reach a decision.

Respectfully, yours, JOHN SHERMAN.

PERSECUTION OF JEWS.

Mr. McDonald to Mr. Sherman.

No. 294.] LEGATION OF THE UNITED STATES,
Teheran, Persia, May 17, 1897.

SIR: I have the honor to report that yesterday I interposed unofficially in behalf of the Jews of this city, who, by concerted action, were subjected to riot and mob violence by the Mohammedans. In the morning I received a message from Rev. Mr. Ward, one of the American missionaries, saying that a massacre, or at least a persecution, was going on in the Jewish quarter, and asking me to do all I could to stop it. I immediately drove to the palace and had an interview with the Amin-ed-Dovlet, the chief of the Shah's ministers. I told him what I had heard, and, without any authority in the matter, I had come in the interest of humanity to ask that immediate steps be taken for the pro-

tection of the assaulted people—that they were a race without a country or government of their own to defend them; that they were, as a rule, harmless and inoffensive, and I in the emergency felt like speaking strongly for them in behalf of myself and my country, where so many of them are domiciled. His excellency replied that he was informed there had been some serious trouble; some Jews had been beaten and roughly treated; that they had been required to have their hair cut in a certain way, and to put on a red badge to designate their race; but he was informed by the governor of the city that the maltreatment had ceased and order had been restored. He said that he himself was a friend of the Jews and would endeavor to see that they were not mistreated. I then thanked him and retired. On reaching the palace grounds I was surrounded by a number of Jewish women who had come for redress, and who were loud in their complaints and grateful in their expressions for what I was trying to do for them. Later in the day Mr. Tyler, interpreter and vice-consul general, drove to the Jewish quarter and said he found all quiet. I understand that the English legation also took some steps in the matter.

I have, etc., ALEX. MCDONALD.

Mr. McDonald to Mr. Sherman.

No. 296.] UNITED STATES LEGATION FOR PERSIA,
Teheran, May 20, 1897.

SIR: In continuation of my dispatch No. 294, I have the honor to inclose a later note to the Amine-ed-Dowlah, concerning the outrages on the Jews, since which I believe matters have quieted down, as I hear of no further disturbances. I have taken greater interest in this matter because the American missionaries have schools in the Jewish quarter and are greatly interested in them.

I have the honor, etc., ALEX. MCDONALD.

[Inclosure in No. 296.]

Mr. McDonald to the Amine-ed-Dowlah.

LEGATION OF THE UNITED STATES, *May 17, 1897.*

YOUR EXCELLENCY: In the conversation which I had with you yesterday morning I was given to understand that the persecution and ill treatment which was being inflicted upon the Jews had ceased. I regret to state to you, however, that I have just been informed that there has been a renewal of the maltreatment, and that many have been subjected to ill usage and indignities, while the government ferashes (police) sent, I presume, to restore order have forcibly taken money, and left without effecting anything for the preservation of the peace of the district. I have not the remotest desire to interfere or to make any suggestions as to the administration of the affairs of this city, but from motives of humanity and of sympathy with those who are called upon to suffer, I appeal to you to put an end to this molestation and interference with the liberties of this loyal, intelligent, and industrious section of His Majesty's subjects.

I have, etc., ALEX. MCDONALD.

Mr. Sherman to Mr. McDonald.

No. 203.] DEPARTMENT OF STATE,
Washington, July 8, 1897.

SIR: Your dispatches Nos. 294 and 296, dated, respectively, May 17 and 20 last, in which you reports that you have tendered your good offices in behalf of the Jews of Teheran who were being subjected to mob violence at the hands of the Mohammedans of that place, have been received.

In reply I have to say that your good offices in this somewhat delicate question seem to have been discreetly used in the interest of common humanity and in accordance with the precepts of civilization.

Respectfully, yours,

JOHN SHERMAN.

PORTUGAL.

ALLEGED INSULT TO THE PORTUGUESE FLAG.

Viscount de Santo-Thyrso to Mr. Sherman.

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
July 21, 1897.

MOST ILLUSTRIOUS AND MOST EXCELLENT SIR: As I told you in the course of the conversation which I had the honor to have with your excellency on the 7th instant, I instructed Mr. Laidley, in charge of His Majesty's consulate at San Francisco, to investigate the insult to the Portuguese flag at Monterey, Cal. Mr. Laidley, after having been to Monterey, where he has made a personal investigation of the case, reports to me as follows:

Manuel Ortins, a man of Portuguese origin, who is naturalized as an American citizen, desiring to celebrate the 4th of July, hoisted over his house the American flag, which is his own, and, together with it on another corner of the roof, the flag of his forefathers, viz, the Portuguese flag. I mention these facts inasmuch as they show with what care the investigation was made, and the fact that the situations of the two national emblems were altogether similar so that they were not calculated to irritate the most delicate susceptibility. The flagstaffs on which the flags were raised, adds Mr. Laidley, were of the same height and about 26 feet apart.

At about noon on the aforesaid 4th of July someone told Ortins that the Portuguese flag was not on the flagstaff, and that a certain Mr. Seely had paid a boy 16 years of age, named Thomas Harvey, to haul it down.

Ortins, having ascertained that such was the fact, again hoisted the Portuguese flag in the same place. The flag was subsequently again taken down by another youth, named Harry Pennington, who gave it to a man called Happy Harry, who disappeared with it. In the evening the flag was burned at a place called Whale Point, but the acting consul at San Francisco was unable to find out by whom.

Two pieces of the flag were found on the morning of the 5th (6th?) by Manuel José da Silva, a subject of His Majesty, and were delivered by him to Mr. Ernest Michaelis, a justice of the peace.

Ortins complained to the local authorities, who instituted proceedings against M. P. Seely for "disturbing the peace." As Seely stated that he had important business in San Francisco he was admitted to bail in the sum of $20 and the trial was adjourned sine die.

The insult to the flag of a friendly country is evident and is aggravated by the fact that it occurred in a State in which there is a numerous Portuguese colony, and in which, consequently, it might have given rise to conflicts which would certainly have been equally lamented by His Majesty's Government and by that of the United States of America.

I am firmly convinced that the American courts to which the judicial question is intrusted will decide it in accordance with right and law, not losing sight of the gravity of the case.

As to the purely international question, I know the respect which the American Government has for the rights and the dignity of others, and the words that your excellency did me the honor to address to me on this subject have still further confirmed me in my previous conviction.

I therefore confine myself to a simple statement of the facts, leaving it to your excellency, with your spirit of enlightenment, and to the sentiments of justice and courtesy of the American Government, to form a proper estimate of said facts.

I avail myself, etc., SANTO-THYRSO.

Mr. Adee to Viscount de Santo-Thyrso.

No. 24.] DEPARTMENT OF STATE,
Washington, July 28, 1897.

SIR: Referring to your note of the 21st instant, and your oral communications since then, concerning an alleged insult to the Portuguese flag at Monterey, Cal., I have the honor to inform you that I have received, under direction of the governor of California, a copy of the report submitted by the district attorney of Monterey County, with a complete copy of the testimony taken in the investigation, which was promptly ordered upon your request.

Mr. Zabala, the district attorney, reports that it was with difficulty that he secured the testimony in the case, being unable to obtain much assistance at the hands of reluctant witnesses, whose unwillingness to testify he attributes, not to any desire on the part of the citizens of Monterey to suppress the facts in the case, but to the natural aversion of the people to become witnesses at any time.

The testimony indicates that the Portuguese flag was flying, as described by you, side by side with the American flag, on poles of equal height, but separated by the width of Mr. Ortins's shop, about 18 or 20 feet. It appears to have been taken down twice, the first time soon after noon, by some unknown person, after which it was raised again by Mr. Ortins; and the second time between 5 and 6 o'clock in the afternoon, when the halyards were cut by a small boy at the instance of one Harry Morton, after which it disappeared, and, although charred fragments were found at some distance from the spot, the person who burned the flag could not be identified.

A certain Captain Seeley, a drillmaster of the Monterey Cadets, is identified by several witnesses as having instigated the lowering of the flag in question.

The district attorney adds in his report that—

> The acts of both Seeley and Morton must not be attributed to the citizens, and the latter surely disavow all blame for the deeds of Captain Seeley, an adventurous drillmaster of unknown and unbegrudged antecedents, and of Harry Morton, an extremist in the imbibing from the flowing bowl.

I transcribe for your information the report of the district attorney and the testimony which accompanied the same, feeling assured that you will find therein abundant proof that the lawless act of which you have complained in no wise represented the feelings of the law-abiding portion of the community. That no insult to the Portuguese Government could be intended is obvious when it is considered that Mr. Ortins, who displayed the flag, was himself a naturalized citizen of the United

States, and as such had no right to fly the flag of the country of his origin for the distinctive purpose of protection or in assertion of any right claimable by him as a Portuguese subject. So far as his individual rights are concerned, he had a remedy at law against the guilty parties, but declined to lodge a complaint.

These circumstances, however, do not exclude sincere regret for the occurrence and disavowal of sympathy therewith on the part of the reputable citizens of Monterey, which I have now the pleasure to express to you.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Viscount de Santo-Thyrso to Mr. Sherman.

[Translation.]

PORTUGUESE LEGATION, *August 9, 1897.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of the note which Mr. Adee addressed to me on the 28th ultimo, during your excellency's absence, with regard to the Monterey affair, and I am much obliged for the explanations which it contained, and which I hastened to transmit to His Majesty's Government.

Permit me, your excellency, to avail myself of this opportunity to correct a slight mistake which appears to have been made in the State Department as to my intervention in this matter.

I only heard of the occurrence through the accounts in the newspapers, and subsequently through the report which was sent to me by my order by the person in charge of the consulate at San Francisco.

I have received no complaint from Manuel Ortins, nor, as he is now an American citizen, would I in any case presume to interfere in his behalf. Still, the Portuguese flag can never be regarded as a mere ornament; it is always a national emblem. When a friendly Government permits it to be raised in its territory by its own citizens, it naturally guarantees it the respect to which it is entitled. It was only upon these principles that I called your excellency's attention to the matter, and I am confident that the explanations which have been interchanged in so candid and friendly a manner between His Majesty's legation and the American Government will tend to strengthen the feelings of reciprocal esteem and mutual respect which have so long uninterruptedly united the two Governments.

I avail myself, etc.,

SANTO-THYRSO.

Mr. Sherman to Senhor da Costa Duarte.

No. 26.] DEPARTMENT OF STATE,
Washington, August 16, 1897.

SIR: I have the honor to acknowledge the receipt of Viscount de Santo-Thyrso's note of the 9th instant, explaining further his position in regard to the flag incident at Monterey, Cal.

The Department has forwarded a copy of this note to the governor of California for his information, thus closing the incident.

Accept, etc.,

JOHN SHERMAN.

RUSSIA.

BANISHMENT OF JOHN GINZBERG.[1]

Mr. Peirce to Mr. Sherman.

No. 473.] LEGATION OF THE UNITED STATES,
St. Petersburg, January 25, 1897. (Received Feb. 12.)

SIR: I have the honor to acknowledge the receipt of your No. 354 of January 4, inclosing copy of a letter from the governor of Montana in regard to the case of John Ginzberg.

Ginzberg has been, at my request, sent from Loguishin, in the province of Minsk, to Libau, from which port Mr. Neils P. Bornholdt, United States consul at Riga, who has a large shipping business, has promised for him opportunity to work his passage to Antwerp. I have requested Mr. Bornholdt to instruct his agents to hand over to Ginzberg 95 rubles, the amount of draft which has been received for him. As this is to Mr. Breckinridge's order, I have told Mr. Bornholdt that I would personally be responsible for the payment to him of the amount, but that I awaited the return of the minister before remitting. Ginzberg's departure for the United States may be expected in the course of the next ten days.

I may add with regard to this case that on the occasion of my last visit to the foreign office regarding him the officer immediately in charge of the documents in his case remarked with exclamation that according to usual practice he had been very leniently dealt with.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

Mr. Breckinridge to Mr. Sherman.

No. 501.] LEGATION OF THE UNITED STATES,
St. Petersburg, March 8, 1897. (Received March 22.)

SIR: Referring to Department's No. 372, of February 13, I have the honor to say that advices from our consul at Riga, Mr. Bornholdt, inform me that Mr. John Ginzberg has sailed from Libau for London by the steamer *Kiew*.

It gives me pleasure to state in regard to this protracted and interesting case that during my absence upon leave it has been followed up with zeal and discretion by Mr. Peirce, the chargé d'affaires ad interim, and that his efforts received the cordial and efficient cooperation of Mr. Bornholdt, our consul at Riga. Mr. Ginzberg, by the course followed,

[1] See Foreign Relations, 1895, Part II, pp. 1081–1096, and Foreign Relations, 1896, pp. 509–513.

has been slowly, but as rapidly as possible, relieved from the embarrassments that were found to exist even after his acquittal; and it is a great relief to be able to report that he is at last out of the Empire and safely on his way home.

Remittance of 95 rubles has been made to Mr. Bornholdt to cover money advanced by him to Mr. Ginzberg.

I may remark that an apparent result of the continuous and earnest efforts of the past two or more years is some amelioration of the unbending severity that previously marked the policy of the Russian Government in cases of this kind. Until, however, the still ineffectual efforts to effect a conventional arrangement with Russia, upon the subject of expatriation, are more successful, our citizens of Russian origin, unless with previous Russian consent, expose themselves to the gravest hardship by returning to the Empire.

I have, etc., CLIFTON R. BRECKINRIDGE.

Mr. Sherman to Mr. Breckinridge.

No. 385.] DEPARTMENT OF STATE,
Washington, March 25, 1897.

SIR: I have been gratified to receive your No. 501, of the 8th instant, announcing the departure of John Ginzberg for the United States, and commending the course of the secretary of your legation when in charge of his case.

Its happy disposition may illustrate the advantage of dealing with such matters in a friendly way, without unnecessary argument on the principles involved, as to which the views of the United States and Russia are apparently irreconcilable.

Respectfully, yours, JOHN SHERMAN.

THE GREEK CHURCH IN ALASKA.

Mr. Sherman to M. de Kotzébue.

No. 93.] DEPARTMENT OF STATE,
Washington, March 11, 1897.

SIR: Referring to your memorandum of certain requests preferred by Bishop Nicholas, of Alaska, which you left with my predecessor on the 18th ultimo, I have the honor to say that I am in receipt of a letter from the Secretary of the Treasury stating that the agent of his Department in the Pribilof Islands will be instructed henceforth to permit the duly accredited representatives of the Greek Church in Alaska to land on those islands, whenever and as often as they may desire, subject to the discontinuance of this permission, whenever in the judgment of the resident agent such discontinuance may be necessary for the best interests of the United States Government. The captains of our revenue cutters will be instructed also to grant them free transportation between Unalaska and the Pribilof Islands, such permission, however, not to interfere with the free movement of the vessels under their command.

Mr. Gage adds that the Treasury Department is not at present prepared to give a definite answer to the request made that permission be granted to the priests to teach the gospel in the school conducted by the North American Commercial Company, under its contract with the Treasury Department, on Saturdays and Sundays, if not on other days of the week.

Accept, etc.,

JOHN SHERMAN.

MILITARY SERVICE.

Mr. Sherman to Mr. Breckinridge.

No. 485.] DEPARTMENT OF STATE,
Washington, November 9, 1897.

SIR: I have to acknowledge the receipt of your No. 635 of the 23d ultimo, reporting that the application of Mr. Marks Nathan, an American Hebrew, to visit Russia, had been granted by the minister of the interior.

In this connection I inclose copy of a letter from Mr. Charles L. Aarons, of Milwaukee, transmitting copy of a reply made by the Russian legation at this capital to a request for permission made, in behalf of a naturalized American citizen of Russian birth, to visit Russia.

This reply was couched in terms new to this Department.

It may be prudent to inquire if the condition of five years' service in the Russian army is in lieu of the criminal liability incurred under article 325 of the Penal Code for the offense of becoming a naturalized citizen in a foreign country and whether the same condition of return extends to Jews. If penal exile to Siberia or arrest and expulsion as a Jew should lie, the reply of the Russian legation would seem to be unnecessarily silent as to these possible aspects of the case.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 485.]

Mr. Aarons to Mr. Sherman.

MILWAUKEE, WIS., *November 4, 1897.*

ESTEEMED SIR: Mr. Harry Marks, of this city, is a citizen of the United States and of this State of long standing.

He is desirous of making a visit to Russo-Poland, his birthplace, to visit his aged parents, whom he left about twenty years ago, and makes this request for a passport or such other authority as will show his citizenship and right to travel. He is in possession of his first and second citizenship papers, and will forward them to you if necessary.

He begs furthermore to call your attention to the following: On his behalf, I have recently written to the Russian ambassador, at Washington, stating that Mr. Marks left his native land at the age of 17 and for no other purpose than to earn a living for himself and for his parents. He has been doing this in this country ever since; consequently he was not in Russia at the time when his enlistment would have taken place at the age of 21 years.

I wrote asking the Russian ambassador that a special permit from him be given to Mr. Marks assuring him that he would not be disturbed and allowing him to visit his birthplace. I herewith inclose copy of answer received by me.

I, as well as many others here who are awaiting the outcome of this matter with deep interest, would greatly appreciate any consideration that you can bestow upon this matter.

Awaiting your reply in the inclosed stamped envelope, I am, etc.,

CHAS. L. AARONS.

[Subinclosure in No. 485.]

Mr. Zelenoi to Mr. Aarons.

No. 488.] RUSSIAN IMPERIAL LEGATION,
Washington, October 20/November 1, 1897.

DEAR SIR: In reply to your letter I have the honor to inform you that everyone who left Russia before his enlistment in the army on his return to that country must serve his term, which is five years. Before speaking of a permit I found it necessary to announce you this matter. If Mr. Harry Marks is willing to serve his country five years as a soldier we can consider his case.

Believe me, sir, yours, truly,

A. ZELENOI,
Secretary of the Russian Legation.

Mr. Hitchcock to Mr. Sherman.

No. 8.] LEGATION OF THE UNITED STATES,
St. Petersburg, December 22, 1897.

SIR: Referring to your No. 485 of November 9, I have the honor to inclose herewith copy of a note of this legation of November 26/December 8, and of the reply of the Imperial Government thereto, dated December 20.

It appears from Count Lamsdorff's note that the five years' service referred to by the Imperial legation at Washington is not in lieu of the criminal liability incurred under article 325 of the Penal Code for the offense of becoming a naturalized citizen of a foreign country without permission of the Imperial Government, and that condition, as regards military service, applies to all subjects of the Empire irrespective of religion, and hence extends to Jews.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure 1 in No. 8.]

Mr. Breckinridge to Count Mouravieff.

LEGATION OF THE UNITED STATES,
St. Petersburg, December 8, 1897.

YOUR EXCELLENCY: I have the honor to inclose a copy of a letter from the Imperial legation at Washington of October 20/November 1, sent me by my Government, with instructions to inquire if the conditions of five years' service in the Russian army, therein referred to, is

in lieu of the criminal liability under article 325 of the Penal Code for the offense of becoming a naturalized citizen of a foreign country without Imperial consent, and whether the same condition of return extends to Jews?

It may be observed that the communication from the Imperial legation was sent to the Department of State by the applicant in the usual course of correspondence about his desires to procure a permit to return to Russia on a visit; but that its failure to mention the liabilities formerly given as imposed suggested the inquiry as to the present status of the law on the subject.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 2 in No. 8.—Translation.]

Count Lamsdorff to Mr. Hitchcock.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERNAL RELATIONS,
St. Petersburg, December 8/20, 1897.

MR. MINISTER: Referring to the note of November 21/ December 8, I hasten to communicate to you that the five years of military service mentioned in the letter of Mr. Zelenoi are not in lieu of the penalties established by article 325 of the Penal Code for unlawful abandonment of Russian subjection. All the subjects of the Empire, without distinction of religion, are held to serve during that time under the flag.

Accept, etc.,

Count LAMSDORFF.

RUSSIAN LAWS CONCERNING EXPATRIATION.

Mr. Breckinridge to Mr. Sherman.

No. 507.] LEGATION OF THE UNITED STATES,
St. Petersburg, March 11, 1897.

SIR: Referring to the Department's No. 244 of May 16, 1896, I have the honor to transmit herewith copy and translation of the note of Count Lamsdorff of March 4/February 20, and its inclosure, replying to my inquiry in regard to the Russian law concerning expatriation.

Although the present reply does not fully state how far in response to inquiry No. 5 the claims of the Empire continue upon the descendants of a Russian subject born abroad, yet I have been heretofore verbally informed by the legal adviser of the ministry of foreign affairs, and again was so informed on yesterday, that they continue without limit as to generations of descent and regardless of where they are born.

While seeking to procure amelioration of the condition of American citizens of Russian nativity, I have not failed to point out to the Russian Government how, if possible, even more acutely repugnant to the American sense would be the application of such a doctrine to those born upon our soil.

I believe it is appreciated by the ministry of foreign affairs that, in view of the constant troubles arising from the return of former Russian

subjects to the Empire and the generation or more that has marked the residence of some of that class in our country, the occurrence of such cases is a matter of almost daily chance.

It is further seen that as our Government recognizes no distinction between its citizens of native and foreign origin, the fortuitous introduction of the question here involved would be likely to so quicken the sympathies and convictions of all as to reasonably embarrass, for a time, at least, that calm and kindly consideration of the subject which is desired and manifested by both Governments.

I may say that a proposed Russian law, now and for some time under consideration, contemplates the repeal of all that part of the present law which extends the prescribed claims and penalties to descendants of claimed Russian subjects born abroad. I think that influential Russian sentiment here feels that Russia owes it to herself to essentially modify these effete laws, and that those charged with the consideration of the matter are seriously desirous of working out a change, guarding the while certain peculiar difficulties which they consider still environs them in the application of the more desirable policy.

I have in view some further conferences, the results of which will be duly made known to you.

I have, etc., CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 507.—Translation.]

Count Lamsdorff to Mr. Breckinridge.

No. 1861.] IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, February 20/March 4, 1897.

MR. MINISTER: By the note of June 25/July 7, 1896, you had the goodness to apply to the Imperial ministry of foreign affairs for information relative to Russian subjects who have become naturalized citizens of the United States without the consent of the Imperial Government.

Referring to this request, I have the honor to transmit to you herewith a translation in French of the articles of law relating to the questions you were good enough to propound in the above-mentioned note.

I avail myself of this occasion to renew to you, Mr. Minister, the assurance of my most distinguished consideration.

Count W. LAMSDORFF.

[Inclosure 2 in No. 507.—Translation.]

Text of laws.

Question. Does the change of allegiance without consent entail loss of property as well as loss of civil rights and liability to banishment?

Answer. Articles 325 and 326 of the Criminal Code:

Article 325. Whoever, absenting himself from the Fatherland, enters into the service of a foreign power without the permission of the Government, or becomes the subject of a foreign power, is liable, for this violation of his duty and oath of fidelity, to the loss of all his civil rights and perpetual banishment from the Empire, or, if afterwards he returns voluntarily to Russia, to deportation to Siberia.

Article 326. Whoever, absenting himself from the Fatherland, does not return to it upon being invited to do so by the Government, is equally liable, for the infrac-

tion, to the loss of all civil rights and to perpetual banishment from the Empire, if within the term fixed at the option of the court he does not show that he has been impelled by circumstances independent of his will or, at the least, extenuating circumstances. Up to that moment he is considered as absent, disappeared from his domicile, and his property is placed under guardianship, according to the regulations established to this effect by the civil laws.

The property of a person sentenced to the loss of civil rights is not confiscated, but passes to his legitimate heirs under the same laws which would be applied in the case of his natural death. The heirs can also claim possession of all property which might come by inheritance to the culprit after his condemnation.

The wife of the person deprived of civil rights has the right to claim a divorce. Furthermore, the culprit loses his paternal authority over his children born prior to his condemnation.

Articles 24, 26, 27, 28 of the Penal Code:

Article 24. The loss of civil rights does not affect the wife of the convict nor his children born or conceived prior to his condemnation, nor their descendants.

Article 26. Deportation to Siberia entails the loss of all family and property rights.

Article 27. The loss of family rights consists in the termination of paternal authority over the children born prior to the condemnation, if the children of the convict have not followed him into deportation, or if they left him afterwards.

Article 28. Following the loss of property rights, all property which belonged to the convict sentenced to enforced labor or to deportation, passes, from the day of execution of the sentence, to his legal heirs, in such a manner as it would pass in the case of the natural death of the convict.

The proceedings and sentence for infraction provided for in article 325 of the Penal Code follow the ordinary course of criminal procedure.

The examining judge proceeds in an investigation upon the official evidence of the police and local authorities or upon the requisition of the procureur. Persons charged with illegal absence from the Fatherland are transferred before a court of justice after arrest at the frontier or on the territory of the Empire.

They may, however, be prosecuted by default if they do not answer to the summons of the court after legal citation to appear has been inserted in the newspapers or addressed to the delinquent through our diplomatic and consular agencies.

Question. If the property be confiscated is it only during the life of the offender, or does it remain forever alienated from his heirs?

Answer. See the reply given above.

Question. What, if any, are the penalties provided for those who emigrate in childhood or during their minority and subsequently become citizens or subjects of a foreign country without Imperial consent? And what is the period of minority?

Answer. They entail all the consequences mentioned in the first reply, if they do not take the steps necessary when they attain their majority, which is fixed at 21 years of age.

Article 221, Vol. X, first part of Civil Code:

Article 221. The rights to fully dispose of one's property, to contract obligations are not acquired before coming of age, that is to say, before 21 years of age.

Question. Is military service claimed if it matures while a subject is abroad and after he has sworn allegiance to another country? And what are the penalties for failure to return and perform such service?

Answer. By virtue of article 3 of the Regulation of Military Service, persons above 15 years of age can not ask supreme permission to avoid the duties incumbent upon Russian subjects before having acquitted their military obligations. Persons who have attained the age of 20 years and over, who sojourn abroad, are notified to respond to the military service. In case they fail to respond to this call, they entail the penalties indicated in the above mentioned article 326 of the Penal Code.

Question 5. What is the status, in the foregoing respect, of the children and further descendants born in the country to which the father may have sworn allegiance or in which he may have acquired citizenship, as herein contemplated?

Question 6. Can any of these descendants inherit property or in any way acquire title to property in the Empire?

Answer to questions 5 and 6. The children of a Russian subject, born in legitimate marriage, even in the case their father may have lost his civil rights, are considered as Russian subjects and have a right to hold property in the Empire, whether by succession or by any other legal means of acquisition.

EXCLUSION OF JEWS.

Mr. Sherman to Mr. Breckinridge.

No. 429.] DEPARTMENT OF STATE,
Washington, June 18, 1897.

SIR: I have to acknowledge the receipt of your No. 561, of the 24th ultimo, in further relation to the interesting case of Frederick G. Grenz, a naturalized American citizen, who has been acquitted of the charge of having expatriated himself without Imperial permission.

This gratifying result, and the remarks of Baron von Osten-Sacken, appear to justify your inference that there is a growing disposition among the more advanced statesmen of Russia to regard the old policy and treatment in this class of cases as being "too drastic to meet the requirements of to-day." It would afford this Government much satisfaction to witness a change in the direction of recognizing the larger policy of most of the modern States by which the right of the citizen or subject to peaceably change his allegiance by orderly process of law is admitted by statute or confirmed by the conclusion of naturalization treaties. The spirit of accommodation which, after many failures through a long series of years, at length enabled the Russian Government to negotiate with the United States a convention of extradition on the most advanced modern lines may, it is hoped, yet permit of an agreement upon the terms of a treaty whereby the irritating questions affecting our naturalized citizens of Russian origin may be removed from the field of discussion and given that practical settlement which may not hopefully be devised so long as the two Governments approach the matter from diametrically opposed standpoints.

The Department is disposed to commend the course pursued by you and by Consul Heenan in so dealing with the case of Mr. Grenz as to avoid academic discussion of the abstract merits of the controversy. This Government has no desire to force that of Russia to any abrupt acquiescence in the doctrines we profess as to the liberty of the subject, which tenets we may frankly admit are derived from sources very distinct from the historical traditions of imperialism. It is willing to recognize the good disposition which Russia has shown in her own way and through her own municipal and judicial workings toward personally deserving American citizens who have incurred statutory or technical disabilities in Russia. It would deplore on the part of Russia, as much as it would avoid for its own part, any attempt to narrow the controversy to rigid limits and so bring about a deadlock from which neither party may recede with self-respect. It is prepared now, for many years past, to give to its representatives in Russia the widest latitude to deal with this class of questions according to the more amiable and elastic formulas of unwritten diplomacy, in the confidence that by pursuing this mutually deferential course a more formal agreement upon the essential principles involved may eventually be found within reach.

It would be gratifying to discern a similar disposition on the part of the Russian agents in this country. The Russian Government has lately been made acquainted with the indisposition of the United States to acquiesce in any inquisitorial office on the part of Russian agents toward American citizens within the jurisdiction of the United States, whereby a religious test and consequent disability as respects civil rights in Russia may be imposed. The response has been elicited that the test complained of is not essentially religious, but rather racial and

political; and in proof of this, the laws of Russia providing for the favorable treatment of foreign Jews of certain categories seeking to enter Russia have been officially communicated. By the judicial order of March 14, 1891, the power of legations and consulates to visé passports for Russia extends—without previous authorization of the ministry of the interior—to Jewish bankers, chiefs of important commercial houses, and the brokers, representatives, clerks, and agents of such houses. Nevertheless, this Department from time to time learns of the refusal of Russian agents in this country to authenticate the passports of Jews unquestionably belonging to the privileged catagories, no other reason for refusal being assigned them than that the applicants are Jews. The recent case of Mr. Adolf Kutner, a wealthy and highly esteemed merchant of California, to whom a visé was refused by the chargé d'affaires because he "was not a Christian," has created a painful impression in the Senate, to members of which high body Mr. Kutner is well and favorably known. A resolution introduced by Senator Perkins, on the 25th ultimo, seeks to emphasize the contrast between the professions of the Russian Government in regard to the favorable treatment of alien Jews resorting to the Empire, and the prohibitory practice of the Russian agents in this country. That resolution, having been referred by the Committee on Foreign Relations to this Department for an expression of its views on the subject, a letter, of which copy is inclosed, was addressed to the chairman of that committee on the 5th instant, in which the position of the Russian Government is truthfully but temperately stated.

This matter is not now presented by way of argument and protest, but in order that you may in such friendly and discreet manner as may be practicable suggest to the minister for foreign affairs that one annoying feature of the case may be justly eliminated if the discretion conceded by Russian law to the Imperial legations and consulates in the matter of authenticating the passports of Jews resorting to Russia were made effective and practical as to Jews of the privileged classes; or, in the language of Prince Lobanof's note of August 12/24, 1895, were in fact operative to admit Jews "of foreign allegiance when they seem to present a guarantee that they will not be a charge and a parasitic element in the State, but will be able, on the contrary, to be useful to the internal development of the country."

This suggestion is made in the same amicable spirit which appears to have prompted the disposal of the Grenz case, and which characterizes your dispatch on the subject and this reply. It can not now be foreseen whether the resolution will be adopted as introduced, but should the Senate approve it, the course of the Department thereunder would be greatly facilitated were it ascertained in advance that the action of Russian agencies in the United States will be in full harmony with the liberal features of the Russian law.

Respectfully, yours, JOHN SHERMAN.

Mr. Breckinridge to Mr. Sherman.

No. 596.] LEGATION OF THE UNITED STATES,
St. Petersburg, August 11, 1897. (Received Aug. 25.)

SIR: Referring to your No. 429 of June 18, with inclosures, concerning the laws and regulations of the Russian Government affecting the visés of passports of our citizens of Hebrew origin, and to other controverted matters, I have the honor to inclose my note of July 20 to Count Mouravieff.

These matters have been the occasion also of verbal discussion with the foreign office. I am not prepared, however, to say more at present than to state in general terms that what has passed has been well received, the reasonableness of the Department's suggestions have been unofficially concurred in, and that there is ground for hope that progress will be made upon lines so reasonable and consistent as those proposed.

I have, etc., CLIFTON R. BRECKINRIDGE.

[Inclosure in No. 596.]

Mr. Breckinridge to Count Mouravieff.

LEGATION OF THE UNITED STATES,
St. Petersburg, July 8/20, 1897.

YOUR EXCELLENCY: Referring to my note of June 27/July 9, in which I had the honor to express assurance of the satisfaction of my Government at the generous recognition by the Imperial Government of the mitigating conditions in the case of Mr. Grenz, a Russian subject who became an American citizen without the consent of the Imperial Government, and his acquittal in accordance therewith, I now have the honor to say that I am in receipt of a dispatch from my Government fully expressing its sentiments in regard to that and kindred matters.

My Government charges me to make known to the Imperial Government that while recognizing the extreme doctrinal differences which arise from different historical traditions, it yet appreciates and reciprocates the sentiment of consideration and respect which has been shown. It is pleased to recognize the good disposition shown by the administrative and judicial authorities of the Empire, in accordance with its established laws and practice toward personally deserving persons of conflicting allegiance.

It is noted that it was in this spirit of reasonable accommodation and mutual respect which enabled the two Governments, after many failures through a long series of years, to at length agree upon a convention of extradition; and it is believed that the same spirit, so historically maintained, will continue to ameliorate and remove the practical differences which may exist or occasionally arise in the course of the growth and increasing intercourse between the two nations.

Concerning the matter of travel and convenience of citizens about whose nationality there is no question, but of the Jewish race which is subject to special regulations within the Empire, the same dispatch desires me to call attention to a practice by the Imperial officials abroad, which is objectionable and seemingly not at all required by the laws of the Empire.

In this connection I beg to cite the note to this legation of His Excellency Prince Lobanoff, dated June 26/July 8, 1895, and a note from the same to the same, dated August 12/24, 1895. In these communications, accompanied by an extract of the Russian law upon the subject, his excellency stated that in the case of a Jewish banker, chief of a commercial house, and certain other enumerated classes of business men of known importance of the Hebrew race the Imperial legations and consulates were authorized to issue and visé passports for them to enter Russia according to the same regulations which apply to all foreigners

who seek to enter the Empire, the only condition being that the acting official shall inform his excellency, the minister of the interior, of any passport granted or viséd for an Israelite of the category named.

Notwithstanding the foregoing provision of the law, it seems that the Imperial officials hesitate to act in the manner indicated. A number of cases of this character have recently been brought to the attention of my Government, and it believes that by simply amending the practice stated, and in accordance with existing law, a great inconvenience to this unobjectionable category of our citizens can be relieved, and the irritating incidents arising therefrom can be obviated.

There is no difficulty in the United States of any citizen of the category named (and there can be but little difficulty with such persons applying for a visé abroad) in giving satisfactory commercial or official evidence of his identity and character. So I submit this feature to your excellency with the hope that it may be acceptable.

I avail myself, etc.,

CLIFTON R. BRECKINRIDGE.

STATUS OF RUSSIAN-BORN WIDOWS OF FOREIGNERS IN RUSSIA.

Mr. Peirce to Mr. Sherman.

No. 604.] LEGATION OF THE UNITED STATES,
St. Petersburg, August 18, 1897. (Received Sept. 3.)

SIR: Referring to legation's No. 546, of May 5, 1897, in the case of Emma Klein, I have the honor to inclose herewith copy and translation of the note of the imperial foreign office giving the law defining the status of widows of foreigners in Russia who were Russian subjects before marriage.

It appears that such widow has the option of remaining of the nationality of her deceased husband or of reverting to her original allegiance.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

[Inclosure in No. 604.—Translation.]

Count Lamsdorff to Mr. Breckinridge.

No. 9117.] IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, July 31/August 12, 1897.

Mr. MINISTER: By the note of May 31/June 12 you have kindly expressed to me a desire to know the text of the Russian law on the civil status of widows of foreign subjects.

In reply to this note I have the honor to inform you that the dispositions of the Russian law relative to the subject in question are defined in article 1026 of the civil law (Collection of Laws of the Russian Empire, Vol. IX, edition 1876), the text of which is as follows:

ART. 1026. Every Russian subject who has married a foreigner and thereby will be considered as a foreigner, has the right after the death of her husband, or after a formal divorce, to resume Russian allegiance, and in this case it will suffice for her

to present to the governor of the Province in which she may have chosen domicile a special certificate proving her widowhood or divorce. The document delivered by the governor stating that the above certificate has been presented to him will be available to the person in question as proof of her resumption of Russian allegiance.

Please receive, etc.,

COUNT LAMSDORFF.

ARREST OF AMERICAN SEALERS ON ROBBEN ISLAND.[1]

Mr. Breckinridge to Mr. Olney.

No. 494.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 27, 1897. (Received Mar. 20.)

SIR: Referring to my No. 375, of August 27, concerning the application for pardon for the five Americans—Frank Peterson (Hill), James Maloney, Steve Brennan, R. Sheehy, and Edward Howe—sentenced for illegal sealing on Robben Island, I now have the honor to inclose translation of a note[2] from Count Lamsdorff, of the 14/26 instant, upon the subject.

While pardon was refused, yet I am gratified to report that under the operation of the imperial manifest of May 14/26, 1896, their sentence expired February 6/January 25 of this year. The expiration was somewhat earlier than information previously given me, and reported, led me to expect.

Count Lamsdorff's note has been acknowledged.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

RELEASE OF ANTON YABLKOWSKI.[3]

Mr. Peirce to Mr. Sherman.

No. 479.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 1, 1897. (Received Feb. 23.)

SIR: I have the honor to inclose copy of a note from the foreign office regarding the case of Anton Yablkowski, and also copy of a letter from our consul at Warsaw in the same case. Apparently Yablkowski, having been released, has managed to get over the frontier and appears to have left no traces. The case, however, appears to be now closed.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

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[1] See Foreign Relations, 1896, pp. 495–507.

[2] Not inclosed.

[3] For previous correspondence in this case see Foreign Relations, 1895, Part II, pp. 1096–1113, and Foreign Relations, 1896, pp. 507–509.

[Inclosure 1 in No. 479.—Translation.]

Count Lamsdorff to Mr. Breckinridge.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, January 14/26, 1897.

Mr. MINISTER: Supplementary to the note of October 3/15, 1895, under No. 8250, I have the honor to inform you that, according to a communication from the ministry of justice, the prosecution against Anton Yablkowski has come to an end in conformity with the imperial manifest of November 14/26, 1894, consequent to a verdict rendered by the court of appeals at Warsaw, dated April 9/21 last, and that Yablkowski has been set free on April 11/23, 1896.

Please accept, etc.,

COUNT LAMSDORFF.

[Inclosure 2 in No. 479.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, January 16, 1897.

SIR: Referring to my correspondence of 8th instant, No. 1770 M. C., in re Anton Yablkowski, I can report now that, after inquiry made in the general prosecuting attorney's office concerning the United States passport and citizen papers of said Yablkowski, I have received to-day from said office an answer, which I beg to communicate in translation here below:

In answer to the communication of January 8, 1897 (December 27, 1896), No. 1772 M. C., we beg to inform the consulate that the documents taken away from Anton Yablkowski are attached to the acts in re Yablkowski accused on the ground of second part of paragraph 325, Criminal Code.

Awaiting your further instructions on the subject, I am, sir, etc.,

JOSEPH RAWICZ,
United States Consul.

SAMOA.

CORRESPONDENCE WITH GERMANY.

PRESERVATION OF RECORDS OF LAND COMMISSION.

Mr. Olney to Mr. von Reichenau.

No. 257.] DEPARTMENT OF STATE,
Washington, December 11, 1896.

SIR: Adverting to the Department's note, No. 208, of August 13 last, I have the honor to inclose a copy of a note from the British ambassador of the 1st instant, stating that Her Majesty's Government was prepared to bear its share of the expenses that might be incurred in the purchase of the requisite safes for the preservation of the records of the late land commission in Samoa, and that instructions to that effect would be addressed to Her Majesty's consul at Apia.

The Government of the United States is also willing to assume its share of such expense, and has so instructed Mr. Churchill, consul-general of this Government there, to whom a copy of Sir Julian Pauncefote's note has been sent.

Permit me to express the hope that His Majesty's Government will likewise assume its share of such expenditure, and that if instructions in this sense have not already been sent to the German consul at Apia to act in harmony with his colleagues from the United States and Great Britain they may go forward in the near future.

Accept, sir, etc..

RICHARD OLNEY.

Mr. Olney to Mr. von Reichenau.

No. 264.] DEPARTMENT OF STATE,
Washington, December 19, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, stating that the Government of Germany would bear its share of the cost of safes for the preservation of the records of the Samoan land commission and that the consular representative at Apia had been so advised.

Adding that a copy of your note has been sent to Mr. Churchill, the consul-general of this Government there, I beg to renew to you, sir, etc.,

RICHARD OLNEY.

TEMPORARY PERFORMANCE BY CONSULAR BOARD OF DUTIES OF PRESIDENT OF MUNICIPAL BOARD.

Baron von Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, December 18, 1896. (Received Dec. 19.)

MR. SECRETARY OF STATE: Mr. Schmidt, president of the municipal council at Apia, has expressed to the Imperial Government his intention to sail for home on the 23d of January next, at the latest, availing himself of the departure of a vessel which leaves Apia on that day. As Mr. Schmidt accepted the office to which he was appointed for a period of three years only, and as that period will expire on the 31st of the present month of December, there is, in the opinion of the Imperial Government, no objection to Mr. Schmidt's plan, and his departure can not be prevented. As regards the arrival of Dr. Raffel, Mr. Schmidt's successor, he will, in all probability, not reach Apia until several months have elapsed. The Imperial Government considers it desirable that the duties of the municipal president should, in the meantime, be performed by the consuls of the treaty powers, just as was done after the retirement of Baron Senfft von Pilsach, the former municipal president, until Mr. Schmidt's arrival.

In having the honor to bring the foregoing to your excellency's notice, I beg, in pursuance of instructions received, to be informed, as speedily as practicable, whether the United States Government shares the view of the Imperial Government, and is prepared to instruct its representative at Apia accordingly.

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 267.] DEPARTMENT OF STATE,
Washington, December 21, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 18th instant, wherein you state that Mr. von Schmidt, president of the municipal council at Apia, who accepted the office for a period of three years, which will expire on the 31st instant, has expressed his intention to leave Samoa by January 23 proximo, on a vessel which sails on that date, and that the Imperial German Government perceives no objection to his departure, which can not be prevented. It is accordingly asked whether this Government shares the same view as that of Germany, and whether it is prepared to instruct the United States consul-general at Apia in that sense, to the end that the consular representatives of the treaty powers at Apia may perform the duties of the municipal president, as was previously done in 1893, until the arrival of Dr. Raffel, which will not occur, according to your note, "until several months have elapsed"—presumably several months after January 23, 1896.

In view of the unsatisfactory condition of affairs that arose in 1893, when the consular body, under instructions from the Governments concerned, relieved Baron Senfft von Pilsach (see Senate Ex. Doc. No. 97,

Fifty-third Congress, third session), it is greatly regretted that so long a period must necessarily elapse between the retirement of Mr. von Schmidt and the arrival of his successor. It is hoped, however, that in case the three Governments are agreed—although I am unable to concur in the statement that Mr. von Schmidt's "departure can not be prevented"—Dr. Raffel will recognize the urgency of his presence at Apia and the assumption of his official duties at the earliest practicable moment.

Regarding the departure of Mr. Schmidt, I may say that in October last he addressed the Department directly requesting to be relieved at the end of December, adding that his successor was expected at the beginning of next year. His motive for sending his request in that manner was, he said, owing to the fact that Mr. Churchill might not in the press of business incident to the departure of the mails find opportunity to communicate the request.

October 29 last Mr. von Schmidt's letter was acknowledged, and on the same day a telegram was addressed to Mr. Churchill directing him to favor the early departure of Mr. von Schmidt.

Almost simultaneously with the Department's action a dispatch was received from Mr. Churchill with an adverse recommendation touching Mr. von Schmidt's request. I have since received a note from the British ambassador, of the 14th instant, asking the views of this Government in regard to Mr. von Schmidt's departure. One of its accompaniments is a letter from the British consul, dated Samoa, October 7, 1896, addressed to Lord Salisbury. It speaks of Mr. von Schmidt's desire to leave before the arrival of his successor, and then adds:

> It would give the consuls a great deal of unnecessary trouble to have them to take over Mr. Schmidt's office for a month and then hand it over again to Dr. Raffel, more especially as I happen to know that Herr von Schmidt has no urgent reason for leaving at the end of December.

I have advised the British ambassador of the Department's action on October 29, 1896, and have indicated that, in view of the adverse recommendation of Consul-General Churchill, coupled with statements by Consul Cusack Smith, I would be willing to withdraw my permission for Mr. von Schmidt's departure before the arrival of Dr. Raffel. Now that it appears that it will be several months from January 23 next before Dr. Raffel is expected to reach Apia, I am more strongly convinced that the consuls should not discharge the functions of the municipal president, and if Mr. von Schmidt can not be prevailed upon to await the coming of his successor, that Dr. Raffel's arrival should at least be expedited, in order not to leave so great an interregnum between the departure of Mr. von Schmidt and the arrival of Dr. Raffel.

As the question appears to have become one of divergence between the Imperial Government and that of Her British Majesty, as to which the judgment of the American representative at Samoa coincides with the opinion of his British colleague, I am not prepared to definitely instruct the United States Consul-General in the sense proposed until the adoption of common ground by Germany and Great Britain shall make the deferential concurrence of this Government feasible. Meanwhile Mr. Churchill will be given a copy of this correspondence. I shall likewise inclose a copy to the British ambassador.

Accept, Mr. Ambassador, etc.,

RICHARD OLNEY.

Baron von Thielmann to Mr. Olney.

IMPERIAL GERMAN EMBASSY,
Washington, December 26, 1896. (Received Dec. 26.)

MR. SECRETARY OF STATE: I have brought to the notice of the Imperial Government the contents of your excellency's note of the 21st instant, No. 267, in which objections are raised to the temporary performance of the duties of the municipal president by the consuls of the treaty powers at Apia, and the required approval of the United States Government is made dependent upon an understanding previously to be reached between England and Germany.

In reply I have the honor, in pursuance of instructions received, most respectfully to inform your excellency that the Government of Great Britain has now communicated to the Imperial Government, officially, its assent to the propositions contained in my note of the 18th instant.

Not only are the circumstances already known to your excellency opposed to Municipal President Schmidt's longer stay at his post (which is advocated by your excellency in your note of the 21st instant, and of which the Imperial Government would have been very glad), but also, and chiefly, reasons connected with his health, which make it apparent that his speedy return home is imperatively necessary.

I have been directed most respectfully to request your excellency to send suitable instructions by telegraph to the United States consul-general at Apia, and I should be especially grateful if you would favor me with a reply as soon as practicable.

Accept, Mr. Secretary of State, etc.,

THIELMANN.

Mr. Olney to Baron von Thielmann.

No. 271.] DEPARTMENT OF STATE,
Washington, December 28, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, stating that the Government of Great Britain had officially communicated to that of His Imperial Majesty its assent to the departure of Mr. Schmidt, president of the municipal council at Apia, prior to the arrival of his successor, and its agreement that the consular board should discharge the duties of the office until Dr. Raffel should reach Apia.

In view of the foregoing, as well as on account of the condition of Mr. Schmidt's health, which you now say makes his speedy return home "imperatively necessary," I have telegraphed Mr. William Churchill, the consul-general of the United States at Apia, to act in harmony with his colleagues in performing the duties of the municipal presidency in the interim between Mr. Schmidt's departure and Dr. Raffel's arrival, which, I trust, may be no longer delayed than is actually necessary.

Accept, Mr. Ambassador, etc.,

RICHARD OLNEY.

CRIMINAL JURISDICTION OVER MEN-OF-WAR'S MEN.

Mr. Olney to Mr. Uhl.

No. 256.] DEPARTMENT OF STATE,
Washington, December 22, 1896.

SIR: I inclose a copy of a dispatch from the consul-general of the United States at Apia, No. 21, of September 29, 1896, and of the Department's reply of the 21st instant, No. 37, in regard to two sailors belonging to the German war ship *Falke*, who were arrested by the police at Matafele, charged with being drunk and disorderly in the street and with willfully damaging private property. They were subsequently released by direction of the German consul, contrary to any provision of law to that end. It also appears that as early as January last the president of the municipal council at Apia instructed the chief of police that in case any sailors from the German war ships were arrested by the police they were to be released on bail upon a watch being sent ashore for them.

I am unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council. The inclosed correspondence will disclose the situation fully.

You are instructed to make proper representations upon the subject to the German Government, and to suggest the propriety of adopting the necessary means to prevent a recurrence of such arbitrary and unlawful acts in the future.

I am, sir, etc.,

RICHARD OLNEY.

Mr. Uhl to Mr. Olney.

No. 239.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897. (Received Feb. 1.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 256, of the 22d ultimo, in regard to the release by order of the German consul at Apia, Samoa, of two sailors from the German war ship *Falke*, who had been arrested by the police at Matafele, on a charge of having been drunk and disorderly and of willfully damaging private property, and to inclose a copy of a note addressed by me to the German foreign office, making representations on the subject as directed.

I have, etc.,

EDWIN F. UHL.

[Inclosure in No. 239.]

Mr. Uhl to Baron von Rotenhan.

F. O. No. 155.] EMBASSY OF THE UNITED STATES,
Berlin, January 13, 1897.

The undersigned, ambassador of the United States of America, acting under instructions from his Government, has the honor to bring to the attention of His Excellency Baron von Rotenhan, acting secretary of state for foreign affairs, an incident which occurred in Samoa in June last, in which, as it has been officially reported to the Government of the undersigned, it appears that two sailors from the German warship *Falke* were arrested by the police at Matafele charged with

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[1] See also p. 456.

being drunk and disorderly and with willfully damaging private property; that the chief of police reported the case to the local magistrate, Mr. William Cooper, by whom the amount of the bail was fixed, and the chief of police instructed not to release the prisoners unless the bail was deposited; that they were shortly thereafter released by the direction and order of the German consul, who did not confer with the magistrate, but stated to the chief of police that he would assume all responsibility in the premises; that no bail was furnished, and the prisoners did not appear before the magistrate as ordered by the court, and that the municipal magistrate strenuously objected to this assumption of authority by the German consul, in a communication addressed to the municipal council, insisting that the order of the court had thereby been treated with contempt, asserting that neither the municipal court nor its magistrate were subject to the control or supervision of the German consul, and pointing out that if the sailors of one nationality were to be thus withdrawn from the jurisdiction of the court, the sailors of other nationalities might with equal right claim similar exemption. It is further reported that in January, 1896, the president of the municipal council instructed the chief of police that if any sailors from the German warships were at any time arrested by the police they were to be released on a watch being sent ashore for them.

In the judgment of the Government of the undersigned it is beyond question that the German consul exceeded his authority in directing the release of the two sailors in question; and as respects the president of the municipal council, although, as the chief executive officer, he is in charge of the administration of the laws and ordinances applicable to the municipal district of Apia, he is not authorized or empowered to order the release or discharge of persons who have been legally placed in custody charged with an offense triable by a municipal magistrate. It is rather the duty of the president to see that the laws are faithfully executed. Under no circumstances should he arbitrarily overrule the municipal regulations, set them at naught, or assume functions clearly not within his province. Such acts, besides being illegal, tend unnecessarily to create ill feeling, discord, strife, and dissatisfaction, whereas the letter and spirit of the general act are to conciliate all differences and to restore peace and harmony. The chief aim of the three Governments concerned, no less than the officers appointed to execute its provisions, should be to administer the laws impartially and compose all differences in the interest of order and good government.

Touching this aspect of the case, the municipal magistrate, in his communication to the municipal council, pertinently observes:

> If the responsible head of the municipal administration himself sets the laws and ordinances at defiance, it can not be expected that other persons will pay much respect to them.

The undersigned is instructed, in bringing this subject to the attention of the Imperial German Government, to suggest the propriety of adopting the necessary measures to prevent the recurrence of such arbitrary and unlawful acts in the future.

The undersigned avails himself, etc.,

EDWIN F. UHL.

CORRESPONDENCE WITH GREAT BRITAIN.

PERFORMANCE OF DUTIES OF CHIEF JUSTICE BY CONSULAR BOARD.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, March 9, 1897.

SIR: With reference to Mr. Onley's note to me of the 27th ultimo on the subject of Mr. William Lea Chambers's appointment as chief justice of Samoa, I have the honor to inform you that Her Majesty's consul in Samoa has suggested that the finances of the island would be greatly eased by the chief justice's departure and by the consuls, or one of them, being deputed to act in his place until the arrival of his successor.

Lord Salisbury has inquired by telegraph when it is expected that Mr. Chambers shall start for his post, and I shall be greatly obliged if you will favor me with this information desired by Lord Salisbury, as well as the views of the United States Government upon the suggestion made by Her Majesty's consul, which I have above stated.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 614.] DEPARTMENT OF STATE,
Washington, March 15, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant, suggesting that the finances of the Samoan Government would be materially eased by the departure of the chief justice and by the consuls, or one of them, being deputed to act in his place until the arrival of Mr. Ide's successor.

It is also desired to know when Mr. William Lea Chambers, named as Mr. Ide's successor, is expected to take his departure.

Replying to this last inquiry, I may observe that recently your colleague, the German ambassador, preferred the same request, expressing the hope that it might be as early as possible.

On the 9th instant inquiry in this sense was made of Mr. Chambers. His reply is dated the 11th instant, a copy of which I inclose, and which discloses his purpose to sail from San Francisco for his post April 29, 1897, unless an earlier date be suggested by the treaty powers.

The Department realizes the necessity of an early departure on the part of Mr. Chambers, which has previously been suggested to him orally and in writing. That he appreciates the situation is shown by his letter. His departure will not, therefore, be delayed beyond the time actually necessary to make his personal arrangements for as long a journey and as extended a stay as is contemplated at Apia.

Attention is also invited to what Mr. Chambers has to say regarding the sum to be advanced to him before his departure by the three Governments in equal shares on account of traveling expenses for himself and family.

Mr. Chambers refers, as you will perceive, to the correspondence exchanged between yourself and Mr. Blaine on June 13 and 17, 1890, respectively, as to the general policy to be pursued in such cases.

I desire to know the amount to be agreed upon, one-third of which will be borne by this Government. In the case of Mr. Ide the sum finally allowed to him was $2,500. If, however, after the sum shall be fixed, it should be thought more convenient to have this Government advance the whole sum from its available appropriation, it will do so and may be reimbursed by the Governments of Great Britain and Germany by the payment of their respective quotas.

I shall be glad to receive at your early convenience an expression of the views of Her Majesty's Government upon this particular subject.

With reference to the suggestion that the consular body, or one of its members, perform the duties of chief justice, to enable Mr. Ide's departure, in view of the condition of the Samoan finances, I can only say that, in consequence of Mr. Chambers's expected early departure, it is not thought advisable to adopt the course you suggest even if it were permissible, under the provisions of the Samoan general act concluded at Berlin June 14, 1889, to follow that course.

I find, upon reference to that engagement, that Article III, section 2, declares that the powers of the chief justice, in case of a vacancy of that office from any cause, shall be exercised by the president of the municipal council until a successor shall be duly qualified and appointed. Again, section 3 of Article II says: "In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided"—that is, by the three signatory powers in common accord or, failing therein, by the King of Sweden and Norway.

Under these circumstances the Government of the United States can not assent to the suggestion of Her Majesty's consul, as expressed by Lord Salisbury, that the functions of the chief justice be temporarily confided to the consular body or a single member thereof. The president of the municipal council is the only person authorized in a certain contingency to act temporarily as chief justice, and it is to be remembered that the consular body, because of the departure of Herr von Schmidt and the nonarrival of his successor, Dr. Raffel, so far as the Department is at present advised, is discharging the duties of the president of the municipal council.

This Department will do all that it can to hasten the departure of Mr. Chambers, who, with a realization of the situation, will make his arrangements accordingly.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *May 26, 1897.*

SIR: With reference to my note of the 24th ultimo, and previous correspondence on the subject of the traveling allowance to Mr. Chambers, the new chief justice of Samoa, I have the honor to inform you, by direction of the Marquis of Salisbury, that a note has been received at Her Majesty's embassy in Berlin from Baron Marschall, the German minister for foreign affairs, dated the 21st ultimo, stating that the Imperial Government have expressed their readiness to agree to a sum of $2,500 being granted for Mr. Chambers's expenses, and to provide, on their part, for the payment of one-third of this sum.

With regard to the question which has been raised, whether it would not be desirable in future only to grant the expenses of the return journey from Samoa (except in cases of illness) to the chief justices and

municipal presidents of Apia in case they have held the appointment for at least five years, the German Government admits that it is highly desirable to avoid too frequent changes in these posts, and that, also, in granting compensation for the cost of the return journey, the length of time during which the appointment has been held and the reasons determining the retirement should be taken into consideration. Baron Marschall states that in view of the climatic conditions in Samoa a term of five years seems to be somewhat long. Cases might also arise in which the refusal to grant any portion of the expenses of the return journey, on the ground of short tenure of office or of absence of reasons of health, would involve undue hardship to the officials concerned, and the Imperial Government therefore submit for consideration whether it would not be better to abstain from regulating the matter on principle, and to continue, as heretofore, to decide each case upon its own merits.

I have, etc., JULIAN PAUNCEFOTE.

CRIMINAL JURISDICTION OVER MEN-OF-WAR'S MEN.

Mr. Olney to Mr. Bayard.

No. 1368.] DEPARTMENT OF STATE,
Washington, December 22, 1896.

SIR: I inclose a copy of a dispatch from the consul-general of the United States at Apia, No. 21, of September 29, 1896, and of the Department's reply of the 21st instant, No. 37, in regard to two sailors belonging to the German war ship *Falke*, who were arrested by the police at Metafele, charged with being drunk and disorderly in the street and with willfully damaging private property. They were subsequently released by direction of the German consul, contrary to any provision of law to that end. It also appears that as early as January last the president of the municipal council at Apia instructed the chief of police that in case any sailors from the German war ships were arrested by the police they were to be released on bail, upon a watch being sent ashore for them.

I am unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council. The inclosed correspondence will disclose the situation fully.

You are instructed to make proper representations upon the subject to the British Government, and to suggest the propriety of adopting the necessary means to prevent a recurrence of such arbitrary and unlawful acts in the future.

I am, etc., RICHARD OLNEY.

Mr. Bayard to Mr. Olney.

No. 857.] EMBASSY OF THE UNITED STATES,
London, January 30, 1897. (Received —— —.)

SIR: Referring to your instruction, No. 1368, of the 22d of December last, relative to the arrest of two sailors belonging to the German war ship *Falke* by the police at Matafele, Samoa, and their subsequent release by direction of the German consul contrary to any provision of law to that end, I have the honor to inform you that I brought the

circumstances of the case to the attention of the Marquis of Salisbury by a note, a copy of which is inclosed herewith, and that I have to-day received a reply thereto from his lordship, a copy of which is also herewith inclosed.

It would appear from his lordship's note that a concerted mode of procedure in cases of offenses committed by men from the American, British, and German war vessels had been temporarily agreed upon by the consuls of the three powers interested, and that Her Majesty's representatives at Washington and Berlin were instructed on the 10th ultimo to ascertain the views of the United States and German Governments, but that their replies have not yet been received. Her Majesty's Government have, therefore, deferred sending any instructions to Mr. Cusack Smith, Her Britannic Majesty's consul at Apia.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 857.]

Mr. Bayard to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, January 12, 1897.

MY LORD: Under instructions of the Secretary of State of the United States, I ask leave to draw your lordship's attention to an occurrence at Apia in June last, in which the action of the German consul-general, apparently sustained by the president of the municipal council and the commander of the German war ship *Falke*, appears to have been invasive and subversive of the authority of the municipal magistrate of Apia and in contravention of the compiled ordinances for the regulation of the municipal government of that community.

The facts constituting this infraction of the local laws have been reported to the Department of State by Mr. Churchill, the United States consul-general at Apia, and are believed to be correctly set forth in the communication transmitted by him of Mr. William Cooper, municipal magistrate at Apia, to the Apia municipal council, a copy of which is herewith inclosed.

From this statement it would appear that the action of the German consul in ordering the release of the alleged offenders of that nationality, without trial or hearing, was arbitrary and in violation of existing laws.

To preserve in good faith that local autonomy in the government of Apia which was the declared intent and purpose of the general regulations agreed upon by the three powers, the jurisdiction of the municipal council should be carefully sustained, and cooperative influence of the three treaty powers should be faithfully exercised to that end.

The action of the German consul, sustained by the captain of the *Falke* and the president of the municipal council, has no discoverable warrant in law, and it is therefore important that by the joint consent by the three powers such orders may be made by the three powers to their respective officials as will prevent in the future the infringement of the essential right and power of the local municipal magistrate to enforce the laws for the due preservation of the peace of the district without interference by the consuls of either of the treaty powers or of the naval officers of either power.

The duty of the three powers to sustain the municipal government in the exercise of its allotted functions seems very plain, and any irregu-

larity should be met with their prompt and joint disapproval. An identic instruction to this effect to the respective consuls of the three treaty powers, that they should abstain from interfering in any way with the municipal officers and police in the execution of their duties in maintaining the public peace would, it is believed, prevent the recurrence of such acts as I have had the honor to represent to your lordship.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 857.]

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE, *January 28, 1897.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, relative to the action taken by the German consul in connection with the arrest at Apia of two sailors belonging to the German man-of-war *Falke.*

This matter has already been under the consideration of Her Majesty's Government.

Mr. Cusack-Smith, Her Majesty's consul in Samoa, reported in September last that, owing to the incident in question and to others of a similar nature, the municipal council of Apia had passed an ordinance intended to deal with the arrest and imprisonment of seamen belonging to foreign men-of-war in Samoan waters.

Her Majesty's consul and the consuls of the United States and Germany were of opinion that the provisions of the ordinance were too cumbersome, and decided to refer the matter to their Governments for consideration.

In communicating this decision to the municipal council they made the following suggestions:

> Meanwhile the consuls unanimously request that in the case of an arrest of a man-of-war's man the president of the municipal council will at once notify the captain of the man-of-war concerned, and inform him that if he sends the necessary guard the prisoner will be handed over.

The council agreed to this request.

The consuls were also unanimous in thinking that under all the peculiar circumstances relating to Samoa it would avoid friction in future if the powers would instruct the president in the sense of the consul's request, leaving the commander of the man-of-war concerned to punish all minor infractions of municipal regulations as he may see fit.

Mr. Cusack-Smith presumes that in serious criminal offenses committed on shore in Samoa a British man-of-war's man would be subject to the jurisdiction of Her Britannic Majesty's high commissioner's court, and that, similarly, German and American men-of-war's men would be under the criminal jurisdiction of their respective consulates.

The lords commissioners of the Admiralty, to whom Mr. Cusack Smith's dispatch was referred, have expressed their concurrence in the course suggested, and Her Majesty's representatives at Washington and Berlin were instructed on the 10th ultimo to ascertain the views of the United States and German Governments.

Sir Julian Pauncefote and Sir F. Lascelles have not yet reported the result of their inquiries, and until their replies are received Her Majesty's Government propose to defer sending any instructions in the matter to Mr. Cusack-Smith.

I have, etc., SALISBURY.

Mr. Olney to Mr. Bayard.

No. 1411.] DEPARTMENT OF STATE,
Washington, February 11, 1897.

SIR: I have to acknowledge the receipt of your No. 857, of the 30th ultimo, concerning the arrest of the two sailors belonging to the German war ship *Falke* by the police at Matafele, Samoa, and their subsequent release by order of the German consul contrary to law.

I have observed your note of complaint to Lord Salisbury upon the subject of the 12th ultimo and his reply of the 28th ultimo, to the effect that the municipal council at Apia had passed an ordinance intended to deal with the arrest and imprisonment of seamen belonging to foreign men-of-war in Samoan waters, and which ordinance Her Majesty's consul and the consul of the United States at Apia were of opinion was too cumbersome. Consequently the matter had been referred to this city and to Berlin to ascertain the views of the Governments of the United States and Germany, which were awaited prior to issuing instructions to Mr. Cusack-Smith, pursuant to this Government's request.

My instructions No. 1368, of December 22, 1896, acknowledged by your No. 857, would have shown you that Mr. Churchill, the United States consul-general at Apia, in his dispatch No. 21, of September 29, 1896, presented fully the subject of the proposed ordinance, which, was designated as the "the men-of-war's men's offenders ordinance." It would also have shown you how the Department regarded the subject as disclosed in its instructions to Mr. Churchill, No. 37, of September 21, 1896, copies of both of which were transmitted to you on December 22, 1896. It was in view of the facts recited by Mr. Churchill and of the conclusions reached in the Department's reply to him of December 21, 1896, that it directed you to say to the British Government that it was unable to find any warrant of law for the action of the German consul or the order of the president of the municipal council, and to suggest that Her Majesty's Government adopt the necessary means to prevent the recurrence of such arbitrary and unlawful acts in the future.

A similar request was preferred to the German Government through your colleague at Berlin.

Since then, however, I have received Sir Julian Pauncefote's note of December 30, 1896, being the one to which Lord Salisbury doubtless refers, and which was answered at length substantially in the sense of Mr. Rockhill's instruction to Mr. Churchill of December 21 last. Copies of the British ambassador's note of December 30 and of my reply of the 16th ultimo were forwarded to you on January 19 by instruction No. 1387.

I doubt not that these have reached you and that you have again addressed Lord Salisbury upon the subject, making known to him fully the views of your Government. In case you have not I am persuaded to believe that Sir Julian Pauncefote has furnished his Government with a copy of my note. I trust, therefore, that Her Majesty's Government will not longer hesitate to address suitable instructions to the British consul at Apia in accordance with the wish expressed in my No. 1368.

As of possible interest in this connection I inclose a copy of Mr. Uhl's dispatch No. 239, of January 13, 1897, presenting the complaint to the German Government.

I am, sir, etc., RICHARD OLNEY.

Mr. Sherman to Sir Julian Pauncefote.

No. 630.] DEPARTMENT OF STATE,
Washington, April 3, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of an extract, which you personally left at the Department a few days ago, from the Marquis of Salisbury's dispatch to Mr. Cusack-Smith, Her Majesty's consul at Apia, dated February 12, 1897, touching the proposed ordinance for the disposal of members of crews of ships of war who offend against the municipal ordinances and regulations in Samoa, having reference to the one known briefly as "the men-of-war's men offenders ordinance."

It is true that Mr. Olney discussed this subject fully in his note to you, No. 581, of January 16, 1897, and that Mr. Churchill, the consul-general of this Government at Apia, had previously, by instruction No. 37, of December 31, 1896, been made acquainted with the views of this Government respecting the ordinance and the incident that gave rise to it.

While the matter, after a full discussion with Mr. Churchill and yourself, was left to his discretion and judgment, yet it was generally intimated that the municipal regulations made pursuant to the general act of Berlin of June 14, 1889, were ample for all practical purposes. Still, because of the views held by the German Government upon this subject, in which Her Majesty's Government is inclined to concur, I am disposed to believe that a happy solution of the matter may be effected, as Lord Salisbury suggests, "in consultation with the new chief justice, by the consuls of the three powers, who, being on the spot and well acquainted with local requirements, will be able to settle the questions in such manner as to avoid disputes, while at the same time securing the maintenance of order and the proper punishment of offenders."

It will give me pleasure to cause Mr. Churchill to be given copies of the present correspondence and to see that Mr. Chambers, the newly nominated chief justice to Samoa, is promptly supplied by Mr. Churchill with copies of the Department's recent instructions upon the subject, to the end that the chief justice may ascertain fully the views of this Government in the premises.

This Government will cheerfully assent to any conclusion that may be reached after such conference.

I have, etc.,

JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *April 5, 1897.*

SIR: I have the honor to acknowledge the receipt of your note No. 630, of the 3d instant, respecting the proposed ordinance for the disposal of men-of-war's men who offend against the municipal regulations in Samoa and the course which you propose to follow with reference thereto.

I have forwarded a copy of your note to the Marquis of Salisbury.

I have, etc.,

JULIAN PAUNCEFOTE.

SIAM.

ARBITRATION OF THE CLAIM OF M. A. CHEEK AGAINST THE SIAMESE GOVERNMENT.[1]

To the Senate:

I transmit herewith, in response to the resolution of the Senate of February 24, 1897, a report from the Secretary of State in relation to the claim of M. A. Cheek against the Siamese Government, with accompanying papers.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, March 2, 1897.

The PRESIDENT:

In answer to the resolution of the Senate, dated February 24, 1897, requesting that that body be furnished with "all the information in possession of the Department of State relating to the claim of M. A. Cheek against the Siamese Government," I have the honor to say that the correspondence on file in this Department relating to the claim of M. A. Cheek against Siam is so voluminous that it is physically impossible to place copies of it before the Senate during the continuance of the present session. There are not less than 2,000 pages of typewritten matter. The resolution, moreover, does not call specifically for correspondence, but for information. I submit, therefore, as a substitute for the full correspondence, a brief synopsis of the case, together with copies of the most recent communications that have passed between the two Governments:

SYNOPSIS.

April 23, 1889, Dr. M. A. Cheek, a citizen of the United States, residing in Siam, entered into the following agreement with Prince Warawan Nakorn, who represented the Government of Siam:

First. That His Royal Highness Prince Warawan Nakorn agrees to advance to Dr. M. A. Cheek the sum of 600,000 ticals to be used in the working of teak forests and the purchasing of teak wood.

Second. That Dr. M. A. Cheek shall, by the way of security, execute a bill of sale mortgage in favor of His Royal Highness Prince Warawan Nakorn on all teak wood now belonging to Dr. M. A. Cheek, according to a schedule accompanying this agreement, and on all teak wood which may be worked or purchased by him during the currency of this agreement; also on 76 elephants now belonging to Dr. Cheek and on all elephants which may be purchased by, or which may become the property of, Dr. M. A. Cheek during the currency of this agreement. Dr. Cheek shall pay to His Royal Highness Prince Warawan Nakorn interest at the rate of 7½ per cent per annum on all moneys advanced to him by His Royal Highness Prince Warawan Nakorn.

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[1] Papers up to February 27, 1897, inclusive, reprinted from Senate Doc. No. 180, Fifty-fourth Congress, second session.

Third. That Dr. Cheek will deliver at Bangkok, at an estimated price of 3 pikot, all wood which may be worked or purchased by him; upon the arrival of the wood at Bangkok the estimated price of 3 pikot shall be released and Dr. Cheek may at any time after such delivery draw from His Royal Highness Prince Warawan Nakorn the amount of money so released for carrying on the work up country.

Fourth. That at the end of each season (about the 31st of March) Dr. Cheek shall make up his books and render a statement of the amount of wood in stock, the value of such wood, and the actual cost of wood delivered at Bangkok during the season; the difference between the actual cost of the wood delivered at Bangkok and the estimated cost of 3 pikot shall be debited or credited as the amount may be found to be greater or less than the estimated cost of 3 pikot. In reckoning the cost of the wood delivered at Bangkok, Dr. Cheek shall include all expenses incurred in the handling of the wood. Dr. Cheek shall receive no salary.

Fifth. That Dr. Cheek shall have the management of the working of the teak forests, and of the buying and selling or disposing of the wood. Dr. Cheek will sell the wood at Bangkok, or will cut up and ship the wood as may be most profitable to the parties to this agreement, provided that the wood is not sold at a price of less than 3 pikot. Dr. Cheek shall not sell the wood at a less rate than 3 pikot, except with the knowledge of His Royal Highness Prince Warawan Nakorn. If the wood can not be sold at a price amounting to 3 pikot, His Royal Highness Prince Warawan Nakorn shall have the option of taking the wood over the rate of 3 pikot, or disposing of it.

Sixth. That Dr. Cheek shall make up the books of the teak business on the 31st of March of each year, and the profits realized shall be divided as follows: His Royal Highness Prince Warawan Nakorn shall receive one-third and Dr. M. A. Cheek shall receive two-thirds of the net profits.

Seventh. That during the currency of this agreement all forest leases now held by Dr. Cheek, or which may be acquired by him, shall become the property of His Royal Highness Prince Warawan Nakorn.

Eighth. That all teak wood now held by Dr. Cheek (except 4,400 logs to be delivered to the Borneo Company, Limited) and all wood worked by him during the currency of this agreement shall be dealt with according to the terms of this agreement.

Ninth. That this agreement shall remain in force for a period of ten years from the date of signing unless Dr. Cheek shall at any time settle up the account and pay to His Royal Highness Prince Warawan Nakorn such sums of money as may be due to His Royal Highness Prince Warawan Nakorn from him.

Tenth. That Dr. Cheek shall, from time to time, advise His Royal Highness Prince Warawan Nakorn of all transactions connected with the working and purchasing and selling of the wood.

Eleventh. It is hereby agreed that no liabilities for losses incurred in the management of the business shall be shared by His Royal Highness Prince Warawan Nakorn.

WARAWAN NAKORN.
MARION A. CHEEK.

Witness:
DEVAWONGSE.

On the same day Cheek executed to the same representative of Siam the following instrument, which is designated by the parties as a "bill of sale mortgage."

I, Marion A. Cheek, resident of Chiengmai, for and in consideration of the sum of six hundred thousand (tls. 600,000) ticals to be paid to me and on my account by H. R. H. Prince Warawan Nakorn, according to the terms of articles of agreement drawn up and signed this 23rd day of April, 1889, by and between H. R. H. Prince Warawan Nakorn of the first part and Marion A. Cheek of the second part, do hereby grant and sell unto H. R. H. Prince Warawan Nakorn and his assigns forever the teak wood and elephants according to a schedule hereto annexed, the said teak wood and elephants being my lawful property.

Provided, nevertheless, and this mortgage is upon the condition that if the said M. A. Cheek shall pay or cause to be paid to H. R. H. Prince Warawan Nakorn, or his assigns, the said sum of six hundred thousand (tls. 600,000) ticals with interest thereon at the rate of seven and one-half (7½ per cent) per cent per annum from the date of the payment of the same to M. A. Cheek or on his account by H. R. H. Prince Warawan Nakorn, then this mortgage shall be void, otherwise to remain in full force and effect.

And provided further, That until default be made by M. A. Cheek in the performance of the conditions of this mortgage or in the performance of the conditions of the said articles of agreement for the working of teak wood drawn up and signed this 23rd day of April, 1889, by and between H. R. H. Prince Warawan Nakorn and

M. A. Cheek, it shall be lawful for M. A. Cheek to retain possession of and to have the management of the said teak wood and elephants, to use the same for the joint benefit of H. R. H. Prince Warawan Nakorn and M. A. Cheek according to the conditions of the said articles of agreement hereinbefore mentioned.

M. A. CHEEK.

Witness:
DEVAWONGSE.

(Here follows a list of Cheek's property to which the lien was to attach.)

The amount named in the above-quoted instruments, to wit, ticals 600,000, was paid to Cheek. January 23, 1890, the Siamese Government advanced Cheek ticals 200,000 additional, upon terms set forth in the following instrument:

This agreement, made the 23rd day of January, 1890, supplementary to the agreement of the 23rd of April, 1889, between His Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse of the one part, and Dr. M. A. Cheek of the other part.

Whereas under the agreement of the 23rd of April, 1889, entered into between His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse and the said Dr. Cheek, a sum of six hundred thousand ticals (tls. 600,000) was advanced to the said Dr. M. A. Cheek by His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse for the purposes specified therein; and whereas the said Dr. Cheek is now desirous to have a further advance of two hundred thousand ticals (tls. 200,000) in addition to the sum of six hundred thousand ticals (tls. 600,000) already advanced by His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse under the agreement aforesaid; and whereas His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse agrees to advance the same;

Now it is mutually agreed between the said parties as follows:

First. That for the considerations already expressed and specified in the aforementioned agreement of the 23rd of April, 1889, His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse advances the sum of two hundred thousand ticals (tls. 200,000) to the said Dr. M. A. Cheek (of which receipt is hereby acknowledged), and the said Dr. M. A. Cheek hereby agrees and promises to pay to His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse interest at the rate of seven and a half (7½ %) per cent per annum on the said sum of two hundred thousand ticals (tls. 200,000).

Second. That as a security for the payment of the said sum of two hundred thousand ticals (tls. 200,000) so advanced by His said Royal Highness Krom Mun Naradhip Prabhandhbhongse the said Dr. M. A. Cheek hereby agrees to mortgage, under the bill of sale hereto annexed, all his properties as specified in the schedule attached to the bill of sale to the said His Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse.

Third. That the provisions of Clauses II, III, IV, V, VI, VII, VIII, IX, and X of the aforesaid agreement of the 23d of April, 1889, entered into between the said Dr. M. A. Cheek and His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse shall in all respects be applicable to this present agreement as if they were inserted therein, in so far as they are not contrary to the terms of this present agreement.

In witness whereof, the parties hereto have signed and sealed this present agreement on the date first above written.

NARADHIP.
M. A. CHEEK.

Witness:
DEVAWONGSE.

Estimating a tical to be worth 50 cents in currency of the United States, the whole amount advanced to Cheek by Siam upon the terms set forth in the contracts quoted was $400,000.

It appears from Cheek's memorial that he had, previous to any of these agreements with Siam, leased large tracts of teak forest in Upper Siam, which he needed capital to work. The capital needed was furnished to him by the Government of Siam, as above shown. In explanation of the legal effect of his contracts with Siam Cheek sets forth the usages of the industry upon which he entered in Siam. It requires, according to his statement, about three and a half years to get a log of teak timber from the stump to the market in Bangkok. The logs are first girdled, then cut, and then dragged to the nearest stream by

elephants. Thence they are floated, first singly and afterwards in rafts, down these steams into the main river, which carries them to Bangkok. In the dry season the small streams are too shallow to float the logs, and they lie where they are cut until the arrival of a season of sufficient water to float them.

At the time of his agreement with Siam, Cheek had logs in all stages of progress toward the market. At the end of the first year of his contract with Siam he paid the interest for that year upon the money advanced. The second year, ending March 31, 1891, was a dry year and very little timber was got into market. Cheek was compelled to employ the proceeds of his second year's sales in keeping up the work in the forests, it being necessary to make advances to his employees and subcontractors. In view of these facts the Siamese Government indulged Cheek in consideration of his promise to pay compound interest on the advancement for the second year—that is, the interest due was added to the principal.

The next season, ending March 31, 1892, was worse than the preceding, and Cheek failed a second time to pay the interest on the Siamese advancement. The proceeds of his sales for that year were in fact insufficient to keep the forest work going on, and he was compelled to raise additional funds by some means. He had at this time, according to his statement, a sufficient quantity of logs in the forests and in the streams to pay, when sold, the full amount of the advancement made to him by Siam, both principal and interest, and to leave a handsome surplus for himself.

Cheek endeavored to get money from the Bombay-Burmah Trading Corporation by a sale for cash of logs to be delivered the following season (1892–93). Since Cheek's agreement with Siam compelled him to dispose of his logs in a manner therein specified, his proposal to the Bombay-Burmah Trading Corporation required the sanction of the Siamese Government, which was refused. Cheek then sought relief from another lumber company called the Borneo Company, and made with that company a provisional arrangement by which for a reasonable commission, in addition to the actual cost of transportation, that company undertook to transport during the coming season all the teak logs in the water at the time of the negotiation, and all others which Creek might be able to put into the water. He had at that time 12,000 logs in the streams and hoped to put in 8,000 more, making in all 20,000 logs to be transported by the Borneo Company. Cheek valued these logs at rupees 48 to 50 each, and he expected to raise on them at least rupees 576,000—estimating the rupee at 33⅓ cents, amounting to about $192,000. This provisional arrangement was also subject to the ratification of the Siamese representative, and was rejected by him.

Cheek was then left without funds to pay the interest on the Siamese advance or to continue his work. August 20, 1892, the Siamese Government notified our consul-general at Bangkok that all of Cheek's timber arriving after that date would be taken over as the property of the Government. At the same time a Government official seized the logs already in Bangkok and others belonging to Cheek which had reached a place higher up the river called Chainat. This official continued to seize logs as they came down. September 11, 1892, the Siamese representative telegraphed Cheek, who was up in the forest country:

> Wood received. Will be sold at public auction. Proceeds in bank until your settlement.

Cheek protested, but in vain.

Cheek claims that under his contracts with the Siamese Government, as construed in accordance with the usages of the enterprise in which he was engaged, annual interest was to be paid upon the money advanced to him only when the season had been good and he was able to raft his logs. In bad years the partner or lender who had advanced the capital was required by local custom to let the interest go over until a good season, when all past dues would be liquidated. Failure to pay interest at the end of a year in which it was impracticable to market the timber was not, Mr. Cheek claims, a breach of contract justifying any proceeding in the nature of foreclosure.

Cheek makes the further point that the summary method adopted by the Siamese Government was unlawful and injurious to him, even if he had been legally in default.

The logs seized by the Siamese Government were sold at auction at much less than their value, and the proceeds appropriated by the Government. The next season, the winter of 1892–93, proved to be favorable for rafting timber, and had Cheek been permitted to go on with his work without molestation from the Government he would have been able to bring down all the logs he had cut, in value, as estimated by him, of rupees 640,000, about $214,000. Even if the logs had been held in Bangkok without sale they could have been used as a basis of credit under Clause III of the agreement, to the extent of rupees 380,000, about $126,666, an amount in excess of all that the Siamese Government could, at that time, by any construction of the agreement, have claimed from Cheek. But for this premature, arbitrary, and illegal action of Siam, Mr. Cheek contends, he would have been able to provide for current expenses, to pay off all interest due, and 100,000 rupees of the principal debt, besides keeping up the credit with his foresters and contractors which he had been so many years building up and carefully maintaining.

Not content with the summary seizure of all Cheek's logs that came down the river, the Siamese Government, July 15, 1893, published the following royal proclamation:

July 15, 1893, Chow Mun Rajabut, chief of the mahathai (department of the north), and commanding officer of the province of Chiengmai, has received orders from Phya Song Suradet, chief commissioner of the Lav Chieng States, that the following notice be published:

Whereas the minister of the royal treasury has sent an official letter No. 596/5892 dated the 9th September, 1892, contents as follows:

"Formerly Dr. M. A. Cheek made a written agreement and borrowed a large amount of money from the royal finance department for the purpose of working forests, and mortgaged forests, wood in forests and in streams, elephants, implements for forest work and debtors all and singular as security for the royal treasury with sundry conditions as set forth in said agreement.

"Afterwards Dr. M. A. Cheek violated the agreement in many particulars. Therefore Chow Mun Mahatlek was appointed commissioner of the royal treasury, with full power of attorney to act for the minister of finance in the province of Chiengmai. Therefore, anyone a debtor or creditor of Dr. M. A. Cheek, or who has charge of elephants or teak wood or implements for forest work, let him report to Chow Mun Mahatlek, commissioner at Chiengmai of the royal treasury, within the period of fifteen days from the date of this notice. If anyone is a debtor or has charge of elephants or teak wood or implements for forest work, let him give a correct report to the commissioner within the time appointed. The commissioner will deduct, relinquish, forego a suitable portion (of the debt). If afterwards it be ascertained that elephants, wood, implements for forest work, or debtors be concealed, secreted, removed, or falsely reported, and proper account be not rendered to the official, the said officer will prosecute in court (such offender), and they will be fined according to the law."

(SEAL OF CHOW RAJABUT.)

This embargo completed the demolition of Cheek's business, and left him a ruined man in the midst of the fourth year of his ten-year contract with Siam.

The questions which, according to the claimant, are involved are (1) the legal relations of the two parties to the contract—whether Cheek was a partner with Siam or a mere borrower of money; (2) whether Cheek was legally in default at the time the Siamese Government seized and sold the logs and published the manifesto of July 15, 1893; (3) whether the Siamese Government adopted a lawful remedy in case it should be found that Cheek was in default and was liable to a legal proceeding for the recovery of money due that Government.

In relation to the third point, it is contended for Cheek that the local law of Siam provided an adequate judicial remedy against him; and that the consular court of the United States was also a forum clothed with powers ample for the purpose of enforcing his obligations to Siam. The summary method of proceeding resorted to by Siam was, Cheek claims, in violation of Siamese law and also of the treaty between Siam and the United States. Cheek's losses are estimated by him at rupees 1,607,331 ($535,777). From this amount he deducts the principal and unpaid interest of the Siamese advancement to him, amounting to rupees 1,266,218, leaving a total claimed by Cheek as damages of rupees 341,113 ($113,704).

THE SIAMESE REPLY.

The Siamese Government has filed an elaborate reply to Cheek's claim, and alleges large indebtedness on the part of Cheek's estate as still existing and unpaid. According to the statement of Siam, Cheek was deeply in debt when the Siamese Government came to his relief in 1889. A considerable portion of the 800,000 ticals advanced to him was paid to his creditors and the residue thereof was applied to the timber business. On his first failure to pay interest (March 31, 1891) he was given as a favor another year in which to pay it. At the end of the second year (March 31, 1892) Cheek not only was unable to pay the accrued interest for the two preceding years, but he had not sufficient funds to continue the business, and was unable to raise money except by methods which involved the Siamese Government as his surety. Seeing that his financial condition was hopeless and that the only means of obtaining repayment of even a part of the money advanced to him was by immediate action, the Siamese Government decided to seize such timber as should come down the river and apply the proceeds to the indebtedness. The argument for Siam apologizes for, rather than defends, the order of July 15, 1893, which placed an embargo upon Cheek's business and destroyed it.

Siam's view of the case is apparently that when Cheek violated the conditions on which money was advanced to him by failing to pay the interest accrued thereon, the transfer of property made in the "bill of sale mortgage" became absolute, so that Siam in seizing the logs seized the property of the Government, and not the property of Cheek. It is declared in the Siamese argument that there is no law of mortgages in Siam, and therefore no procedure in the nature of foreclosure; that seizure and appropriation by an officer of the royal treasury was the legitimate and the only method of enforcing the rights of Siam as against Cheek in this case.

Cheek had, besides the logs seized by Siam, other property in upper Siam, which was also included in the "bill of sale mortgage." This

property was not seized by the Siamese Government, and when Cheek died it went into the hands of his administrator. Siam contends not only that the seizure of Cheek's logs and the other acts of the Government were lawful, but that the proceeds derived therefrom were insufficient to pay Cheek's indebtedness to Siam. The property now in the hands of Cheek's administrator is claimed by Siam as being subject to the "bill of sale mortgage" above referred to, and responsible for the amount of indebtedness still unliquidated. In other words, Siam has presented a counterclaim against Cheek.

NATURE OF THE CASE, NOT THE MERITS, STATED.

I have undertaken in this brief outline of the Cheek case to show the nature only of the controversy, and not to indicate the merits of either claimant. The merits of the case can be determined only from a study of the entire mass of evidence and consideration of the elaborate arguments filed on both sides. These will be presented later should the Senate desire, after reading this brief review of the case, to take it upon its merits.

I append hereto copies of the recent correspondence, which will show the present status of the negotiation for the settlement of this claim. The two Governments have agreed substantially upon settlement by arbitration, but the details and formalities remain to be completed.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, March 1, 1897.

Mr. Olney to Mr. Barrett.

No. 79.] DEPARTMENT OF STATE.
Washington, October 15, 1896.

SIR: Your dispatch, No. 137, of August 19, 1896, in relation to the claim of Dr. M. A. Cheek against the Siamese Government, has been received.

In this and in previous dispatches the Government of Siam has expressed a desire to have the matter of this claim submitted to arbitration, on condition that the Siamese counterclaim against the estate of Dr. Cheek shall be included in the submission and considered by the arbitrator. The Siamese claim against Cheek is supposed to relate to an unpaid balance of Cheek's indebtedness to that Government, which was not liquidated by the appropriation of Cheek's property under royal order in 1892 and 1893, which act of appropriation is the subject-matter of Cheek's complaint.

Dr. Cheek made his claim for damages against the Siamese Government subject to deduction of the amount which he—or his estate, now that he is dead—owes that Government. The proposition of Siam is therefore assumed to be that in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damages awarded him in consequence of the injurious action of the Siamese Government, the arbitrator shall have authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

You are instructed to ascertain from the Siamese minister of foreign affairs and to report at once whether the suggestion of the Siamese Government is rightly understood in the sense above explained.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 19, 1896.

Cable answer to instruction 79.

OLNEY.

Mr. Barrett to Mr. Olney.

No. 153.] LEGATION OF THE UNITED STATES,
Bangkok, Siam, December 29, 1896. (Received Feb. 12, 1897.)

SIR: I have the honor to inclose copies of correspondence passed between the foreign minister and myself in regard to the question raised in your esteemed No. 79 in regard to the arbitration of the Cheek case.

After receiving your instructions, as intimated in my 150, of December 23, I pressed the foreign minister for an answer, with what result you now see. * * *

I hardly feel as if I am warranted in cabling as much as it would appear would be necessary to explain the latest attitude of Siam. I shall try again to get a briefer and more explicit reply to your question, but if I fail I may only cable you that the Siamese Government desires you to await the receipt of the inclosed letters.

I have, as the correspondence will prove, to have them cable their consul-general their full answer if they did not feel like making it briefer for me, but now the foreign minister claims a misunderstanding, and seems to oppose any cabling.

In my reply which I shall send to the foreign minister's arguments about former propositions of arbitrations, etc., I shall feel constrained almost to inform him that rehashing old contentions already extensively and exhaustively discussed is not pertinent, nor is it of any advantage. * * *

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 1 in No. 153.]

Mr. Barrett to the Foreign Minister.

LEGATION AND CONSULATE-GENERAL
OF THE UNITED STATES OF AMERICA,
Bangkok, December 14, 1896.

MONSIEUR LE MINISTRE: Referring to an interview of recent date, I have now the honor to forward to you a formal note covering the matter then under discussion—a certain phase of proposed arbitration of the Cheek case.

I will now provide you with an extract from instructions received by me from the Honorable Richard Olney, Secretary of State of the United States, as follows:

* * * The Government of Siam has expressed a desire to have the matter of his claim submitted to arbitration on condition that the Siamese counterclaim against the estate of Dr. Cheek shall be included in the submission and considered by the arbitrator. The Siamese claim against Cheek is supposed to relate to an unpaid balance of Cheek's indebtedness to that Government, which was not liquidated by the appropriation of Cheek's property under royal order in 1892 and 1893, which act of appropriation is the subject-matter of Cheek's complaint.

Dr. Cheek made his claim for damages against the Siamese Government subject to deduction of the amount which he (or his estate, now that he is dead) owes that Government. The proposition of Siam is therefore assumed to be that in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damages awarded to him in consequence of the injurious action of the Siamese Government the arbitrator shall have authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

You are instructed to ascertain from the Siamese minister of foreign affairs and to report at once whether the suggestion of the Siamese Government is rightly understood in the sense above explained.

Your royal highness will please be good enough to inform me at your first convenient opportunity if the assumption above outlined is correct or not, in order that I may immediately inform my Government, and thus facilitate an early understanding as to an acceptable basis of arbitration.

Your royal highness will please accept my renewed assurance of high consideration.

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 2 in No. 153.]

Foreign Minister to Mr. Barrett.

FOREIGN OFFICE, *December 24, 1896.*

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your letter of the 16th instant providing me with an extract from instructions received by you and relating to the proposed arbitration of the Cheek case.

I stated with pleasure that the principle of settling this case by arbitration, which I proposed in the name of His Majesty's Government, is admitted by the Government of the United States. As to the question whether the suggestion of the Siamese Government is rightly understood in the sense explained in the dispatch of the Honorable Richard Olney, whereof you kindly transcribe an extract, I regret to say that I can not accept the expressions "appropriation of Cheek's property" as corresponding with the views of His Majesty's Government on their own action, and that I can not consider as correct the following assumption of Siam's proposition:

That in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damage awarded to him, in consequence of the injurious action of the Siamese Government, the arbitrator shall have an authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

If this assumption were accepted by my Government as a right explanation of their views, it would follow that we admit as well founded Dr. Cheek's complaint of an alleged "injurious action" of this Government,

and his claim for damages on his account. I, on the contrary, am bound to state that His Majesty's Government never made such admission, and that the very first question which we propose to submit to arbitration is whether the action of this Government in attaching timber mortgaged to them as the only means of getting back their advances was or was not justified by Dr. Cheek's own repeated breaches of contract, and consequently whether Dr. Cheek is entitled in principle to claim any damages on account of said action.

It is only when this first question will have been decided by the arbitration court that it will be possible to decide whether and for what amount the balance of all accounts between this Government and Dr. Cheek (or Dr. Cheek's estate) is in favor of the former or of the latter.

Accept, etc.,

DEVAWONGSE,
Minister for Foreign Affairs.

[Inclosure 3 in No. 153.]

Mr. Barrett to Foreign Minister.

LEGATION AND CONSULATE-GENERAL
OF THE UNITED STATES OF AMERICA,
Bangkok, December 26, 1897.

MONSIEUR LE MINISTRE. In our conversation of Thursday, December 24, your royal highness kindly consented to exchange with me copies of cablegram to be forwarded, respectively, to the Department of State of the United States and the Siamese consul-general, in answer to the inquiry of the Department of State. touching the proposed arbitration of the Cheek case, transmitted to your royal highness in my note of the 16th instant and answered in your letter of December 24.

If your royal highness will now, therefore, be good enough to provide me, as soon as convenient, with such copy of message, I will, upon the receipt thereof, provide you with a copy of mine.

Your royal highness will please accept my assurance of high consideration.

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 4 in No. 153.]

Foreign Minister to Mr. Barrett.

FOREIGN OFFICE, *December 28, 1896.*

MONSIEUR LE MINISTRE: I am afraid that there was some misunderstanding between us about the result of our conversation of the 24th instant. I had no idea of sending any cablegram to our consul-general, except to assist you in communicating with your own Government. I thus agreed that if you would show me how you would wire briefly to your Departmeet of State, and referring to my cablegram to our consul-general at New York, I could oblige you by going to the expense of telegraphing fully the statement of our views.

As for myself, I can only repeat that I do not feel the necessity of telegraphing at all to our consul-general. His Majesty's Government are certainly anxious to arrive at the constitution of the arbitration court, and as proof of their earnest wish in this respect I beg to remark that when the idea of an arbirration was emitted nearly three years ago by Mr. Eaton, acting consul-general of the United States, in a letter which he addressed to me on the 21st of January, 1893, I at once accepted the proposal. The matter might thus have been considered as settled between both Governments nearly three years ago if Dr. Cheek had not simply refused to agree with this mode of just and friendly settlement. Since then the proposal of arbitration was renewed by His Majesty's Government more than one year ago, and repeatedly insisted on in my letters to you. But it is only on the 14th instant that you intimated your Government's acquiescence to the idea. This seems to indicate that, at least in the opinion of your Government, there is no such urgency in the case that we should recur to an expensive exchange of telegrams about the terms in which the case for Siam was stated in your letter of the 14th instant. I therefore beg to propose that you inform his excellency the Secretary of State that there is some difference between his statement of our case and ours, and that you send him by the next mail copy of our correspondence.

May I ask you by the same opportunity if you have already received instructions about the way in which your Government proposes to constitute the arbitration court and the procedure to be followed?

Accept, etc.,

DEVAWONGSE,
Minister for Foreign Affairs.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 9, 1897.

Cable answer Cheek case.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *January 11, 1897.*

Siam holds arbitrator first decides whether action attaching mortgaged timber as only means recovering advances was justified by Cheek's breaches contract; hence whether Cheek entitled in principle claim any damages; then only possible decide whether and what amount balance all accounts between Siam Cheek favor former. Latter protests your expression appropriation and injurious action. The proposal prejudicial Cheek particularly "only means."

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 19, 1897.

Cable 11th not understood. Arbitration must cover all disputed questions of fact or law. Hasten agreement. Answer inquiry October 15.

OLNEY.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 1, 1897.

Continue to press arbitration or reference. When full details received here further course can be determined if need be.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *February 2, 1897.*

Siam agrees Cheek arbitration in acceptable form, except hold arbitration shall include administration of estate, which is new issue. Shall I accept and close matter?

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 5, 1897.

* * * * * * *

Cheek arbitration—which first sentence mine 1st instance relates to—should be kept separate from Kellett Case. Yours February 2 received. Accept and close on basis indicated, if Cheek estate only and not United States is to respond to any award favor Siam.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *February 16, 1897.*

Cheek arbitration satisfactorily settled. I await your instructions constitution of the tribunal of arbitration.

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
February 17, 1897.

Will Cheek estate and Siam consent one arbitrator, say governor Straits Settlements, or other suitable person near by.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *February 27, 1897.*

Negotiations on selection arbitrator Cheek Case proceeding favorably. It will be agreed to shortly. * * *

[Rest of telegram relates to other matters.]

BARRETT.

Mr. Barrett to Mr. Olney.

No. 176.] LEGATION OF THE UNITED STATES,
Bangkok, Siam, March 2, 1897.

SIR: Acting on your telegraphed instructions of February 17, various suggestions were made as to the selection of the arbitrator. While the governor of the Straits Settlement might have been accepted, it was thought best to secure a distinguished jurist, if possible.

I presented the name of Sir Nicholas J. Hannen, British chief justice and consul-general at Shanghai. The foreign minister at once accepted, and we agreed to address him a joint note asking him to serve. We hope to telegraph or write him within a few days.

In my opinion, if Sir Nicholas J. Hannen will consent to act, we will be assured of an able and impartial arbitrator. He ranks as one of the most capable jurists in the Far East, is an authority on extraterritoriality and international law, and has a thorough knowledge of Asiatics.

The foreign minister held that the arbitrator should sit in Siam. While I thought that this should be left to the arbitrator, I saw that objection to the wish would prolong discussion, and hence yielded. We will therefore suggest to the arbitrator that he sit here in November or December. Before that date climatic conditions would hardly warrant us in asking him to come to Siam. It also gives sufficient time to make full arrangements without undue haste.

I have the honor to await any further instructions and trust that you will be good enough to forward them at your earliest convenience, as it is my desire to have all details settled before going to Cheangmai in June or July to investigate the Kellett matter.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

Mr. Sherman to Mr. Barrett.

No. 111.] DEPARTMENT OF STATE,
Washington, May 5, 1897.

SIR: Acknowledging the receipt of your dispatches Nos. 171 and 176, dated, respectively, February 18 and March 2, 1897, reporting that you have practically closed the terms of arbitration of the Cheek case, I confirm my cablegram to you of yesterday's date as follows:

Numbers 171 and 176 received. Suggestions approved. Model of agreement mailed.

It appears from your reports that the instructions of the Department have been complied with, and that the terms of agreement are satisfactory. I inclose copy of a protocol or agreement between the United States and Mexico, signed March 2, 1897, for the settlement of a claim, which will serve as a guide to you in framing the agreement for the arbitration of this matter between the Siamese Government and Cheek. The previous correspondence so fully covers the case that there is no occasion to give you special directions. The three essentials are:

(1) That every matter in dispute between the two parties shall be included, both facts and law.

(2) That in case an award is made in favor of Siam it shall be against the Cheek estate only and not against the United States.

(3) That the two Governments shall divide equally between them the common items of expense attending the hearing of the case by the arbitrator.

Sir Nicholas J. Hannen, British chief justice and consul-general at Shanghai, China, is perfectly satisfactory to this Government as the arbitrator, and there is no objection to his sitting in Siam.

You have in your office duplicates of all the papers concerning the case which are on file here, and this relieves the Department from sending you copies of the documents here. If you need any, however, cable for them and they will be sent immediately.

You will notice that in the Mexican case, the protocol of which is inclosed, the two parties have contented themselves with submitting to the arbitrator the documents and correspondence which have already passed between them with such additional arguments as each may choose to make. I am not sufficiently well acquainted with the conditions to advise you to follow this precedent in that respect. It may be that valuable evidence is attainable by you which has not already been submitted. If so, it would be well to make the agreement broad enough to admit such evidence. If, on the other hand, the papers which have already been presented contain all there is in favor of Cheek's case, the agreement may be framed accordingly. The Department refrains from hampering you with specific instructions which may do more harm than good.

Trusting that your intelligence and perfect familiarity with the case will enable you to make a proper agreement, you are hereby authorized to draw up and sign the same as representative for the United States in this matter, but before the agreement becomes operative, a copy of it must be sent here for approval. If approved, you will be notified by cable. In the meantime you may be preparing the case for submission to the arbitrator, and on receipt of notice that the agreement to arbitrate is satisfactory to both Governments the arbitrator may proceed with the case.

Respectfully, yours, JOHN SHERMAN.

Mr. Barrett to Mr. Sherman.

[Telegram.]

BANGKOK, *May 12, 1897—12.10 p. m.*

Hannen telegraphs will act arbitrator if British minister for foreign affairs approves. I would advise you to communicate with the British minister for foreign affairs as soon as possible. Siamese Government doing it.

BARRETT.

Mr. Barrett to Mr. Sherman.

No. 212.] LEGATION OF THE UNITED STATES,
Bangkok, June 22, 1897.

SIR: I have the honor to inclose copies of letters exchanged with Mr. George Greville, British minister, and with his royal highness the foreign minister, in regard to the expenses and honorarium of the arbitrator in the Cheek case, Sir Nicholas Hannen.

The substance of the correspondence is that Sir Nicholas Hannen thinks that, for the convenience of all parties, it would be best to include expenses and honorarium in one fee of 10 guineas a day for the time he is necessarily absent from Shanghai, to which the Siamese foreign minister and myself have, of course, agreed.

According to Sir Nicholas Hannen's arrangements and our own, it would appear that the arbitration court would sit about the 13th of December. The arbitrator is due to arrive in Singapore on December 8, and should reach here approximately on the 13th. His absence from Shanghai will probably be from fifty to sixty days, making his total fee from $2,500 to $3,000, of which, according to your instructions, the United States will pay half.

I have the honor to be, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 1 in No. 212.]

Mr. Greville to Mr. Barrett.

BANGKOK, *June 19, 1897.*

MR. MINISTER: I have the honor to inform you that I have received a letter from Sir N. Hannen, Her Majesty's chief justice and consul-general at Shanghai, who has accepted to act as arbitrator in the Cheek estate claims, stating that he thinks it will be for the convenience of all parties that expenses and honorarium should be included in one fee.

Sir N. Hannen thinks that 10 guineas a day, during such time as he may be necessarily absent from Shanghai, will be a proper fee for him to charge.

This fee will cover everything, unless Sir N. Hannen should be compelled to travel away from Bangkok into the interior, for the purposes of the arbitration, in which case he would expect that the expenses of such journey be defrayed by the Siamese Government.

Should these terms be agreed upon, Sir N. Hannen will be prepared to leave Shanghai by the Pacific and Oriental steamer of the 27th of

November next, due in Singapore December 8, and he would proceed to Bangkok by earliest opportunity.

Should these terms be agreed to, I should be much obliged if you would be so good as to inform me thereof, so that I may communicate the result to Sir N. Hannen by telegraph.

I take this opportunity, etc., GEORGE GREVILLE.

[Inclosure 2 in No. 212.]

Mr. Barrett to Prince Devawongse.

UNITED STATES LEGATION,
Bangkok, Siam, June 19, 1897.

MR. MINISTER: I have the honor to append a copy of a letter received this day from Mr. George Greville, Her Britannic Majesty's minister resident, in regard to the expenses and honorarium of Sir N. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, in the capacity of arbitrator of the Cheek case.

Your royal highness will please note that Sir N. Hannen thinks that 10 guineas a day would be a proper amount for him to charge.

This arrangement is acceptable to me; and, if it is the same to you, will you be good enough to inform me at once in order that I may communicate with Mr. Greville and enable him, as he desires, to telegraph Sir N. Hannen?

Your royal highness will please accept my renewed assurance of high consideration.

I have the honor, etc., JOHN BARRETT,
Minister Resident.

[Inclosure 3, in No. 212.]

Prince Devawongse to Mr. Barrett.

FOREIGN OFFICE, *June 20, 1897.*

MR. MINISTER: In acknowledging with thanks the receipt of your kind communication of yesterday, with reference to Mr. George Greville's letter to you concerning the expenses and honorarium of Sir N. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, in the capacity of arbitrator of the Cheek case, and in which you kindly state that the arrangement is acceptable to you, and asking me to give you my reply, I beg to say, that on my part I see no objection to the terms mentioned in the note of Mr. George Greville, who has also kindly written to me an identical note on the same subject, except that whatever may be the stipulations expressed therein, our agreement is that we each share one-half of all the expenses and fees of Sir N. Hannen, till further understanding.

I have therefore written to the British minister resident, accepting in my own name as well as yours, the terms of Sir N. Hannen, and I inclose the letter opened under this cover, so that you may send it, if you will kindly do so, when you send your reply to Mr. George Greville.

Accept, Mr. Minister, etc., DEVAWONGSE,
Minister for Foreign Affairs.

[Inclosure 4 in No. 212.]

Mr. Barrett to Mr. Greville.

UNITED STATES LEGATION,
Bangkok, Siam, June 21, 1897.

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your esteemed note of June 19, informing me of the terms which his excellency, Sir Nicholas Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, who has accepted the invitation of His Royal Highness Prince Devawongse, the Siamese foreign minister, and myself to act as arbitrator in the Cheek case, deems will be for the convenience of all parties, viz, that expenses and honorarium should be included in one fee of 10 guineas a day during such time as he may be necessarily absent from Shanghai.

I beg to state that such terms are perfectly acceptable to the United States Government, and to the Cheek estate, and I am informed in a letter from his royal highness, the Siamese foreign minister, written in response to one of inquiry from me, that they are also acceptable to the Siamese Government.

He is good enough to forward, through me, his reply to a letter of yours addressed to him on the same subject, which you will find inclosed.

You will please therefore be good enough to telegraph his excellency, Sir Nicholas Hannen, accordingly, as kindly proposed by you.

The time which he suggests coming to Bangkok would appear agreeable to all parties. If unexpected conditions cause any modification of plans, we will duly notify him through your kind offices.

It may be of interest for me to state that I have just received full instructions from my Government, as to the formal protocol to be drawn up between the Siamese and the United States Governments covering this agreement, and I shall, at a very early date, negotiate with the foreign minister on the matter. As soon as it is duly signed, we shall be pleased to provide you with a copy to be forwarded to his excellency, Sir Nicholas Hannen.

If at any time, he or you desires further information on any point, I am sure that either the Siamese foreign minister or myself will be glad to acquaint you with such.

Expressing on behalf of my Government, which is taking great interest in this case, its pleasure in his excellency, Sir Nicholas Hannen's acceptance of the position of arbitrator, in which I know likewise the Siamese Government joins, and thanking you for the assistance of yourself and Mr. Archer in making arrangements,

I have the honor to remain, my dear colleague, etc.,

JOHN BARRETT,
United States Minister Resident.

Mr. Adee to Mr. Barrett.

No. 130.] AUGUST 4, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 212, of the 22d of June last, reporting the arrangements made by you in conjunction with the Siamese Government for the payment of the honora-

rium and expenses of the arbitrator, Sir Nicholas Hannen, in the Cheek case, and to say that your action in the matter is approved by the Department.

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Barrett to Mr. Sherman.

No. 222.] LEGATION OF THE UNITED STATES,
Bangkok, July 22, 1897.

SIR: I have the honor to inform you that the Siamese foreign minister and myself, after communication with Sir Nicholas J. Hannen, and the Cheek estate, have postponed the date of arbitration in the Cheek case to February 1, 1898. I trust that this date will be acceptable to the Department, as it is to all others concerned.

As can be seen by correspondence inclosed in my No. 221, of this date, the postponement was readily arranged. The reasons for this step, founded on conditions explained in my 216, and authorized in Department's telegram of July 13, can be briefly summarized as follows:

In consequence of the Department's instructions, Mr. Kellett must remain here until my return from Cheangmai. Supposing I am able to leave within the next ten days, I shall not reach Cheangmai until approximately August 31.

The work to be done at Cheangmai can hardly be accomplished in less than fifteen days.

Returning with all speed I may be able to get back by October 1, as one can come down in about one-half the time required to go up.

Supposing Mr. Kellett leaves for Cheangmai one week after my arrival, he will not reach Cheangmai until about November 10.

To get the evidence, which is apparently of greatest importance, he will require nearly two months in and out of the forests, and could not leave Cheangmai until well into January and hence not reach Bangkok until the last of January.

The Siamese foreign minister agreed with me as to the necessity of this delay, as otherwise the administrator (through Mr. Kellett) could not possibly make a definite report on the administration of the Cheek estate during this year in response to the Siamese Government's demand that the administration of the estate be included in the arbitration.

We first asked Sir Nicholas J. Hannen to agree to a postponement until February 15, 1898, but as February 1 is his latest date we have agreed thereto.

I would simply add that I should have started for Cheangmai long before this, were it not for the characteristic slowness of the Siamese Government in negotiating the Cheek protocol.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

Mr. Barrett to Mr. Sherman.

No. 223.] LEGATION OF THE UNITED STATES,
Bangkok, July 26, 1897.

SIR: I have the honor to inclose a copy of the Cheek protocol signed to-day by His Royal Highness Prince Devawongse, the Siamese foreign minister, and myself, and to confirm the following telegram:

BANGKOK, *July 26, 1897.*

SHERMAN, *Washington:*

The convention (Cheek protocol) is signed. Everything I insist (upon) is included. The arbitration postponed (until) February 1. Will depart shortly for Cheangmai.

BARRETT.

Inasmuch as the protocol includes all the points for which I contended, as well as the essential features named in your No. 111, of May 25, and is acceptable to the Cheek estate, I trust that it will meet your esteemed approval.

Whenever you see fit to telegraph, as soon as possible after the arrival of this letter, as intimated in the dispatch just named, I beg to suggest that you communicate also with the Siamese consul-general in New York that he may send a confirmatory message to the Siamese Government.

Objections which I feared the Siamese Government might raise I succeeded in overcoming by discussing, in a friendly and frank manner, with the foreign minister and other high officials, including the foreign adviser, the points at issue until perfect accord was attained; and although the Siamese Government consumed nearly four weeks in preparing to sign the protocol, it finally yielded to my representation, enabling the foreign minister and myself to affix this day our signatures thereto, which we did with reciprocal expressions of kindly feelings and high esteem—both glad that a most important step had been taken leading to the settlement of this great case.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure in No. 223.]

Protocol of an agreement between His Royal Highness Prince Devawongse Varopraker, minister for foreign affairs of His Majesty the King of Siam, and John Barrett, minister resident and consul-general of the United States of America, for submission to an arbitrator of the claims of the late Marion A. Cheek (or of the estate of said Marion A. Cheek) against the Government of His Majesty the King of Siam, and of the Government of His Majesty the King of Siam against the late Marion A. Cheek (or the estate of said Marion A. Cheek).

His Majesty the King of Siam and the United States of America, through their representatives, His Royal Highness Prince Devawongse Varopraker, minister for foreign affairs of His Majesty the King of Siam, and John Barrett, minister resident and consul-general of the United States of America, have agreed upon and signed the following protocol:

Whereas the United States of America, on behalf of the late Marion A. Cheek, a citizen of the United States (or of the estate of said Marion A. Cheek), have claimed indemnity from the Government of Siam for arbitrary, unjustifiable, and other injurious action alleged to have been taken against the said Marion A. Cheek by the Government of Siam; and whereas the Government of Siam denies either the allegations of fact or contentions of law on which the claims of the other party are based, or the right of the other party to demand indemnity on account of such facts and contentions of law, and holds that in any case said Marion A. Cheek's liabilities to the Siamese Government, eventually including the amount of damages that might be awarded to Siam in consequence of the injurious action of said Marion A. Cheek or of the administrator of his estate (which injurious action is denied by the other party) exceeds the amount of damages that might be awarded to said Marion A. Cheek, or his estate, in consequence of the injurious action of the Government of Siam; it is therefore agreed between the two Governments, with the consent of the administrator of the estate of Marion A. Cheek:

I. That every matter of dispute, both facts and law, brought into issue between the two parties shall be referred to the decision of Sir Nicholas J. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, who is hereby authorized as arbitrator, and who has given to both Governments official notice that he has accepted this office by permission of his Government.

II. *a.* That the parties to this agreement shall jointly have printed, not later than the 25th day of September, 1897, copies of the correspondence, documents, evidence, proofs, and other matter which have passed between them or which have been submitted by one of said parties to the other party in the consideration or discussion of said case; and each party shall be provided with six copies of said printed matter, and two signed copies shall be immediately forwarded to the arbitrator through the British representative in Bangkok.

b. That on, or not later than, the 20th day of November, 1897, the parties hereto shall exchange with each other, and file with the British representative in Bangkok, to be immediately forwarded to the arbitrator, such pleadings, statements of fact, claims for compensation or damages, and other matter pertaining to the case as shall be deemed necessary by the party filing the same for a proper presentation of his case.

c. That when the court of arbitration opens both parties may file answers to the respective pleadings, statements of fact, claims for compensation or damages, and other matter pertaining to the case referred to in the above paragraph "*b*," and the arbitrator may permit either or both parties to file further pleadings or statements, or not, as he deems advisable. Both parties may present evidence in support of the allegations contained in the various pleadings and statements filed in the case.

III. That the arbitration court shall sit in Bangkok from and after the 1st day of February, 1898, unless another date shall be agreed upon between the arbitrator and the two Governments, and the arbitrator, after examining the statements, pleadings, documents, evidence, proofs, and other matter submitted, may permit arguments and call for any additional evidence.

IV. That the arbitrator shall render his decision within three months after having left Bangkok. He shall decide on the statements, pleadings, evidence, proofs, and arguments submitted to him whether, and for what sum, the Government of Siam is indebted to the estate of Marion A. Cheek, or the estate of Marion A. Cheek to the Government of Siam, provided that, if the award is made in favour of the Government of Siam, it shall be against the estate of Marion A. Cheek only and not against the United States.

V. Reasonable compensation to the arbitrator and the other common items of expense attending to the hearing of the case by the arbitrator shall be paid in equal moities by the two Governments.

VI. Any award made by the arbitrator shall be final and conclusive, and the amount so awarded shall be paid, as the case may be, either by the Government of Siam or by the estate of Marion A. Cheek, not later than four months from the date of such award.

VII. Should either party to this protocol fail to comply with its provisions the effect thereof shall be determined by the arbitrator.

Done in duplicate at Bangkok this twenty-sixth day of July, 1897.

DEVAWONGSE,
JOHN BARRETT.

Mr. Sherman to Mr. Barrett.

DEPARTMENT OF STATE,
No. 138.] *Washington, September 17, 1897.*

SIR: I have to acknowledge the receipt of your dispatches Nos. 221 and 222, both dated the 22d of July last, and relating to the arbitration of the Cheek case.

In reply I have to inform you that the postponement of the date of the arbitration of said case to February 1 next is acceptable to the Department.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 18, 1897.

Cheek protocol approved.

SHERMAN.

OPPORTUNITIES FOR THE DEVELOPMENT OF AMERICAN TRADE IN THE EAST.

Mr. Barrett to Mr. Sherman.

No. 190.] LEGATION OF THE UNITED STATES,
Bangkok, April 5, 1897.

SIR: In addition to my consular dispatch No. 37, entitled "Important concession granted to an American by the Siamese Government," as being a matter of commercial interest, I have the honor to call the Department's attention to the matter in a dispatch.

The granting of the concession of the absolute electric-lighting privileges for twenty years of Bangkok and suburbs, representing a population of over half a million, and spread over a large area, by the Siamese Government to Mr. Lawrence E. Bennett, an American civil engineer, I consider one of the most noteworthy evidences of what American energy can accomplish in the Far East, if the opportunity is appreciated and developed in the proper way.

There has been so much discussion of prospective concessions to Americans in China and other countries of Asia, that I am pleased to have this one actually obtained and put into practical working in the country to which I have the honor to be accredited.

Especially is it gratifying to me, and I hope to the Department of State, that this concession is granted within one month after the adjustment of recent difficulties with the Siamese Government. It is material evidence that American influence has not suffered, and that the opportunity for Americans of energy, reliability, and capital in Siam has not been unfavorably affected by recent events.

Had American companies or American interests made earlier and stronger efforts, in accordance with repeated previous reports and recommendations of mine, other concessions and other opportunities for the development of commerce, trade, and general business could have been secured and seized, which have gone into the hands of companies and representatives from European countries.

Mr. Bennett has won his concession by showing to the Siamese Government that it would gain rather than lose by the transaction and by proving that he could do what was expected as well as, or better, than anyone else. It is also the result of hard, persistent endeavor on his part and of competition with others for the valuable rights granted. As United States minister I have given him such moral support as was permissible and legitimate, and I am confident that the policy that I have followed here under your esteemed direction has been such as to enable the Siamese Government to place confidence in any relations they may have with Americans now or in the future. There is, of course, very much to be desired yet in the way matters are managed by the Siamese and in the promulgation of improvements of all kinds—the upbuilding of trade and commerce with foreign lands—but I am hopeful that experience and observation will prove to the Siamese Government the advantage of development and progress. They deserve credit, however, for having done much that commends itself to foreigners.

Finally, as suggested by Mr. Bennett's concession, I would urge through the Department of State, what I have said many times before, that now is the time for American material interests in the far East to be built up from Japan to Java. One of the greatest opportunities of the world is here. Great Britain, Germany, and France are competing

more hotly everyday for the chief share of its growing business and trade. Their merchants, exporters, steamship companies, and commercial representatives are leaving no stone unturned to thoroughly exploit the fields open in Japan, China, Siam, and neighboring lands and colonies. May Americans awake to the situation before it is too late.

I have, etc.,

JOHN BARRETT,
Minister Resident.

SPAIN.

ARREST OF CITIZENS OF THE UNITED STATES IN CUBA.

Mr. Taylor to Mr. Olney.

No. 642.] LEGATION OF THE UNITED STATES,
Madrid, February 11, 1897. (Received Mar. 1.)

SIR: Replying to your No. 642, relative to the case of Adolphus Torres, I have the honor to inform you of the receipt of a note from the Spanish minister of state informing me that according to information furnished by the Governor-General of Cuba the facts relative to the arrest of Torres are as follows:

On the 4th of October last the military commander of Sagua la Grande was confidentially informed that several neighbors of that town had absented themselves with a commission for the insurgents. Said authority therefore proceeded to their detention on their return, and with them was Adolfo Torres. The necessary proceedings were then instituted to find out whether the place where they had gone and the purpose of their absence constituted an offense of rebellion. These points were justified, and the confidential report not having been proved the case was considered as ended, in accordance with the opinion of the auditor-general, on the 12th of November and the liberty of the detained was ordered. The question of competence or of application of the protocol of 1877 was not discussed, because the condition of American citizenship had not been claimed by any of the prisoners. The decision in the case was afterwards communicated to the consul-general of the United States at Havana.

I am, etc., HANNIS TAYLOR.

Mr. Taylor to Mr Olney.

No. 643.] LEGATION OF THE UNITED STATES,
Madrid, February 11, 1897. (Received Mar. 1.)

SIR: In further reply to your No. 592, of October 21* last, relative to the arrest of Mr. del Villar, I have the honor to inform you of the receipt of a note from the minister of state, as follows:

From the documents sent by the Captain-General of the Great Antille it appears that said Suarez del Villar, a neighbor of Cienfuegos, was arrested on the 8th of September last in the act of delivering a sum of money in payment of certain arms which appeared to have been sold to the insurrection. Proceedings were begun which afterwards were raised to a criminal case, because the act in question constituted an offense of aid to the insurrection. By a protest of the consular agent of the United States at Cienfuegos, knowledge was had that Suarez del Villar was an American citizen, and in view of this, after legal proofs were exhibited in due form and the proceedings and necessary requisites were fulfilled, on the 5th of last January the case was turned over to the civil jurisdiction, and the proceedings were delivered to the judge of instruction of Cienfuegos.

It is therefore evident that this case, far from being an infringement of the protocol of 1877 and other international agreements in force, is another proof of the loyalty with which the same are fulfilled by the Spanish authorities in the Great Antille.

I am, etc., HANNIS TAYLOR.

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* See Foreign Relations for 1896, p. 645.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, February 28, 1897.

MR. SECRETARY: Referring to the case of the American citizen, Charles Scott, arrested in Cuba by reason of the present insurrection, and of whom on several occasions your excellency has spoken to me, I have the honor to bring to your knowledge that, according to official reports which are communicated to me by the minister of state, the said Charles Scott was detained at Regla on the 9th of the present month because it appeared from the process set on foot against other persons that he was a spy and agent of the subcommittee and delegate of the Junta there established for the purpose of collecting funds destined for the insurrection. Scott forthwith confessed his guilt, although alleging extenuating circumstances.

The same day on which Scott was arrested the consul of the United States asked for information concerning his detention, and on the 15th he was sent evidence of the charges which appeared against the accused.

On the 19th the consul asked that the order of "incommunication" be removed from Scott.

On the 24th it was ordered that, as a result of the proceedings and upon the recommendation of the regional governor, the case should be transferred to the ordinary courts, which orders were communicated to the consul of the United States, Scott remaining in jail.

The official reports which I have received in this matter conclude by stating that the military jurisdiction has not intervened in the case.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN,
Washington, March 1, 1897.

MR. SECRETARY: On being informed by your excellency of the circumstances under which several American citizens are now under arrest in the Island of Cuba, I communicated your statements to his excellency the minister of state, who, in conjunction with the Government of Her Majesty the Queen Regent, has given detailed examination to the statements of the United States Government, at the same time that it has likewise considered the friendly observations addressed to it by other Governments.

The Spanish Government desires that persons prosecuted before the law by reason of the exceptional circumstances now occurring in the Island of Cuba shall suffer no unnecessary hardships (molestias), and at the same time that those who, abusing the hospitality they enjoy, violate the law shall not escape the law, has prescribed measures of a general character which it believes will avoid all ground of complaint and assure and facilitate the action of the courts.

In having the honor to bring this to your excellency's knowledge, I beg you to be pleased to direct that every case wherein you deem that there has been a violation of the law or failure to observe the prescriptions of the treaties, you will call the attention of this legation or that of the United States at Madrid thereto, pointing out the laws which have not been obeyed, in order to thus avoid want of compliance therewith or the unnecessary alarm caused by false reports.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Taylor to Mr. Olney.

No. 655.] LEGATION OF THE UNITED STATES,
Madrid, March 3, 1897. (Received Mar. 16.)

SIR: I have the honor to acknowledge the receipt of your cipher cablegram of the 1st instant as follows:

Referring my cable January 22 and yours of 28th, am constrained to say no progress apparent in any of said. Ask immediate attention to all of them.

I immediately asked an audience with the minister for foreign affairs, who received me yesterday at 5 o'clock. At its close I had the honor to send you the following cablegram in cipher:

Interview with minister for foreign affairs. Read your last cablegram and insisted upon exact answer to each demand contained in your cablegram of January 22. He said that he cabled immediately for reports in each case, which are now arriving by mail. From data in hand says charges have been made in the three cases of which you complained on that account. In every case says proceedings are going n according to law and protocol, and will do all possible to hasten them. Cuban authorities say Jose Gonzales has not claimed to be American citizen. Witnesses now being examined in case of Larrieu.

The Duke of Tetuan assured me that he was doing all in his power to comply with your wishes, and that he would be glad for me to call his attention to any failure of the Cuban officials to do their duty in these cases.

I am, etc., HANNIS TAYLOR.

Mr. Taylor to Mr. Sherman.

No. 686.] LEGATION OF THE UNITED STATES,
Madrid, April 23, 1897. (Received Mar. 7.)

SIR: Referring to Department's telegrams of January 22 and March 1 and to my Nos. 636, of January 29, and 655, of March 3, of the present year, relative to certain American citizens arrested in Cuba, I have the honor to inform you that I have received a note from the minister for foreign affairs, informing me officially that the American citizen Jose Gonzales Curbelo, one of the prisoners named in the first-mentioned telegram, was placed at liberty on the 30th of last March.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Sherman.

No. 690.] LEGATION OF THE UNITED STATES,
Madrid, May 8, 1897. (Received May 21.)

SIR: Referring to my dispatch No. 686, of the 23d ultimo, relative to certain American citizens arrested in Cuba, I have the honor to inclose herewith copies and translations of two notes received from the minister for foreign affairs, informing me officially that the naturalized American citizens Jorge W. Aguirre and José L. Cepero have been placed in liberty and expelled from the Island of Cuba by decree of the Governor-General.

I am, etc., HANNIS TAYLOR.

[Inclosure 1 in 690.—Translation.]

MINISTRY OF STATE,
Palace, April 30, 1897.

EXCELLENCY: Referring to your notes dated January 23 and March 3 last and to my replies of 28th and 3d of same, I have the honor to inform you that, according to telegrams received by my colleague, the minister of ultramar, an order of provisional abandonment has been issued in the proceedings followed against the naturalized George W. Aguirre, who was placed in liberty and expelled by decree of the Governor-General of Cuba. Also an order of complete abandonment has been issued in the proceedings against the naturalized José L. Cepero, who shall be placed at the disposal of the Governor-General as soon as the above order is fulfilled.

I avail myself, etc.,

THE DUKE OF TETUAN.

[Inclosure 2 in 690.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, May 6, 1897.

EXCELLENCY: In addition to my note of the 30th of April last, I have the honor to inform your excellency that, according to telegrams received by my colleague, the minister of ultramar, after the fulfillment of the order of complete abandonment issued in favor of the naturalized American José L. Cepero, he was placed in liberty and expelled from the Island of Cuba by decree of the Governor-General of the same.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Woodford to Mr. Sherman.

No. 88.] LEGATION OF THE UNITED STATES,
Madrid, December 4, 1897. (Received Dec. 18.)

SIR: Referring to my dispatch No. 82, of November 29, 1897, and my cable of November 28, 1897, I have the honor to inform you that, confirming the information therein conveyed, I received yesterday a formal and courteous note from the Spanish minister of state, stating that the American citizen Luis Someillan had been released from prison, and that no citizen of the United States now remained imprisoned in the Island of Cuba. I have acknowledged the receipt of the note. I inclose herein a copy of the note, with translation.

I have the honor, etc.,

STEWART L. WOODFORD.

[Inclosure in No. 88.—Translation.]

Mr. Gullon to Mr. Woodford.

MINISTRY OF STATE,
Palace, December 2, 1897.

EXCELLENCY: In further proof of the friendly sentiments of the Government of His Majesty toward that which your excellency so worthily represents at this court, it is very gratifying to me to inform you that, in compliance with the royal decree of the 11th of November ultimo, the total pardon of the penalty imposed upon the North American citizen Luis Someillan has been granted.

At the same time I have the greatest pleasure in informing your excellency that, as the Governor-General of Cuba inform me by cable, no citizen of the United States remains in prison in said island.

I avail myself, etc.,

PIO GULLON.

PROHIBITION OF THE EXPORTATION OF LEAF TOBACCO FROM CUBA.*

Mr. Taylor to Mr. Sherman.

No. 663.] LEGATION OF THE UNITED STATES,
Madrid, March 11, 1897. (Received Mar. 29).

SIR: I have the honor to report that the claim for indemnity contained in Department's No. 654, of the 12th ultimo, concerning the prohibition of the shipment of tobacco from the Island of Cuba, under the order of May 16, 1896,† has been duly presented to the Spanish Government.

I am, etc., HANNIS TAYLOR.

Mr. Sherman to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 23, 1897.

Tobacco embargo. Indemnification for further detention less important than immediate release. Factories Chicago, New York, and elsewhere idle in consequence of embargo. Urge prompt compliance with Spanish promise to release tobaccos bought or contracted for prior to decree of embargo. Spanish minister here has promised to urge early action on his Government.

SHERMAN.

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*See Foreign Relations 1896, pp. 684–692.
†Printed in Foreign Relations, 1896, page 895.

Mr. Taylor to Mr. Sherman.

[Telegram.]

MADRID, *March 24, 1897.*

Have earnestly pressed your last demand upon minister for foreign affairs, who promised to do all possible to obtain in a few days from minister for the colonies orders permitting export in every meritorious case now pending.

TAYLOR.

Mr. Sherman to Mr. Taylor.

No. 676.] DEPARTMENT OF STATE,
Washington, March 24, 1897.

SIR: I confirm on the overleaf copy of my cipher telegram of yesterday protesting against the further detention in Cuba of tobacco purchased or contracted for by mercantile houses in the United States prior to the issuance of the decree forbidding its exportation.

The attention of this Department has, for several months past, been called to the very great injury caused by the persistent refusal of the Spanish authorities to fulfill the promises made to this Government and release from the embargo all tobacco in the provinces of Havana and Pinar, the property of citizens of the United States at the time the said embargo was ordered by the Captain-General of the Island. The damages which may be ultimately awarded to such citizens for this detention of their property are of minor importance compared with the great injury which is now occasioned by the lack of materials for their factories in this country. The retention of this tobacco in Cuba does not operate in favor of the native manufacturers and the embargoed merchandise will, within a short time, become useless. In this connection I inclose copy of a letter from Messrs. Hernsheim Bros. and Co., of New Orleans, filed in this Department by Mr. William O. Roome.

In conversation with the Spanish minister at this capital, the above considerations and suggestions on the same lines were submitted to him, and he assured the Department that he would at once cable to the Madrid Government to promptly dispose of all these cases which are now on appeal there from Cuba.

Respectfully, yours,

JOHN SHERMAN.

Mr. Taylor to Mr. Sherman.

[Telegram.]

MADRID, *April 9, 1897.*

Am vigorously pressing minister for foreign affairs by note and interview in tobacco cases. He is telegraphing Governor-General. Successful result expected soon.

TAYLOR.

Mr. Sherman to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 15, 1897.

Referring your cable 12th, surprised Hernsheim Bros. tobacco not released. Clearest case of all. What further evidence needed?

SHERMAN.

Mr. Sherman to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 20, 1897.

What result in Hernsheim Brothers case? No apparent reason why tobacco should not be instantly released. Have urged early appointment of Secretary.

SHERMAN.

Mr. Taylor to Mr. Sherman.

[Telegram.]

MADRID, *April 20, 1897.*

Long note just received opposing objections to Hernsheim case, chief of which are that, as presented here it rests upon general statements unsupported by proof, and that claimants waited until last September to solicit permission to ship. Promise made, however, to reexamine case as soon as expediente arrives. Have claimants offered proof to officials at Havana?

TAYLOR.

Mr. Sherman to Mr. Taylor.

No. 686.] DEPARTMENT OF STATE,
Washington, April 23, 1897.

SIR: Referring to the Department's recent instructions to renew your efforts to obtain the release of tobacco purchased or contracted for by American mercantile houses before the prohibitory decree was issued by the Governor-General of Cuba, I inclose a copy of a dispatch from our consul-general at Havana, transmitting a claim for indemnity in the sum of $100,000, filed by Neuhaus, Neumann & Co., of Havana, agents of the New York firm of Sartorius & Co., for the refusal to allow the exportation from Cuba to the United States of some 34,000 matules of tobacco, purchased or contracted for before May 16 last.

You will present this case to the Spanish Government.

Respectfully, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Taylor.

No. 690.] DEPARTMENT OF STATE,
Washington, May 4, 1897.

SIR: Adverting to the Department's instructions No. 621, of December 7, 1896, and No. 676, of March 24, 1897, I have now to inclose a copy of a letter from Mr. Samuel Herman, jr., dated this city the 3d instant, accompanied by an affidavit of S. Hernsheim Brothers & Co., limited, of New Orleans, La., showing that the 12,000 bales of tobacco—the exportation of which was refused by the Cuban authorities—were contracted for and purchased by the company's agent at Havana prior to May 16, 1896.

The original of the inclosed affidavit has been forwarded to the company's agent to be filed with the other affidavits of such agent who bought the tobacco and who, with the commission merchants and their clerks, is cognizant of the facts that all of the tobacco was furnished before the date of General Weyler's decree of May 16, 1896, prohibiting the exportation of certain tobaccos.

It is hoped that this affidavit will meet the objection referred to in your telegram of April 20, 1897, that the case, as presented at Madrid, rested upon general statements unsupported by proof. It was also observed by you that the promise was made that the case should be reexamined as soon as the expediente should arrive.

You will present the facts herein to the Spanish Government in connection with what you have already laid before it, and urge that the necessary orders for the release of the tobacco may be speedily issued.

Asking that this matter be given immediate consideration,

I am, respectfully yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Taylor.

No. 699.] DEPARTMENT OF STATE,
Washington, May 11, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 685, of the 22d ultimo, accompanied by a translation of a note from the Duke of Tetuan, of April 20, in relation to the case of Messrs. Hernsheim Brothers, who state that they purchased and contracted for a certain quantity of tobacco prior to the decree of May 16, 1896, prohibiting its exportation from the provinces of Havana and Pinar del Rio. I have attentively read the views expressed by the Duke of Tetuan, but I deem it unnecessary at the present time to do more than to inclose certain additional evidence, and to refer to his gratifying promise, upon the arrival of the expediente at Madrid, in the Hernsheim Brothers and other tobacco cases, to cause the case of those brothers to be instantly and "carefully examined by the Government of His Majesty, with the firm purpose of deciding in strict equity and justice."

It is possible that the expediente referred to by the minister may have before this reached Madrid, but as pertinent to the consideration of the case, should the expediente not have reached there, and the case not have been decided, I inclose original and copies of letters from Fidel Fernandez, the buyer, and original letters from Messrs. Neuhaus, Neumann & Co., the agents of Messrs. Hernsheim Brothers & Co., all bear-

ing on the purchase of the tobacco prior to May 16, 1896. The former correspondence covers seventeen letters and the latter thirteen letters and two cablegrams.

Nothing in the inclosed correspondence shows that copies thereof have been submitted to the Havana authorities, but inquiry on this point will be made of the firm and the suggestion made to it that this course be followed in case it has not been.

Still, this should not deter you from promptly presenting copies of these papers, sent in original to the minister of state, and from renewing your appeal that the Spanish Government, in fulfillment of its promise, should instantly deal with the case in accordance with equity and justice. If the owners of the tobacco are to receive it in fairly good condition it should be released without further and unnecessary delay. The Spanish Government will, I am sure, realize this, and will do all that it reasonably can to expedite a favorable decision.

In case such decision is reached at Madrid you may briefly telegraph the fact.

In conclusion, it may be well to refer you to Mr. Olney's No. 654, of February 12 last, in which the case of Messrs. Hernsheim Bros. & Co. is specifically mentioned.

Respectfully, yours, JOHN SHERMAN.

Mr. Day to Mr. Taylor.

No. 708.] DEPARTMENT OF STATE,
Washington, May 28, 1897.

SIR: In connection with the Department's instructions No. 699, of the 12th instant, I have now to inclose for your use a copy of a letter from Mr. Samuel Herman, dated this city, the 28th instant, covering a translation of the memorial of Messrs. Neuhaus, Neumann & Co., of Havana, to the Captain-General of Cuba, dated May 20, 1897, and a translation of a certified copy of proceedings instituted by that firm in the court of first instance at Havana in May, 1897, all having reference to the case of Messrs. S. Hernsheim Bros. & Co., Limited, of New Orleans, whose tobacco is embargoed there.

It is the hope of the Department that these papers, in case those heretofore submitted shall not have convinced the Spanish authorities at Madrid of the fact that the tobacco was ordered and purchased prior to the order of General Weyler of May 16, 1896, will show conclusively the bona fides of the transaction and result in an immediate order releasing the tobacco.

The Department is inclined to this belief not only on account of the evidence now and previously submitted, but because of the assurance given by the Duke of Tetuan in his note of April 20, 1897 (transmitted with your No. 685, of April 22), that the expediente relative to Hernsheim Brothers and the other tobacco cases was expected to reach Madrid very soon, and that then the case of Messrs. Hernsheim Bros. & Co. would be carefully examined by the Spanish Government in accordance with equity and justice.

You will promptly bring these facts to the attention of the Spanish Government, should it be necessary, upon the arrival of this instruction, and urge a speedy and favorable decision, telegraphing briefly the result.

Respectfully, yours, WILLIAM R. DAY,
Acting Secretary.

Mr. Day to Mr. Taylor.

No. 710.] DEPARTMENT OF STATE,
Washington, June 11, 1897.

SIR: Referring to previous correspondence in regard to the tobacco cases, and especially to instructions No. 581, of October 2, and No. 583, of October 6 last, I inclose copy of a letter from Sutter Brothers, of Chicago (their Havana agents being Federico Baurriedel & Co.), complaining of the injury they are suffering from a failure to receive permission to ship their tobacco.

You will urge a decision in this case and report the result.

Respectfully, yours,

WILLIAM R. DAY,
Acting Secretary.

Mr. Day to Mr. Taylor.

No. 711.] DEPARTMENT OF STATE,
Washington, June 11, 1897.

SIR: Referring to the Department's No. 708 of May 28, 1897, I have now to inclose copy of a document, in Spanish, showing that the manufacturers of tobacco and cigars in Havana acknowledge that Messrs. S. Hernsheim Bros. & Co., Limited, of New Orleans, are the owners of 1,200 bales of tobacco, purchased prior to the decree of May 16, 1896.

I add a copy in translation of this document as it has been furnished to the Department.

It is believed that with this information before it, taken in connection with the previous proofs which you have been instructed to present, the Spanish Government will be willing to issue the necessary orders for the release of the tobacco in question. I can not but believe that the reexamination of the case, foreshadowed in your No. 699, of May 21, 1897, has been made at Madrid, and if so, I am equally confident that the release of the tobacco will follow.

I desire that you again present the case to the Spanish Government in the light of this additional evidence if necessary, and urge upon that Government the propriety of immediate and favorable action.

Respectfully, yours,

WILLIAM R. DAY,
Acting Secretary.

Mr. Day to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 14, 1897.

Referring evidence submitted instruction seven eight, May 28, Hernsheim tobacco case, you may tell Spanish Government that certificate from Manufacturers' Union of Havana, showing conclusively tobacco purchased prior to May 16, 1896, has been filed here. Certified copies sent you 11th instant. Do what is possible to secure immediate release of tobacco by cable to Havana, and telegraph briefly result.

DAY, *Acting.*

Mr. Taylor to Mr. Sherman.

[Telegram.]

MADRID, *June 14, 1897.*

Saturday minister for foreign affairs promised me unofficially, in personal interview, favorable result in Hernsheim case in a few days. Doing all possible.

TAYLOR.

Mr. Taylor to Mr. Sherman.

[Telegram.]

MADRID, *June 24, 1897.*

Order sent by cable Havana allowing shipment of Hernsheim Brothers' tobacco.

TAYLOR.

Mr. Sherman to Mr. Taylor.

No. 714.] DEPARTMENT OF STATE,
Washington, June 25, 1897.

SIR: I inclose copy of a letter from the Hon. Lemuel E. Quigg, transmitting one from Messrs. Hoadly, Lauterbach & Johnson, attorneys for Sartorius & Co., of New York, who are the owners of some 719 bales of tobacco purchased or contracted for in the Island of Cuba prior to the issue of the Governor-General's prohibitory order of May 16, 1896.

Permission to ship this tobacco has been refused, and you are instructed to exert all proper pressure on the Spanish Government to have the desired permission accorded.

Respectfully, yours, JOHN SHERMAN.

Mr. Taylor to Mr. Sherman.

No. 716.] LEGATION OF THE UNITED STATES,
Madrid, June 25, 1897. (Received July 9.)

SIR: On the 23d instant I had the honor to send you the following telegram in cipher:

Order sent by cable Havana allowing shipment of Hernsheim Brothers' tobacco.

I also have the honor to inclose herein a copy, with translation, of a note received from the Spanish Government in reference to the disposition made by it of the seven tobacco cases named therein. From this you will see that four of the seven of these cases, including that of Hernsheim Brothers, have already been decided favorably, and that in the three remaining cases further proof may be offered in Cuba in order to supply the deficiencies which now exist. I can therefore take no further steps in the three cases still open until further proof is taken.

I have concluded to send you the following telegram in cipher, which explains itself:

Bauriedel, Seidenberg, and Sartorius will be permitted to make further proof at Havana of their claims. Details mailed.

I am, etc., HANNIS TAYLOR.

[Inclosure in No. 716.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
Palace, June 23, 1897.

EXCELLENCY: In accordance with what I had the honor to state to you on several occasions, the Government of His Majesty has carefully examined the expedientes received from the Island of Cuba, formed on account of the claims made by several American citizens relative to the decree on the exportation of tobacco from Havana and Pinar del Rio published by General Weyler under date of May 16, 1896.

Grave and well-grounded considerations of just defense of the national interests suggested the publication of that order; but the Government of His Majesty, always respecting the rights acquired, showed itself disposed to exempt from the same those lots of tobacco which should be sufficiently proved that had been bona fide acquired or contracted for by foreigners prior to the publication of the decree. So I informed that legation in official note as soon as, after the Government of His Majesty had taken such decision, your excellency presented the first observations upon the matter, under date of May 21, 1896. Afterwards and in different notes I have had the honor to make the same statement to you. From the beginning, and as Your Excellency will remember, the case was foreseen that difference of opinions might arise as to the manner of carrying out the instructions already sent, the decisions being reserved to the agreement of both Governments.

For the purpose of putting a definitive end to this matter the Government of His Majesty, giving another proof of its special desire to please, as far as possible, that of the United States, requested the authorities of Cuba to send copies of the expedientes there formed on account of the mentioned American claims regarding the exportation of tobacco. As soon as said copies have been received by the Government it has proceeded to their study and decision with its habitual spirit of equity and justice.

Seven have been the American claimants whose expedientes have been received by His Majesty's Government and to which your excellency has referred in different notes, viz: (1) Bruno Diaz, (2) Doroteo Herrera, (3) Luis Wertheimer, (4) Federico Bauriedel, (5) Seidenberg & Co., (6) Hernsheim Bros. & Co., and (7) Sartorius & Co.

Of these seven cases the first three, as your excellency knows, have been already decided by granting the permission to ship requested by the claimants. For that reason the Government of His Majesty needs not enter into the examination of their respective expedientes, and will do so exclusively in regard to the four others.

These four offered to prove that they acquired or contracted for the tobacco prior to the decree, but the only one who actually proves it with the documents presented is the claimant Hernsheim Bros. & Co., especially with those documents which your excellency was good enough to transmit as inclosures to your notes of May 15 and 21 and 4th instant, especially the letters of the buyer Fidel Fernandez, a Spaniard, which being dated prior to the decree, are truly convincing and bear effective proving power.

In view of them the Government of His Majesty, in compliance with its primitive decision contained in my note of the 25th of May last year, has ordered the Cuban authorities to permit the shipment of the 1,200 bales of tobacco the property of Messrs. Hernsheim Bros. & Co., sending the instructions by cable in order to avoid unnecessary delay.

As the same circumstances do not concur in regard to the value of the proofs alleged in the three remaining cases, the decision has been necessarily different. Messrs. Bauriedel, Seidenberg, and Sartorius do not prove, but limit themselves to offer, in one or other form, that they shall prove, their assertions that they acquired or contracted for the tobacco prior to the decree. For this purpose and in accordance with their offers it will be necessary to open an investigation by means of the examination of the commercial books, correspondence, memoranda, notes, confirmation of drafts, depositions of the sellers, buyers, and selecters, and other means which may be considered proper; the purpose of which investigation will be to clear the facts and to purge them with a severity excluding good faith, equity, and justice. This investigation shall be made at Havana, because neither in the expedientes nor in the documents sent by your excellency appear sufficient evidence to appreciate duly the proofs offered and reasons alleged. According to the result of the investigation the permission for shipment shall be given or not, it being understood that before said shipment is permitted it is necessary to demonstrate that the tobacco is the same one which was acquired or contracted for prior to the decree.

As regards the case of Messrs. Bauriedel & Co., the investigation shall refer, not to the total quantity originally requested, but only to the 5,000 bales of tobacco, these being the only ones they offer to prove, in a petition of September 10, 1896, that were acquired or contracted for prior to the decree.

Resuming, the Government of His Majesty, after making a careful study of the respective expedientes and of the documents submitted by your excellency, has decided—

First. To authorize the immediate shipment of the 1,200 bales of tobacco requested by Messrs. Hernsheim Bros. & Co., of New Orleans, issuing to this end the proper orders by cable.

Second. To order the Treasury authorities of the Island of Cuba to make the proposed investigations or those which may be considered necessary to prove whether Messrs. Bauriedel, Seidenberg, and Sartorius acquired or contracted for, bona fide, prior to the order, the respective amounts of 5,000, 600, and 750 bales of tobacco, which they desire to ship, and if they are the same which they acquired or contracted for prior to the decree. The matter of the permission to ship shall be decided according to the result of the proof.

As your excellency will see, the decision of the Government of His Majesty is inspired both in the equity and justice promised, which is the constant feature of its conduct, and in a desire to please as far as it can that of the United States, thus answering to the friendly sentiments uniting both countries.

Said decision is very specially based upon the last documents presented by your excellency in official notes, some of them of a very recent date, and upon the express text of the depositions presented by the claimants. The Government of His Majesty has acted with as much dispatch as circumstances permitted since the receipt of your note of the 24th of March last, ordering the remission of the expedientes from the Island of Cuba and keeping them in its hands only the time indispensable for their examination. If the exportation is only permitted in one case, it is because that is the only one in which the assertion of the bona fide acquisition prior to the order is confirmed; and this is due, not to the documents presented by the claimant at Havana, but to those submitted by your excellency in your notes, the last of which was of the 4th instant. The Government of His Majesty

could not be, therefore, more solicitous, contrasting its rapid action with the scanty diligence employed by the claimants.

The latter, instead of using the right of administrative appeal granted by the Spanish law, and which would have enabled the central Government to decide the matter much sooner, preferred to go to the diplomatic channel, slower and less adequate, thus bringing about delays and annoyances imputable only to the claimants, and for which the Government of His Majesty can not answer at all, as I had the honor to state to your excellency in my note of April 24 of the present year.

Of that fault and of the delay with which the parties interested have presented the documents of proof may have originated losses, in case they have existed; and as of them His Majesty's Government has not been the cause, it can not admit the existence of any right to indemnity, as that claimed without sufficient ground by Messrs. Sartorius & Co. I must therefore so inform your excellency, hoping that the Government of the United States will appreciate in their full value the reasons exposed, which, being based upon strict justice, will not fail to merit its approval and respect.

After the claims of American subjects in regard to the decree of May 16, 1896, have been definitively decided in the manner above set forth, and the refusal to admit any demand for indemnity which on that account might be presented has been justified, it only rests for me to state to your excellency my conviction that in view of the time elapsed no new claims may be presented with foundation, since it is more than a year that the exportation of tobacco from Havana and Pinar del Rio has been prohibited, and therefore there has been ample time for the presentation of complaints of those who should consider their interests injured. The Government of His Majesty, for this reason, has the pleasure of considering this matter as definitively ended.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Day to Mr. Taylor.

No. 717.] DEPARTMENT OF STATE,
Washington, June 28, 1897.

SIR: I acknowledge the receipt of your No. 713, of the 5th instant, touching the Hernsheim Brothers tobacco case, and append on the overleaf a copy of your telegram of the 24th instant, showing that orders had been sent to Havana for the release of the tobacco.

The Department was gratified to receive this telegram, and offers its congratulations to you in the premises.

Respectfully, yours,

WILLIAM R. DAY,
Acting Secretary.

Mr. Taylor to Mr. Sherman.

No. 726.] LEGATION OF THE UNITED STATES,
San Sebastian, July 15, 1897. (Received July 30.)

SIR: I have the honor to acknowledge the receipt of your No. 714, of the 25th of June last, containing the claim of Messrs. Sartorius & Co., of New York, on account of the prohibition to ship certain tobaccos owned by that firm in Cuba.

I have not yet presented said claim. I deem it proper to await the receipt by you of my No. 716, of the 25th ultimo, inclosing a note from the Duke of Tetuan in which the Spanish Government has declared that on account of the long time elapsed since the publication of General Weyler's order of May 16, 1896, no further tobacco claims will be received. I shall therefore suspend all action in the premises until you have had time to receive my last dispatch on the subject. You will then please instruct me whether the claim shall be presented or not.

I am, etc.,

HANNIS TAYLOR.

Mr. Sherman to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 21, 1897.

Referring your 716 and 726, tobacco, Sartorius filed additional proof June 2, Havana. This alleged sent Madrid June 20. Not arrived date Tetuan's note June 23. Ask favorable decision.

SHERMAN.

Mr. Sherman to Mr. Taylor.

No. 750.] DEPARTMENT OF STATE,
Washington, August 21, 1897.

SIR: I inclose copy of the memorial of Gustav Salomon & Bros., of New York City, who complain that they are the owners of some 1,645 bales of tobacco purchased by their agent in the provinces of Pinar del Rio and Havana, Cuba, prior to the publication of the prohibitory edict of General Weyler, and that the said tobacco, being ready for shipment and proved to have been purchased, as above alleged, prior to the edict of General Weyler, is being detained (permission to export the same being denied by the Spanish authorities), to their great loss and damage.

You will bring the case to the attention of the Spanish Government and endeavor to obtain permission for the exportation of the tobacco in question.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Taylor.

No. 752.] DEPARTMENT OF STATE,
Washington, August 25, 1897.

SIR: I have to acknowledge the receipt of your No. 726, of the 15th ultimo, in which, referring to Department's No. 714 of June 25 last, inclosing further evidence relative to the claim of Sartorius & Co. to be allowed to ship certain tobacco from Havana, you state that in view of the Duke of Tetuan's note inclosed in your No. 716 of June 25 last, declaring that no further tobacco claims would be received, you had decided not to present the claim without further instructions from the Department.

The expression used in the Duke of Tetuan's note is that no new claims would be received (nuevos casos de reclamacion). The case of Sartorius & Co. was not a new case; it had been forwarded to your legation in Department's No. 686 of April 23 last, and it was one of the subjects of the very note under consideration, it being declared therein that the evidence submitted up to that time was insufficient to prove the case. Department's No. 714 inclosed this additional evidence, which, according to the statement made by Messrs. Hoadley, Lauterbach & Johnson in their letter of June 8 to Hon. L. E. Quigg (copy inclosed in No. 714), had been filed with General Weyler at Havana on June 2 last, and, it was promised, would be forwarded to Madrid on June 20. This evidence of course could not have been before the Spanish Government on June 23, when the Duke of Tetuan's note was dated.

In view of these facts I therefore telegraphed you on the 21st instant (telegram confirmed on overleaf) to ask for information and a favorable decision in the light of the additional evidence presumed to have been forwarded from Havana on June 20 last.

You should at once submit the evidence inclosed in Department's No. 714, and ask for a favorable decision.

Respectfully, yours, JOHN SHERMAN.

Mr. Taylor to Mr. Sherman.

No. 750.] LEGATION OF THE UNITED STATES,
San Sebastian, September 3, 1897. (Received Sept. 14.)

SIR: Referring to my No. 748, of the 25th ultimo, relative to the case of Messrs. Sartorius & Co., I have the honor to inclose herewith a copy, with translation, of a note received from the Spanish Government in reply to your cablegram of the 21st ultimo.

I am, etc., HANNIS TAYLOR.

[Inclosure in No. 750.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, August 30, 1897.

EXCELLENCY: I have had the honor to receive your kind note No. 310, of the 24th instant, transcribing a cablegram from your Government relative to the case of exportation of tobacco of Messrs. Sartorious & Co.

In reply to said note I have to inform your excellency that the only communication relative to this matter which I have received after my note of the 23d of June is yours of the same date, which was received by me on the following day, inclosing a certificate from the manufacturers of tobacco of Havana, stating that said Messrs. Sartorius, together with Messrs. Hernsheim, were the only American claimants who had not sold the leaf tobacco object of their claim. In due time I sent said certificate to the minister of ultramar and surely it will be kept in mind by the Governor-General of Cuba when he decides the case, according to the agreement.

I have hastened, however, to communicate to my colleague the minister of ultramar the note of your excellency to which I answer.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Taylor to Mr. Sherman.

No. 752.] LEGATION OF THE UNITED STATES,
San Sebastian, September 9, 1897. (Received Sept. 20.)

SIR: I have the honor to acknowledge the receipt of Department's No. 752, of the 25th ultimo, relative to the tobacco case of Messrs. Sartorius & Co., and to inform you that in compliance with your instructions I have submitted to the Spanish Government the additional evidence inclosed in the Department's No. 714, of June 25 last, and asked for a reexamination and favorable decision of the case in the light of said additional evidence.

I am, etc.,

HANNIS TAYLOR.

Mr. Woodford to Mr. Sherman.

No. 12.] SAN SEBASTIAN, SPAIN,
September 15, 1897. (Received Sept. 27.)

SIR: Yesterday I received your telegram in cipher, which I translated as follows:

748. Sartorius tobacco claim. Am informed that new export duty taking effect September 19 practically confiscates goods, even if shipment allowed. Press favorable decision before September 18, and reply by telegraph.

SHERMAN.

Yesterday I also received communication from the Spanish minister of foreign affairs acknowledging receipt of Minister Taylor's letter of September 8, with accompanying documents relative to the tobacco claim of Messrs. Sartorius & Co., and stating that such additional proofs had been transmitted to his colleague, the minister for the colonies, with request for early decision.

I at once called the attention of the minister of foreign affairs to this claim and urged favorable decision on or before September 18, and have to-day telegraphed you as follows, in cipher:

SHERMAN, *Washington:*

In compliance with your cable I have urged immediate decision Sartorius claim.

WOODFORD.

I have, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1897.

If not already done, submit at once evidence Sartorius claim, referred to in my 752, August 25.

SHERMAN.

Mr. Woodford to Mr. Sherman.

[Telegram.]

SAN SEBASTIAN, *September 18, 1897.*

Additional proofs referred to in your cable yesterday were submitted by my predecessor September 8. Reply of Spanish minister for foreign affairs to my urgent request for favorable decision before September 18 says, in effect, time too limited; and referring to his note June 23, says: must wait report of Treasury officials at Cuba. Details by next mail.

WOODFORD.

Mr. Woodford to Mr. Sherman.

[Telegram.]

MADRID, *October 11, 1897.*

Salomon tobacco claim presented. The condition of foreign office makes an early decision doubtful. Shall do all I am able.

WOODFORD.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 21, 1897.

Our consul-general reports Salomon Brothers tobacco case can be materially advanced if order be obtained and cabled Havana from colonial minister asking remission expediente to Madrid. Endeavor to obtain desired order.

SHERMAN.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 3, 1897.

Strenuously urge decision Salomon tobacco case. Important papers left Havana 30th ultimo. Endeavor to expedite action colonial minister, who understands case.

SHERMAN.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 22, 1897.

Consul at Havana wires nothing can be done for Salomon Brothers' tobacco without instructions from Madrid. Expedite matter if possible.

SHERMAN.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 6, 1897.

Is it not possible to hasten expediente Salomon tobacco case?

SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 94.] LEGATION OF THE UNITED STATES,
Madrid, December 11, 1897. (Received Dec. 27.)

SIR: Yesterday Spanish Government directed release of the Salomon Brothers' tobacco and telegraphed order to the Captain-General at Cuba directing him to permit exportation of same.

I have to-day telegraphed you as follows:

SHERMAN, *Washington*:

Order telegraphed to Captain-General Cuba directing release Salomon Brothers' tobacco.

WOODFORD.

I have begun negotiations looking to revocation of General Weyler's bando, forbidding exportation of tobacco from Cuba, and have strong hope that I shall be successful in obtaining such revocation before the 1st of January next.

I have the honor, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

[Cablegram.]

LEGATION OF THE UNITED STATES,
Madrid, December 31, 1897.

Tobacco bando revoked. Leaf tobacco can be exported on paying tax, 12 pesos per 100 kilos. All manufactured tobacco except picadura free of export duty. Santiago de Cuba excepted from new order. Importation of tobacco from all parts into Cuba prohibited. New order takes effect January 15.

WOODFORD.

INHIBITION OF OFFICIAL COMMUNICATIONS.

Mr. Olney to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 17, 1897.

United States consul at Sagua la Grande, Cuba, reports that on February 5 the mayor refused to permit him to telegraph in cipher on official business to the consul-general, and subsequently refused to transmit a telegram in Spanish or English to the Department of State

in which the consul reported to me the refusal to allow communication with the consul-general. Such inhibition of official communications of consuls of the United States with their superior or with this Department requires instant correction and rebuke. Represent matter urgently at once to minister for foreign affairs and cable his reply.

OLNEY.

Mr. Taylor to Mr. Olney.

[Telegram.]

MADRID, *February 20, 1897.*

Minister for foreign affairs just received telegram from Cuba stating that the Mayor Sagua acted through mistake and that specific instructions given to prevent such occurrence in future.

TAYLOR.

FIRING ON THE AMERICAN STEAMER VALENCIA.

Mr. Sherman to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
Washington, May 29, 1897.

SIR: I have just received a telegraphic dispatch from the United States consul at Santiago de Cuba, dated yesterday, and informing me that a protest has been lodged with him by the master of the American mail steamship *Valencia*, chartered by the Ward line of New York and regularly sailing under its house flag, alleging that when leaving Guantanamo Bay for Santiago de Cuba, his ship was fired upon by the Spanish warship *Reina Mercedes*, then 2 miles eastward and astern of the *Valencia*, the first shot being blank and the second a solid shot striking 80 yards astern. Upon hoisting her flag the *Valencia* was not further molested.

I can not comprehend such an exceptional demonstration against a vessel well known in the local trade, belonging to a line which has for years maintained regular commercial intercourse at stated periods with the ports of Cuba, and leaving port on a legitimate voyage and in compliance with all the requirements of Spanish law. It becomes my duty to ask instant investigation of this apparently extraordinary interference with legitimate commerce, and that the proper measures be taken to prevent the occurrence of such incidents.

Accept, etc., JOHN SHERMAN.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, May 31, 1897.

MR. SECRETARY: I have had the honor to receive the note you wrote me, under the date of 29th instant, informing me that you had received a telegram from the United States consul at Santiago de Cuba reporting a demonstration of the Royal cruiser *Reina Mercedes* against the steamer *Valencia*, of the Ward line.

Acceding to your excellency's desires, I had already written asking for information as to this occurrence, when I received last night a telegram from the Duke of Tetuan, who is always in the habit of communicating to me whatever news may be of interest to this legation, in which telegram he recites one addressed by the minister of marine to the commandant general of the Havana naval station.

According to that telegram, the incident occurred in the following manner: As she was entering the bay of Guantanamo, the cruiser *Reina Mercedes* met at the mouth of the harbor a steamer which was coming out without flying her flag, although the war ship had one hoisted. The latter, following the practice of all navies, confirmed her flag by firing a gun, and after the regular interval had passed she fired another shot, shorewards, from the bow of the cruiser.

At the second shot the steamer, which the cruiser had already recognized as being the *Valencia*, hoisted the American flag and went on her way without being molested. (See for explanation Spanish minister's note, June 29, 1897.)

As your excellency will see by this simple statement of facts, which is in concurrence with the reports made to you by the United States consul at Santiago de Cuba, there was no exceptional demonstration. The practice followed by international maritime law has been followed by indicating or advising, in the form usual with all war navies, that a breach of courtesy was being committed.

If the steamer *Valencia* had hoisted her flag upon meeting in Spanish waters a ship of the royal navy, the latter would have had no need of notifying her by means of a cannon shot, neither would it have been necessary to fire the second if the first had sufficed.

I permit myself to invite your excellency's attention to that which I had the honor to write to the Department under your worthy charge in my note of February 18 of last year (1896).

After repeated breaches of courtesy by the steamers of the line to which the *Valencia* belongs, I asked in my note to the Government of the United States, through the medium of the Secretary of State, that it should take notice of these facts and call the attention of the shipowners thereto, thus aiding the Government of His Majesty the King of Spain in its purpose to avoid every kind of pretext for disagreement; and now, in view of the present incident, I permit myself to renew the request.

As I said in my aforesaid note of February 18, 1896, His Majesty's cruisers have very strict orders for the fulfillment of their duties, and have received very precise instructions to avoid all disagreeable incidents. It is just, therefore, that all provocation be likewise avoided, and the wish to see fulfilled the duty of courtesy to which I allude could not be deemed capricious when so many filibustering expeditions have set forth and are setting forth from the United States, and when the vigilance confined to the 3 miles of jurisdictional waters is so difficult.

I doubt not that the foregoing explanations will leave your excellency completely satisfied by convincing you that there has not been, in will or in deed, any extraordinary interference with legitimate commerce nor any other wish than to affirm a right which under present circumstances it becomes indispensable to insist upon for the better vigilance of the territorial waters.

I take advantage of this occasion, Mr. Secretary, to repeat, etc.,

E. DUPUY DE LÔME.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, June 1, 1897.

MR. SECRETARY: In addition to what I had the honor to state to your excellency in my note of yesterday, in reply to that which you wrote me about the incident which occurred at Guantanamo in regard to the steamer *Valencia*, I have to state to you that the admiral commandant general of the Havana naval station, desiring to have exact knowledge of the facts, as he always does when anything abnormal takes place, has commissioned an officer of the navy and a judge-advocate of the same arm to proceed to Santiago de Cuba and inform themselves of what took place.

As I had the honor to state to your excellency yesterday, and according to confirmation by later intelligence which has been communicated to me for my information by the minister of state, the shots were not fired at an American vessel, but at an unknown vessel without a flag; the second shot was the consequence of the first one not having been heeded, and as soon as she hoisted her flag she was allowed to continue on her voyage without molestation and without even exercising the right of search, which all nations have in their jurisdictional waters.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 253.] DEPARTMENT OF STATE,
Washington, June 2, 1897.

SIR: I have the honor to acknowledge the receipt of your two notes of the 31st ultimo and 1st instant, both being responsive to mine of the 29th ultimo, in regard to the reported incident of the shots fired at the American merchant steamer *Valencia* as she was leaving the Bay of Guantanamo, in Cuba, by the Spanish cruiser *Reina Mercedes*.

As your second note advises me that the investigation which I requested has been in fact ordered, and in view of certain apparent discrepancies in the details of the incident as they are stated in your several notes, I will defer further consideration of the matter until I shall be in possession of the further information called for from the United States representatives in Cuba, as well as of such additional particulars as the forthcoming Spanish report may disclose.

Accept, sir, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 266.] DEPARTMENT OF STATE,
Washington, June 21, 1897.

SIR: Referring to your two notes of the 31st ultimo and 1st instant, in relation to the firing upon the American steamer *Valencia*, near Guantanamo, by the Spanish cruiser *Reina Mercedes* on the 27th of May last, I have now the honor to acquaint you with the result of the investigation as to the facts, made by this Department.

It is ascertained that the incident occurred not in the narrow entrance to Guantanamo Bay, as would seem to be stated in your notes, but in the ocean waters at the mouth of that inlet, and within 3 miles of the Cuban coast. The *Valencia* having duly cleared from Guantanamo and saluted the fort, which lies inland some 5 miles north of the ocean mouth of the inlet, took down her ensign and proceeded on her voyage. As she left the channel and was rounding Punta de Sotavento, heading southwestwardly, she sighted the *Reina Mercedes* approaching from the eastward, then being some 2½ miles distant, and southeast by east of Punta de Barlovento, which had until then concealed the cruiser from view. The *Reina Mercedes* was, from the course she steered, necessarily bow on, as seen from the *Valencia*, and so remained, or very nearly so, during the whole occurrence. Her ensign, if displayed at the gaff, was not visible from the *Valencia's* position then or at any time during the incident. No signal being seen, and inasmuch as the vessels were not passing each other, the cruiser being abaft the beam of the *Valencia* on the port quarter, the captain of the latter did not believe himself required to salute the cruiser with his flag, as he would have done had he met her on regular course. The two ships being in this relative situation, the first shot was fired and was heard on the *Valencia*, but was not, for the reasons stated, supposed to be a call for colors. Almost immediately after—within two minutes—another shot was heard, followed by the fall of the projectile nearly in line with the *Valencia* and about 80 yards astern of her. Thereupon, realizing that the shots were intended for him, the captain of the *Valencia* at once hoisted his national flag; but even then no flag or signal was visible upon the cruiser, which was then south by west of Punta de Barlovento, heading west, and about 2 miles astern of the *Valencia*, which had now swung into her westerly course in the open sea. The captain of the *Valencia*, however, recognized the cruiser as being the *Reina Mercedes*, the two vessels having been together at Santiago de Cuba on the 7th and 8th of May last—a circumstance which also explains the statement in your note of May 31 that the cruiser recognized the *Valencia* when firing upon her.

It further appears that the *Valencia* does not belong to the Ward line, but to the "Red D" line between New York and La Guaira, having been temporarily chartered from Messrs. Boulton, Bliss & Dallett by Messrs. James E. Ward & Co., to take the place of the regular south-side liner *Niagara*, which was laid up for repairs. Her officers and crew remained under the "Red D" management during these Cuban trips, and her master seems to have been unadvised of the correspondence of February and March of last year concerning the failure of the *Santiago* to salute a passing Spanish cruiser. Even had the master of the *Valencia* been aware of the former incident, I am by no means certain that the circumstances under which the *Reina Mercedes* was sighted by him would exact the usual maritime courtesy of the flag. At any rate, I am satisfied that no discourtesy was intended by the captain of the *Valencia*, and that if he indeed erred, it was an excusable error of judgment on his part. However this may be, I am prepared to admit, in all frankness, that during the continuance of a civil war such as is now flagrant in the Island of Cuba, it would be extremely convenient, and perhaps a prudent precaution, for American ships legitimately resorting to Cuban waters to show their flag when sighting a Spanish cruiser within the 3-mile limit, even if a formal salute be not called for by the ordinary code of maritime ceremonial, and I shall so advise Messrs. James E. Ward & Co.

With this statement the incident may be dismissed, but I can not

refrain from commenting upon the recklessness of the Spanish commander's action. Upon your own showing, knowing the vessel to be the *Valencia* and in the temporary service of the Ward Line, and apparently moved by feeling toward that line because of supposed discourtesies suffered from other of its ships in the past, he fired upon the *Valencia* for no other purpose than to make her show her flag. How far this confessedly careless act comports with the interests and dignity of two great and friendly nations it is not necessary to consider, but the fact remains that the falling of a solid shot near the stern of an American ship under such circumstances imports wanton and unjustifiable peril to the citizens and property of a friendly state. This Government has never admitted that life and property may be unnecessarily jeopardized by superior force, even when an offense against the revenue or other formal laws may have been committed by an American ship within a foreign jurisdiction, and it can not be expected to admit that one of its ships or those on board may be endangered because of a friendly foreign commander's ideas as to maritime punctilio. I must therefore repeat the hope expressed in my note of the 29th ultimo that such disagreeable incidents as this be not suffered to recur.

Accept, etc., JOHN SHERMAN.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, June 29, 1897.

MR. SECRETARY: I have received your note of the 21st instant, in reply to mine of May 31 and of the 1st instant, relative to the shots fired near Guantánamo by His Majesty's cruiser at the American steamer *Valencia.*

Congratulating myself that the reports received by both Governments have clearly explained what took place, and that those received by your excellency have led you to inform me, as you have done, that the matter may be considered as terminated, and again assuring you that the commanders of the vessels which patrol the coasts of Cuba have received orders to avoid, as far as their duties will permit, giving any trouble to those of friendly nations and to commerce carried on in good faith, I deem it my duty to establish the accuracy of certain statements made owing to an erroneous interpretation of my words, which statements have served as a basis for certain assertions made by your excellency in your note of the 21st.

If I said that the incident took place in the Boca de Guantánamo, it was because those same words were used by Mr. Pulaski F. Hyatt, in his communications of May 23 and 28, the former of which was addressed to the commandant of marine and the latter to the local governor of Santiago, and they were the words that were telegraphed to me.

Twice in your aforesaid note your excellency seems to infer from my words, which are, indeed, ambiguous, that the cruiser *Reina Mercedes* fired on the *Valencia* knowing that that was the vessel of which she was in pursuit. The word reconoció is not used as synonymous with conoció (knew), but in the military sense of making an examination, which the commander of the cruiser, in the telegram communicated to me by the Duke of Tetuan, says was made with a spyglass after the flag had been hoisted.

I go into these details in order that the charge may not stand against a vessel belonging to our navy that it deliberately, and from a mere capricious point of honor, did all that your excellency says.

This point being cleared up, there only remains an act, which, although it is not a serious one, should not be repeated, and will doubtless not be repeated, if the captains obey the instructions which your excellency has so prudently suggested, and if the commanders of war vessels obey the instructions which they have received, and of which I have already spoken to your excellency.

I avail myself, etc., E. DUPUY DE LÔME.

CONDITION OF RECONCENTRADOS IN CUBA.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 269.] DEPARTMENT OF STATE,
Washington, June 26, 1897.

SIR: Referring to the conversation which the Assistant Secretary, Mr. Day, had the honor to have with you on the 8th instant, it now becomes my duty, obeying the direction of the President, to invite through your representation the urgent attention of the Government of Spain to the manner of conducting operations in the neighboring Island of Cuba.

By successive orders and proclamations of the Captain-General of the Island of Cuba, some of which have been promulgated while others are known only by their effects, a policy of devastation and interference with the most elementary rights of human existence has been established in that territory tending to inflict suffering on innocent noncombatants, to destroy the value of legitimate investments, and to extinguish the natural resources of the country in the apparent hope of crippling the insurgents and restoring Spanish rule in the island.

No incident has so deeply affected the sensibilities of the American people or so painfully impressed their Government as the proclamations of General Weyler, ordering the burning or unroofing of dwellings, the destruction of growing crops, the suspension of tillage, the devastation of fields, and the removal of the rural population from their homes to suffer privation and disease in the overcrowded and ill-supplied garrison towns. The latter aspect of this campaign of devastation has especially attracted the attention of this Government, inasmuch as several hundreds of American citizens among the thousands of concentrados of the central and eastern provinces of Cuba were ascertained to be destitute of the necessaries of life to a degree demanding immediate relief through the agencies of the United States, to save them from death by sheer starvation and from the ravages of pestilence.

From all parts of the productive zones of the island, where the enterprise and capital of Americans have established mills and farms, worked in large part by citizens of the United States, comes the same story of interference with the operations of tillage and manufacture, due to the systematic enforcement of a policy aptly described in General Weyler's bando of May 27 last as "the concentration of the inhabitants of the rural country and the destruction of resources in all places where the instructions given are not carried into effect." Meanwhile the burden of contribution remains, arrears of taxation necessarily keep pace with the deprivation of the means of paying taxes, to say nothing of

the destruction of the ordinary means of livelihood, and the relief held out by another bando of the same date is illusory, for the resumption of industrial pursuits in limited areas is made conditional upon the payment of all arrears of taxation and the maintenance of a protecting garrison. Such relief can not obviously reach the numerous class of concentrados, the women and children deported from their ruined homes and desolated farms to the garrison towns. For the larger industrial ventures, capital may find its remedy, sooner or later, at the bar of international justice, but for the labor dependent upon the slow rehabilitation of capital there appears to be intended only the doom of privation and distress.

Against these phases of the conflict, against this deliberate infliction of suffering on innocent noncombatants, against such resort to instrumentalities condemned by the voice of humane civilization, against the cruel employment of fire and famine to accomplish by uncertain indirection what the military arm seems powerless to directly accomplish, the President is constrained to protest, in the name of the American people and in the name of common humanity. The inclusion of a thousand or more of our own citizens among the victims of this policy, the wanton destruction of the legitimate investments of Americans to the amount of millions of dollars, and the stoppage of avenues of normal trade—all these give the President the right of specific remonstrance; but in the just fulfillment of his duty he can not limit himself to these formal grounds of complaint. He is bound by the higher obligations of his representative office to protest against the uncivilized and inhumane conduct of the campaign in the Island of Cuba. He conceives that he has a right to demand that a war, conducted almost within sight of our shores and grievously affecting American citizens and their interests throughout the length and breadth of the land, shall at least be conducted according to the military codes of civilization.

It is the President's hope that this earnest representation will be received in the same kindly spirit in which it is intended. The history of the recent thirteen years of warfare in Cuba, divided between two protracted periods of strife, has shown the desire of the United States that the contest be conducted and ended in ways alike honorable to both parties and promising a stable settlement. If the friendly attitude of this Government is to bear fruit it can only be when supplemented by Spain's own conduct of the war in a manner responsive to the precepts of ordinary humanity and calculated to invite as well the expectant forbearance of this Government as the confidence of the Cuban people in the beneficence of Spanish control.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 288.] AUGUST 24, 1897.

SIR: Referring to my previous notes touching the effects of the policy of concentrating the rural population in the garrison towns as an incident to the Spanish military operations in the Island of Cuba, I have the honor to advise you that official reports from the United States consular representatives in that quarter show that the mortality among the "concentrated" citizens of the United States who are receiving necessary relief in Sagua la Grande and Santa Clara for the months of June and July was over 3 per cent, thus approximating in two

months to the normal death rate of a whole year. An increase of this appalling mortality is to be expected during the more sickly approaching month of September as the result of a repressive policy which I have had the honor to describe and characterize in my preceding notes.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. de Lôme.

No. 307.] DEPARTMENT OF STATE,
Washington, November 6, 1897.

SIR: Referring to the conversation had by you with the Assistant Secretary a few days since in relation to the character of the measures taken by the Spanish authorities in Cuba to concentrate the rural population in towns where, deprived of all means of subsistence and thrown upon communities incapable of affording them aid, pestilence and famine could not fail to spread disease and death among them, I have now, by direction of the President, the honor to communicate to you precise particulars reported by the agents of the United States in the Island of Cuba.

In Matanzas since the 1st of October ultimo deaths from actual starvation among the reconcentrados have rapidly and alarmingly increased over the already large proportions of such deaths during the nine months preceding. Between January 1 and October 1 of the current year over 2,000 persons, whose names are listed, have died in the city of Matanzas alone from want of food. Since the latter date the daily average death rate there has been over 45 persons, although prior to the accumulation of reconcentrados in that town the normal death rate was 6 persons daily, not including soldiers. On the 10th of October, for example, 62 died in Matanzas, of whom 57 perished for lack of food.

In the interior towns of the province of Matanzas the situation is described as being beyond belief. In some towns from one-third to one-half of the population has disappeared.

The number of deaths from actual starvation is unquestionably underestimated, owing to the obvious impossibility of ascertaining the facts in every case of death. A conservative estimate, compiled from reliable sources, gives the number of deaths in the Province of Matanzas and outside the city of that name from starvation and the diseases incident thereto as being over 22,000 persons since the present policy was inaugurated.

The local authorities are represented to be powerless to cope with the situation. The cities and towns are virtually bankrupt, and can give no appreciable relief to the starving thousands forced upon them.

These facts but substantiate the representations which reach this Government from other quarters of the island. They abundantly justify the earnest representations which this Government has felt constrained to make in the common cause of humanity and justice. It is no merely sentimental or interested consideration which moves this Government to raise its voice in earnest remonstrance against so harsh and so futile a policy as this, which, to the inevitable hardships and woes of war, superadds extermination by starvation.

The situation bears no analogy to the case heretofore suggested by you of the sufferings caused in a besieged town. These innocent agriculturists, their wives and children, have been herded by the act of the

military commanders within towns unbesieged and wholly within Spanish control, without provision for their wants and without any apparent effort to alleviate the inevitable consequences of destitution, lack of shelter, and disease.

With the change of military rule in the Island of Cuba, and in view of the manifested purpose of the Spanish Government to promote reforms therein consonant with the beneficent purposes of a metropolitan government toward a distant, rich, and populous dependency, the President happily anticipates that the condition of things of which this Government has been too often constrained to speak will disappear.

Accept, etc.,

JOHN SHERMAN.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, November 10, 1897.

MR. SECRETARY: In response to your note dated the 6th instant, I have the honor to state to you that, being desirous of knowing the measures adopted with respect to the reconcentrados, and impressed, as I could not but be, by the agitation which for obvious motives is kept up by the press, besides being aware that the instructions given to General Blanco by His Majesty's Government, a summary of which has been made public, contains especial and positive references to such reconcentrados, I inquired by telegraph what measures had been adopted or were under consideration with a view to adoption, and the Governor-General of the Island of Cuba, while stating that he can not send the text of the decrees (bandos) by telegraph, because of their great length, says to me that—

Extensive zones of cultivation have been organized; food is furnished to them daily by the State; work is allotted to them; they will be well treated; they may be employed by the proprietors of estates (haciendados); they will be furnished means of transportation; they are being looked after and protected with solicitude and care; provincial protective boards have been planned and are already organized, and these will continue to be organized in the provinces where they may not yet be working, which boards are charged with the procurement of resources for providing for their needs. Subscriptions have been started with this same object, and finally, everything that can humanly be done is being done.

The Governor-General likewise states to me that a decree has been promulgated which not only permits agricultural operations, harvesting of crops, etc., but counseling the same and offering due protection thereof, both civil and military; that not a moment is being lost in giving heed to all present necessities, and that he is occupying himself with all these things and giving to them personal attention with especial interest.

In the short time that has elapsed since the change of policy took place, it has been and is impossible to do more, and with the greater reason inasmuch as it is needful that, in addition to official action, private charity should come to aid in diminishing the sufferings caused by the war, since to cause the return, without sufficient precautions, of the reconcentrados to their homes would only increase their sufferings instead of diminishing them.

I avail myself, etc., E. DUPUY DE LÔME.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 313.] DEPARTMENT OF STATE,
Washington, November 18, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant and to assure you of the pleasure it has afforded this Government to learn from your statements therein of the initial measures adopted by the Spanish authorities for the relief of the reconcentrados in Cuba.

Accept, etc., JOHN SHERMAN.

Mr. Day to Mr. Dupuy de Lôme.

No. 318.] DEPARTMENT OF STATE,
Washington, December 1, 1897.

SIR: This Department is in receipt of dispatches from United States consuls in Cuba clearly indicating that, notwithstanding the efforts being made in that direction by the new Captain-General looking to the relief of the condition of the people known as reconcentrados, a great amount of distress and suffering still prevails, resulting in many cases in death. This condition the Spanish authorities seem powerless to relieve. There is reported lack of provisions, medicines, and other necessaries to adequately care for the needy and suffering.

The President feels very strongly that this condition should be promptly relieved. The devastating warfare which prevailed under the former Administration has left the island in such an impoverished condition that relief by local authorities or means seems impracticable, no matter what good intentions may actuate the new Administration. It seems imperative that provision for the prompt relief of these people must be sought elsewhere. The President feels sure that in this distressing situation the American people will be quick to respond to an appeal to their charitable instincts, and, if permitted so to do, will be found ready and willing to contribute the necessary means to relieve the distress and save the lives of these unfortunate people. To that end it is respectfully suggested that provisions may be admitted to Cuba free of duty and a hearty cooperation given by the Spanish authorities in Cuba to measures for the distribution of food, clothing, and medicines for the relief of the people suffering for lack of such assistance. May we not have from your Government a speedy assurance of hearty cooperation in these just measures of relief, which appeal so strongly to our feelings of humanity and sympathy for these suffering people?

I shall be happy to meet you and discuss the details of such measures of relief as are herein indicated, at your earliest convenience.

Accept, etc.,

WILLIAM R. DAY, *Acting Secretary.*

Mr. Sherman to Mr. Dupuy de Lôme.

No. 321.] DEPARTMENT OF STATE,
Washington, December 8, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant in further reference to the matter of extending to the unfortunate reconcentrados of Cuba charitable aid through voluntary

contributions of citizens of the United States, and I have much pleasure in expressing the gratification which is here felt on receiving your announcement that your Government has ordered that not only articles of food shall be admitted free of duty, but also medicine, clothing, or other articles of prime necessity which may be sent to Cuba in aid of the reconcentrados or other needy persons in the island.

The President, whose great interest in this matter has been thus shown and whose humane motives are thus strongly appreciated by your Government, has the subject under consideration.

Accept, etc.,

JOHN SHERMAN.

Mr. Day to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 324.] *Washington, December 18, 1897.*

SIR: Upon my return to Washington I lost no time in taking up the subject of the measures of charitable relief which may practicably be adopted to effect the benevolent purpose of distributing to the reconcentrados and other sufferers in Cuba of food, medicine, and clothing, as intimated in your note of December 6.

As I find was said in the Department's provisional acknowledgment of December 8, this important subject has been receiving the President's consideration. Acting under his suggestion, I beg to inquire whether it would not be possible forthwith to enlist in this humane endeavor the admirably organized machinery of the Red Cross Association of the United States, of which Miss Clara Barton is the honored head. The efficient assistance which that association has heretofore rendered in relieving widespread distress and distributing the charitable contributions of American citizens to that end are doubtless well known to you and would, moreover, furnish a guarantee of the due application of such generous relief as would respond to an appeal of the President or of the Secretary of State to the American people. With Miss Barton and her trained assistants on the spot I think that not only would a very general response follow such an appeal, but that the distribution of relief in cooperation through organized Spanish channels and by such direct channels as may be available, the double purpose of doing the greatest possible good with the least possible loss of time would be accomplished.

If this suggestion has your concurrence, of which my conversations with you on the subject have already virtually assured me, I shall be most happy to confer with you as to the practicable means for its prompt realization.

I take pleasure, etc.,

WILLIAM R. DAY,
Assistant Secretary.

Mr. Dupuy de Lôme to Mr. Day.

[Translation.]

LEGATION OF SPAIN,
Washington, December 24, 1897.

MR. SECRETARY: After the conference I had with you yesterday at the Department of State in regard to the last note you addressed to me in relation to the persons known as "reconcentrados" under date

of the 18th instant, which note I received on the 21st, I now have the honor to state to you that the Governor of the Island of Cuba, to whom I communicated by cable the desires of the President, informs me by telegraph that "there may be sent to General Lee whatever relief may be desired, in order that the latter may deliver the same to the boards organized in aid of the reconcentrados or to the bishop, and the supplies will be admitted free of duty."

It is also incumbent upon me to state to you, recalling what you said to me in the aforesaid conference, that the President has been wrongly informed by those who have told him that the furnishing of relief to the reconcentrados had been stopped. What has been done, as General Blanco telegraphs to me, has been to cease to issue rations in kind owing to the difficulty of transporting the same by the military administration, but they are given the equivalent in money, as has often been done in the case of the soldiery.

In addition to what I have hereinbefore stated, I deem it my duty to remind you that on the 6th instant I had the honor to say to you that the Government of His Majesty had decided, in deference to the desires of the President and even going beyond them, that not only provisions will enter free of duty as suggested, but also the medicines, clothing, and articles of prime necessity that might be sent to the prelate of Havana, who would attend to their distribution; and I ought likewise to add that it has been announced through the press that the Government of His Majesty had authorized me to receive whatever private charity might wish to send to those who are suffering from the consequences of the war, the ports of the island being, moreover, open, so far as the Government of His Majesty is concerned, since the first week of December for all who, being moved by love of their neighbors, might seek to give them succor.

I avail myself, etc., E. DUPUY DE LÔME.

Mr. Day to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 331.] *Washington, December 27, 1897.*

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, handed to me personally on that day, conveying the gratifying information that, in order to facilitate the sending of relief for the reconcentrados and the destitute and suffering in the Island of Cuba by charitably disposed persons in the United States, money and supplies can now be sent directly to the consul-general of the United States in Havana, being admitted with remission of customs duties and to be by him delivered to boards organized for the relief of the reconcentrados or to the bishop.

This act of kindly deference to the benevolent sentiment of the American people which has been so deeply moved by the spectacle of distress and misery in the neighboring community has been highly appreciated by the President, who hastened to give it the widest publicity through the issuance, on the same day that he received the information, of a public notification, signed by the Secretary of State, inviting contributions for the succor of the sufferers in Cuba. I inclose a copy thereof.

Accept, etc.,

WILLIAM R. DAY.

[Inclosure in No. 331.]

DEPARTMENT OF STATE,
Washington, December 24, 1897.

By direction of the President, the public is informed that, in deference to the earnest desire of the Government to contribute by effective action toward the relief of the suffering people in the Island of Cuba, arrangements have been perfected by which charitable contributions, in money or in kind, can be sent to the island by the benevolently disposed people of the United States.

Money, provisions, clothing, medicines, and the like articles of prime necessity can be forwarded to Gen. Fitzhugh Lee, the consul-general of the United States at Havana, and all articles now dutiable by law so consigned will be admitted into Cuba free of duty. The consul-general has been instructed to receive the same and to cooperate with the local authorities and the charitable boards for the distribution of such relief among the destitute and needy people of Cuba.

The President is confident that the people of the United States, who have on many occasions in the past responded most generously to the cry for bread from peoples stricken by famine or sore calamity, and who have beheld no less generous action on the part of foreign communities when their own countrymen have suffered from fire and flood, will heed the appeal for aid that comes from the destitute at their own threshold and, especially at this season of good will and rejoicing, give of their abundance to this humane end.

JOHN SHERMAN.

EXPROPRIATION OF PROPERTY OF UNITED STATES CITIZENS FOR MILITARY PURPOSES.*

Mr. Sherman to Mr. Dupuy de Lôme.

No. 270.] DEPARTMENT OF STATE,
Washington, July 2, 1897.

SIR: You will doubtless recall the correspondence* which took place between my esteemed predecessor and yourself in February and March of last year concerning the expropriation of property of citizens of the United States for military use in Cuba, in violation of the provisions of article 7 of the treaty of 1795, and you will especially remember the gratifying assurance conveyed by your note of April 1, 1896, that General Weyler had issued positive orders to the civil as well as the military authorities of the island, in conformity with the wishes expressed in Mr. Olney's note of February 14 preceding.

The comparative lack of complaint on this score during the past year has been regarded by this Government as a gratifying proof that the just claims of this Government to protect the property rights of its citizens in Cuba under existing treaties were distinctly admitted and positively safeguarded. A circumstance, however, is now reported to me, which, if it does not arise in ignorance of the facts of ownership or in gross misconception of his rights and obligations in the matter on the part of the superior authority of the Island of Cuba, manifests such a complete disregard of the rights of an American citizen as to

* See Foreign Relations 1896, pp. 670–674.

call for earnest protest and instant demand, such as the consul-general of the United States at Havana has been instructed by cable to make.

I am advised that the sugar estate known as La Confianza, situated in Vieja Bermeja, in the district of Alfonso XII and the province of Matanzas, has been virtually seized by the royal authorities under a proclamation by which the whole of the said estate has been included in one of the "agricultural zones" created by the Governor-General of the island for the declared purpose of relieving the distress of the inhabitants resulting from the enforced concentration of destitute agricultural labor in the garrison towns without resources of their own and without adequate support by the State. The property in question belongs to a citizen of the United States, Mrs. Enriqueta Echarte de Farres, wife of the American citizen Edelberto Farres, residing in New York.

I had occasion, in my note of the 26th ultimo, to set forth the views of the President respecting certain inhumane practices in the conduct of the present protracted war in Cuba, and especially with regard to the concentration of the dispossessed laborers of the plantations in the garrison towns, there to be huddled without means of existence and to be exposed to pestilence as well as famine. That the inhumane aspect of this measure may have impressed itself upon the responsible representative of His Majesty's rule in Cuba, and may have suggested the need of providing occupation and support for the starving crowds his policy has forced into the cities or camped in their purlieus, may be an encouraging sign from which I should regret to withhold any just praise, but I can not ignore the fact that the appropriation of the estate of an American citizen and its diversion from its hitherto productive uses for its owner's benefit by conversion into an agricultural colony of impoverished concentrados, however commendable from the Spanish standpoint or from that of abstract humanity, is a flat violation of the treaty rights of that citizen.

Your Government has admitted the wrongfulness of the practice of expropriating the property of citizens of the United States, even when the military exigencies of a campaign in the field might be pleaded in excuse for taking supplies and food for which rightful compensation is made. It is obviously a more unlawful proceeding to invade the landed estate of an alien owner and, by virtual confiscation thereof, convert it indefinitely to the public use as an agricultural settlement under conditions which, even if their early termination might be looked for, must destroy the material resources of the property, depriving the owner of even the poor return which might enable the constantly accruing taxation thereon to be met, and working grievous wrong to a citizen of a friendly State.

The consul-general of the United States at Havana has been instructed that the right of this Government to protest against the order referred to, and to demand its revocation so far as it shall be found to violate the treaty rights of an American citizen, is beyond question, and he is told, while strongly but temporarily obeying the President's direction, to leave no doubt in the mind of the responsible Spanish authority of the Island of Cuba as to the earnestness of the demand or as to the confidence here felt that it will be promptly respected as befits the good relations which this Government is desirous in every way to subserve.

I should be glad if you would add your representations to mine, in order that this just cause of remonstrance may be dispelled.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 272.] DEPARTMENT OF STATE,
Washington, July 6, 1897.

SIR: In the note which I had the honor to address to you on the 26th ultimo, concerning the conduct of the war in Cuba, I referred to General Weyler's announced policy of the destruction of resources in all places where his orders are not carried into effect, whereby a vicious chain of recurring injury is set up, plantations and estates are deprived of the capacity to earn returns, while the burden of contribution remains unabated, so that the arrears of taxation keep pace with the withholdment of the means of paying taxes, and, to complete the circle, withdrawal of protection from the denuded and bankrupt property becomes the necessary result of the condition which the military policy has devised and carried out.

Since that note was written I have received from the consul-general at Havana translation of a communication addressed to General Lee on the 22d ultimo, in reference to the sugar estate "Victoria," in the Sagua district, from which it appears that protection is withdrawn from that impoverished estate because the stoppage of operations thereon during the last two crops has left it without the means to pay the guard necessary to its protection. This communication affords timely confirmation of all that I said in my note of the 26th ultimo in this regard, and I therefore take the liberty of sending you a copy.

It is proper in this relation to advert to an additional and special feature of hardship which is imposed in the case of the "Victoria" estate by a constructive decision of the Captain-Generalcy of the island. The requirements of the recent bando in regard to the maintenance of protective guards at the cost of the property are in terms applicable only to such estates as may resume the production of sugar, and to that end may require an additional special guard for the surveillance of their mills and the force of temporarily reconcentrated laborers. The "Victoria" estate has not resumed the production of sugar; it only appears that certain tenant farmers upon the estate have cut and sold cane to another mill presumably authorized to grind. To apply the bando in question to this "Victoria" estate under the circumstances is obviously unjust. This Government can not admit that the responsibility of Spain for the protection of American property within the sphere of Spanish control is to be measured by any other test than that of actual ability so to protect it. To be able to protect and yet to refuse protection upon a self-formulated pretext can not, in the view of this Government, exempt that of Spain from its just liabilities in the premises should injury to American rights result from the removal of protection. The consul-general will, consequently, be instructed to remonstrate against the withdrawal of military protection from the "Victoria" estate upon the grounds advanced in the letter of the Marquis de Ahumada to General Lee, reserving all rights in the matter.

Accept, etc., JOHN SHERMAN.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, July 3, 1897.

MR. SECRETARY: I have not forgotten the correspondence which passed between His Majesty's legation and the Hon. Richard Olney

when he was at the head of the Department now under your worthy charge, nor my note of April 1, 1896, whereby I gave assurances, to which your excellency refers as gratifying, with respect to the expropriation for military purposes of property belonging to citizens of the United States, and to the enforcement of Article VII of the treaty of 1795.

For this reason, as I had received no complaint for more than a year, and as I had no information that any complaint based upon justice, which had not been satisfied, had been presented, I was deeply pained that your excellency, in informing me of the case of the sugar estate "Confianza," belonging to Dona Enriqueta de Farres, deemed it necessary to make use of the tone which characterizes your note of the 2d instant, to which I now have the honor to reply.

Your excellency appears, in your note, to entertain doubt as to whether there was not ignorance on the part of the authorities of the Island of Cuba as to the fact of the aforesaid estate's being the property of an American citizen; it is clearly deduced from your note that you are still unaware of the reasons which the authorities of the island had to resort to the measure which occasions the complaint; you do not appear to have any knowledge that the interested party or the nearest consular officer made such remonstrances as would appear to be natural, if any right was disregarded; you add that the United States consul-general has received instructions to present a complaint (demand), and even a protest, which I think can not be pertinent unless in case of the complaint's receiving no attention, or of a denial of justice; under these circumstances, and until it has been shown by an actual study of the facts and circumstances that there has been a deliberate violation of the treaty, or that just reparation has been denied, I think that a simple appeal to the sentiments of justice and benevolence of His Majesty's Government toward American citizens (to which sentiments appeal has never been made in vain) would have been more conducive to the object which your excellency has in view. A simple statement of facts and the presentation of evidence that an injustice has been committed, a right violated or an international agreement disregarded, will always have greater force for Spain than protests, peremptory demands, and what there may be of concealed menace in certain phrases.

Your excellency refers in your note to what you said in that of the 26th ultimo, a matter which is remotely connected with the case of this complaint. I should devote no attention to this, having done so already, if your excellency did not appear to mean that the agricultural zones are something new, whereas they were established simultaneously with the concentration, or even before the adoption of that measure.

Your excellency informs me, in concluding your note, that you will be glad if I will add my influence to yours in order to avoid any just cause of complaint.

I will do so, continuing the course which I have pursued for more than two years, and continuing the efforts which I have made during that time to maintain and draw closer, to the best of my ability, the relations between the two Governments, basing them upon justice and mutual respect. Your excellency will understand, however, that I should be wanting in my duty to myself if I could receive manifestations like those which you make to me without telling you, on my own responsibility and before I have been able to communicate with my Government, that I think that it is a shorter and safer way to consider, from the outset, that His Majesty's Government is inspired by the

loftiest sentiments of justice, and not to think that energy and asperity of phraseology can add anything to the bases of justice or expedite and facilitate solutions.

I avail myself, etc., E. DUPUY DE LÔME.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 275.] DEPARTMENT OF STATE,
Washington, July 14, 1897.

SIR: I have the honor to acknowledge the receipt of your two notes of the 30th ultimo and the 3d instant, the first being in acknowledgment of mine of the 26th ultimo, touching certain phases of the policy under which the contest in Cuba is conducted on the part of Spain, and the latter in answer to my representation, on the 2d instant, of the specific application of that policy reported to me in the case of the American-owned estate "Confianza," near Matanzas, which by proclamation has been expropriated as a colonizing ground for the "reconcentrados" in that vicinity.

I note your reference to the supposed "tone" of my latter communication. I can only assure you that it was as far from my purpose to give an exceptional tone to my note as it doubtless was from yours in phrasing your reply.

My note was intended to be what you state you would prefer in such cases—a simple presentation of facts showing that an injustice is being done to the rights of an American citizen, coupled with a request that you would, as in past instances, second the representations the United States consul-general had been instructed to make in setting forth the injury complained of and asking the suitable remedy. I search that note in vain for the "concealed menace in certain phrases" which you assign to it. None was intended. It was a simple and direct statement of our case.

You are quite right in your assumption that I entertained doubt as to whether the authorities of the island may not have been ignorant of the fact of the "Confianza" estate being the property of an American citizen. As they stand, the representations of this Government admit of friendly and satisfactory response on the part of yours, leading to a frank and honorable disposal of the incident, a result which could not fail to be most gratifying to both.

Recurring to the more important general matters presented in my note of June 26, it behooves me to express sincere regret and indeed no little concern, that your response should so signally fail to grasp the scope and essence of my remonstrance against the manner in which the war in Cuba is being waged to the injury of the material interests of the island, and of the United States therein, and in disregard of ordinary principles of humanity. I note with the customary reserve your controversion of certain selected details stated in my note, but I find no intimation that the just and eminently considerate remonstrances put forth in the name of the American Government and people will be heeded, or that any change is likely in the systems of repression and devastation to which the Spanish power has resorted in the effort to attain by indirect ends which the legitimate machinery of civilized war appears to be admittedly unable to reach.

Accept, etc.,

JOHN SHERMAN.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

No. 58.] LEGATION OF SPAIN,
Washington, July 9, 1897.

MR. SECRETARY: I have the honor to acknowledge the receipt of your excellency's note No. 272, of the 6th instant, relative to the sugar estate "Victoria," situated in the district of Sagua, in the Island of Cuba. As your excellency therein states that the United States consul-general at Havana will be instructed to treat directly concerning this matter with the Governor-General of the island, I will confine myself to informing your excellency, in reply to your aforesaid note, that I will send it to my Government, to the end that it may take cognizance of the views of the United States Government on the subject.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Adee to Mr. Dupuy de Lôme.

No. 279.] DEPARTMENT OF STATE,
Washington, July 29, 1897.

SIR: With reference to Mr. Sherman's note to you of the 14th instant in regard to the notification received under date of June 22 by the consul-general at Havana from the Marquis de Ahumada, touching the withdrawal of protection from the sugar estate "Victoria," I have the honor to state that I am now advised that the troops which had heretofore protected the estate in question were withdrawn by order of the military commander at Sagua on the 9th instant, the administrator of the estate being absent at the time, which latter circumstance will explain the delay in receiving this information.

Inasmuch as the terms of General Weyler's bando, under which the protection is withdrawn, require that the estate, if left without a garrison, shall be abandoned by all persons residing or being thereon, the effect of this determination of the authorities is not only to deprive the property of citizens of the United States of the protection due to them, but it amounts to the condemnation of this valuable property to abandonment, dilapidation and possible destruction, against which this Government is constrained to remonstrate, not merely in the present case, but in all others where the same state of facts may be ascertained to exist.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Señor Soler to Mr. Adee.

LEGATION OF SPAIN,
Washington, August 3, 1897.

MR. SECRETARY: I have received your polite note of the 29th ultimo, in which, referring to that of Mr. Sherman of the 14th of the same month, you reiterate to me what was said in that note relative to the protection of property belonging to Americans in the Island of Cuba.

In reply, I have the honor to inform you that I shall communicate the contents of your aforesaid note to my Government, and as soon as

I receive a reply on the subject I shall be happy to transmit it to your excellency.

I avail myself, etc.,

P. SOLER,
First Secretary of Legation.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 284.] DEPARTMENT OF STATE,
Washington, August 11, 1897.

SIR: Referring to previous correspondence between this Department and your legation in regard to the expropriation of the property of American citizens in the Island of Cuba for military purposes contrary to the provisions of Article VII of the treaty of 1795, and especially to my predecessor's note No. 101, of March 13, 1896, I have the honor to state that the consul of the United States at Sagua la Grande has again reported to this Department the case of Mr. John F. Jova, a citizen of the United States, and part owner, with two other American citizens, of the sugar estate known as Natalia, in the vicinity of the town of Calabazas.

Mr. Jova, in his sworn statement, says that the estate was completely abandoned by military order about the beginning of the present year; that since that date the property has fallen a prey to Spanish soldiers, principally the local guerrillas of Calabazas; that although he made complaint thereof, the soldiers have in no way been restrained in their acts of spoliation, but have continued to despoil and impress the property on the estate, having about the end of June or beginning of July last carried off everything that was portable which could be used or sold, even removing doors and demolishing the veranda to the residence, a valuable structure of substantial material.

Mr. Jova adds, in a later affidavit, that the battalion known as "Zaragoza" has since been temporarily quartered on the estate, not, he alleges, as a guard, but because the place was a convenient point for encampmant from which reconnoitering movements could be made. This will result, he states, in the complete destruction of the property by the insurgents, when the force shall have been withdrawn, although little now remains except the bare buildings.

It appears therefore from this complaint that it is not a question of expropriation for organized military operations for which the treaty of 1795 provides, but of wanton depredation and pillage of private property by the soldiery, in violation not only of the treaty rights of an American citizen, but of the ordinary rules of war. This seems to call for a searching inquiry on the part of your Government, punishment of the offenders if discovered, stringent orders to prevent the recurrence of such acts of spoliation, and full compensation to the injured party.

Accept, etc.,

JOHN SHERMAN.

Mr. Taylor to Mr. Olney.

No. 647.] UNITED STATES LEGATION,
Madrid, February 18, 1897. (Received Mar. 5.)

SIR: I have the honor to acknowledge the receipt of your No. 647, relative to the threatened destruction by Cuban insurgents of the rail-

way property owned by the Ponupo Mining and Transportation Company, and to inform you that the protection of the property has been asked for.

I am, etc., HANNIS TAYLOR.

Mr. Taylor to Mr. Sherman.

No. 662.] LEGATION OF THE UNITED STATES,
Madrid, March 10, 1891. (Received Mar. 23.)

SIR: In further reply to Department's No. 647, relative to the threatened destruction by Cuban insurgents of the railway property owned by the Ponupo Mining and Transportation Company, I have the honor to inclose herewith a copy, with translation, of a note from the Spanish minister of state informing me that the minister of war will issue orders for the protection of said company's property.

I am, etc., HANNIS TAYLOR.

[Inclosure in No. 662.—Translation.]

The Duke of Tetuan to Mr. Taylor

MINISTRY OF STATE,
Palace, March 5, 1897.

EXCELLENCY: In due time I had the honor to receive your kind note of the 18th ultimo informing me of the demand for protection addressed to the Government of the United States by the Ponupo Mining and Transportation Company of the Island of Cuba on account of the threats made in writing by the rebel chief, A. Cebero, against the railway line between Sabanilla and Maroto.

I have communicated said request to my colleague, the minister of war, who will promptly issue the necessary orders for the due protection of the line in question from any harm from the part of the insurgents, and I have no doubt that the measures to be taken by our military authorities, cooperating with those which the Government of your excellency will surely take against the agents of the rebel chief in the United States, we will succeed in frustrating any hostile intention which may have been conceived by said chief for the purpose of obtaining a forcible subsidy from the worthy American company.

I avail myself, etc.,

THE DUKE OF TETUAN.

Mr. Taylor to Mr. Sherman.

No. 672.] LEGATION OF THE UNITED STATES,
Madrid, March 31, 1897. (Received Apr. 16.)

SIR: In further reference to the Department's No. 647, of the 18th ultimo, relative to the threatened destruction by Cuban insurgents of the property of the Ponupo Mining and Transportation Company, I have the honor to transmit herewith a copy, with translation, of a note from the Spanish minister of state in reply to mine asking for protection to the property of said company.

I am, etc., HANNIS TAYLOR.

[Inclosure in No. 672.—Translation.]

MINISTRY OF STATE,
Palace, March 20, 1897.

EXCELLENCY: In addition to my note dated the 5th instant, I have the honor to inform your excellency that on the 15th instant the Governor and Captain General of the Island of Cuba reported by telegraph to my colleague, the minister of war, that the Ponupo Mining Company has been protected since the beginning of the insurrection, and that the threat of the rebel chief Cebero has been repeated during this year, but that until now he has been unable to inflict considerable harm. The Governor-General adds that the manager of the company says that he regrets that a complaint has been made to the Government, because he is perfectly aware that the company's property is protected.

While having the pleasure to communicate to your excellency such a satisfactory reply, I take the opportunity to renew, etc.,

THE DUKE OF TETUAN.

SENTENCE OF FERDINAND CHAQUEILO.

Mr. Sherman to Mr. Taylor.

No. 729.] DEPARTMENT OF STATE,
Washington, July 14, 1897.

SIR: On the 15th of October last my predecessor sent to you a telegraphic instruction concerning the case of Manuel Fernandez Chaqueilo, an American citizen, alleged to have been taken in combat with arms in hand and committed for trial by military jurisdiction; and in that instruction reference was made to the circumstance that Chaqueilo is a material witness in the case of Charles Govin and that his execution would silence important testimony.

In the note of the Duke of Tetuan, dated October 21, replying to your representations in the case, the ministry of state professed to have no knowledge of the case of Govin, to which Chaqueilo's testimony was declared to be important, and denied that the request of this Government in that connection could be based upon any consideration or legal prescription whatever. It is presumed that you have since had ample opportunity to acquaint his excellency with the facts of the murder of Charles Govin and the singularly essential nature of the testimony of Chaqueilo in this regard.

By a recent dispatch from the United States consul-general at Havana, under date of July 3, it appears that Chaqueilo alleges that he is a "presentado," and it is stated that he has been formally acquainted with the charges against him, to wit, "rebellion with the aggravating circumstance of incendiarism." This latter charge of arson, if indeed it has been made, is entirely new. It is to be significantly noticed that in an official communication of July 4, 1897, to the consul-general, the Marques de Ahumada mentioned only "the cause initiated for rebellion against the citizen of the United States, Manuel Fernandez Chaqueilo, arrested with arms in hand," being entirely silent as to any added charge of arson. A copy of that note is subjoined for your fuller information.

In view of the repeated assertion that Chaqueilo's testimony is

essential to the substantiation of the claim of this Government against Spain growing out of the murder of Charles Govin, it would be most unfortunate if at this late day, and while that claim is still pending, the testimony of this witness should be silenced by conviction and execution upon a charge not even alluded to in the replies of the Spanish Government to the representations made by us in Chaqueilo's behalf.

The facts so far as they can be learned appear to justify the allegation that Chaqueilo surrendered himself as a prisoner of war. The diligent inquires of the consul-general fail to suggest that the prisoner has been guilty of incendiarism.

These facts are brought to attention in the belief that they suggest sufficient doubt as to the proceedings against Chaqueilo to justify this Government in reiterating its already repeated request that in the event of conviction the proceedings shall be referred to Madrid for examination, in order not only that justice may be ascertained to have been done in respect to Chaqueilo himself, but that measures may be taken to prevent the Government of the United States as the plaintiff in action from suffering the injustice of having the testimony of an important witness in its behalf summarily silenced by the action of the defendant.

Respectfully, yours, JOHN SHERMAN.

Mr. Cridler to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 27, 1897.

Referring Department's 729, and telegram 21st instant, Havana papers publish telegram that Madrid authorities refuse set aside death sentence of American mentioned that instruction. Ascertain and report whether statement is true.

CRIDLER, *Acting.*

Mr. Taylor to Mr. Sherman.

[Telegram.]

SAN SEBASTIAN, *July 28, 1897.*

Minister for foreign affairs has promised to further investigate Chaqueilo case; knows nothing of death sentence.

TAYLOR.

Mr. Adee to Mr. Taylor.

No. 740.] DEPARTMENT OF STATE,
Washington, August 2, 1897.

SIR: Your telegraphic dispatch of July 28 was duly received, reading, when deciphered, as follows:

Minister for foreign affairs has promised to further investigate Chaqueilo case; knows nothing of death sentence.

Subsequently, on the afternoon of the 30th ultimo, a telegram on the subject was received from Consul-General Lee and has been communicated to you to-day, in part cipher, as follows:

TAYLOR,
American Minister, San Sebastian, Spain:

Referring to Department dispatch No. 729, consul-general at Havana telegraphs final sentence not pronounced; case referred to supreme court war and marine, Madrid. Lee does not advise at present pressing for decision. You should not, however, cease to express interest in a favorable outcome.

ADEE, *Acting.*

A full report of the proceedings at the trial of Fernandez Chaqueilo on the 22d ultimo has not yet been received from Havana. In a telegram of that date General Lee reported that the "fiscal" had demanded the death penalty.

The instructions heretofore sent you will have advised you that the Department is not pressing, as General Lee supposes, for an immediate decision, but is interposing its kindly offices, and if need be its remonstrances, against any action, speedy or tardy, whereby this Government may be deprived of important testimony necessary for the substantiation of its claims in the case of Charles Govin. It is this aspect of the case that you are expected to keep discreetly in view in your conferences with the minister of state upon the subject.

Respectfully yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Taylor to Mr. Sherman.

No. 735.] LEGATION OF THE UNITED STATES,
San Sebastian, August 5, 1897.

SIR: I have the honor to inclose herewith copies and translations of two notes recently received from the Spanish Government relative to the case of Manuel Fernandez Chaquielo. In this connection, and referring to your No. 729, of the 14th ultimo, I beg to call the Department's attention to the fact that the only information I have ever received regarding the murder of Govin has been that contained in the Department's telegrams and despatches upon the Chaquielo case; and that, consequently, I have never been able to make a formal presentation of that (Govin's) case to the Spanish Government.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 735.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, July 30, 1897.

EXCELLENCY: I have had the honor to receive your courteous note of yesterday's date, transmitting a copy of a dispatch addressed to you by the Secretary of State of the United States relative to the proceedings instituted in the Island of Cuba against the naturalized American, Manuel Fernando Chaqueilo, who was taken prisoner with arms in his hand.

The documents in my possession regarding the matter do not show what charges have been made against said individual. It only appears that the consul-general of the United States at Havana made that inquiry of the Governor and Captain-General of the Island of Cuba under date of October 8, 1896; and that superior authority answered him, by letter of the 10th of the same month and year, that as the cause was then under instruction, and this being secret, he could not reply to his inquiry; but that, however, as soon as the cause arrived at the plenary stage the prisoner would be informed of the charges made against him.

In order to give you more information on the subject I have addressed my colleague, the minister of war, who will cable for the necessary data.

As regards the connection which may exist between the prisoner and the supposed murder of the American citizen, Govin, I am compelled to repeat to your excellency that I have no official information whatever of that case, because neither your excellency nor the minister plenipotentiary of His Majesty at Washington, nor the Cuban authorities, have sent me any information or communication of any kind upon the matter. Regarding this point I also request the minister of war to ask the Captain-General of the island for information.

As soon as I receive the reports referred to I will take great pleasure in answering more fully to the statements made by your excellency in your said note of yesterday.

I avail myself, THE DUKE OF TETUAN.

[Inclosure 2 in No. 735.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE.
San Sebastian, August 3, 1897.

EXCELLENCY: In addition to my note of the 30th of July last, relative to the proceedings followed in Cuba against the naturalized American, Manuel Fernandez Chaqueilo, I have to inform your excellency that the Captain-General of that island, in reply to the telegraphic question made to him upon the subject, reports that the council of war sentenced said Fernandez Chaqueilo to life imprisonment; but the auditor-general dissented, and proposed that a death sentence should be imposed for having belonged to an incendiary band. In view of that, and according to the provisions for such cases in the Code of Military Justice, the cause shall be revised by the supreme council of war and marine, to which it shall be sent by next mail.

I avail myself, etc., THE DUKE OF TETUAN.

ASSASSINATION OF SEÑOR CANOVAS DEL CASTILLO.

Mr. Taylor to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
San Sebastian, August 8, 1897.

Canovas assassinated to-day by anarchist. Have expressed profound sympathy.

TAYLOR.

Mr. Taylor to Mr. Sherman.

No. 741.] LEGATION OF THE UNITED STATES,
San Sebastian, August 11, 1897. (Received Aug. 23.)

SIR: On the 8th instant I had the honor to send you the following telegram:

Canovas assassinated to-day. Have expressed profound sympathy.

Yesterday morning I had the honor to receive from you the following response:

Your action approved. Renew in name of the President his expression of deep sorrow and sympathy for the loss borne by Spain in the death of Señor Canovas del Castillo, the prime minister of Spain, one of the most eminent of the statesmen of our time, and convey condolence to the family of the deceased.

I at once drafted two notes, the one conveying the condolence of the President to the Government of His Majesty, the other to the family of Señor Canovas. These notes I have delivered to the minister of state, who thanked me with visible emotion, and requested me to return at once the thanks of the Spanish Government to the President for his expressions of sympathy.

I have therefore sent you the following telegram:

Spanish Government returns sincere thanks to President for his messages of condolence.

I am, etc., HANNIS TAYLOR.

Mr. Taylor to Mr. Sherman.

No. 747.] LEGATION OF THE UNITED STATES,
San Sebastian, August 19, 1897. (Received Sept. 3.)

SIR: Referring to my No. 741, of the 11th instant, I have the honor to inclose herewith a copy, with translation, of the reply received from the Spanish Government to my note conveying the condolence of the President for the assassination of Señor Canovas.

I am, etc., HANNIS TAYLOR.

[Inclosure with No. 747.—Translation.]

The Duke of Tetuan to Mr. Taylor.

MINISTRY OF STATE,
San Sebastian, August 12, 1897.

EXCELLENCY: I have had the honor to receive the kind note which your excellency has been pleased to address to me under the date of the 10th instant, expressing, by direction of your Government, the profound sorrow felt both by the President and the American people for the execrable assassination of the president of the council of ministers, Don Antonio Canovas del Castillo.

The Government of His Majesty feels warmly and sincerely grateful for the sentiments of sympathy expressed by your excellency, and in its name I beg that your excellency will transmit to the President and the American Government the most expressive thanks.

At the same time I inform your excellency that the letter from the President which accompanied your said note has been immediately transmitted to the widow of Canovas del Castillo.

I avail myself, etc.,

THE DUKE OF TETUAN.

CONSULAR REGISTRATION OF AMERICAN-OWNED PROPERTY IN CUBA.

Mr. Sherman to Mr. Woodford.

No. 23.] DEPARTMENT OF STATE,
Washington, August 28, 1897.

SIR: I inclose herewith for your information copy of a dispatch from our consul at Santiago de Cuba touching the request of the military governor of the province of Santiago for a list of American property within that district, and of the Department's reply through the consul-general at Havana, wherein is set forth this Government's position that in the absence of any provision of United States law or treaty requiring the consular registration of American property in Spanish jurisdiction, the furnishing of lists based upon information voluntarily supplied by our citizens in Cuba can not be suffered to prejudice in any way the rights of any other American property holders whose names may not so appear.

Respectfully, yours, JOHN SHERMAN.

[Inclosure 1 in No. 23.]

Mr. Hyatt to Mr. Day.

No. 385.] CONSULATE OF THE UNITED STATES,
Santiago de Cuba, August 6, 1897.

SIR: I have the honor very respectfully to report to the honorable Department of State that on Monday last I received a communication from his excellency, Francisco Oliveros, military governor of this province, asking for a list of all American property within this zone. I learned that the same request had been made of my agent at Guantánamo, and whether at other agencies or not I have not learned.

I also learned that similar requests had not been made to the consuls of other nations.

Having no knowledge of why the request was made or for what purpose it is to be used, after getting his excellency to define the boundaries of the zone mentioned, I made the inclosed reply, since which have heard nothing, and therefore take it for granted that the answer is satisfactory to the officers of Her Spanish Majesty's Government, or at least is a fair and proper answer to their question.

I remain, sir, etc.,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 1 in No. 23.]

Mr. Hyatt to Mr. Oliveros.

UNITED STATES CONSULATE,
Santiago de Cuba, August 3, 1897.

EXCELLENCY: I have the honor to acknowledge the receipt of your second communication of August 2, concerning real estate owned by Americans within this zone.

I desire to give your excellency as good a reply as possible, but find the question beset with difficulties that do not appear at first sight, owing to the absence of any property register at the consulate. A very few American citizens have voluntarily made a list of their property, mostly personal, and left it at this consulate; but, so far as I recall, outside of the zone mentioned.

The inclosed list contains the names of all Americans registered at this consulate whose houses have of late been or now are within the zone given by your excellency.

An examination of the books of the assessor would show whether any property, if so what, is placed in their names. Several of these parties are now absent from Cuba, and I do not know who has their property in charge. Some others own property here who long since ceased to reside here, and their names do not appear on the register. Still others own property in this city and perhaps elsewhere on the island who, so far as I know, never set foot on Cuban soil. To illustrate: The property occupied by this consulate, now and for the last fifteen years, belongs to an American woman, and neither I nor any other consul before me ever knew it until within the last few weeks, when the death of the former agent made it necessary that a new one should produce a new power of attorney, which revealed the fact that the owner lived in Brooklyn, N. Y., and was never here, and owns other property on the island.

Mr. Ramon Villalon is the agent of an old lady living in New York, who owns several houses here, yet has not been here for many years. These cases I learned by mere accident. How many others there may be I have no means of knowing.

In the inclosed list I have placed the letter "P" after the names of those that I think own property; others are marked "away" because absent.

There are three or four corporations of American citizens who own property within the zone mentioned. First, the Juragua Iron Mining Company, Limited, that owns several thousand acres of land, on which are located extensive and valuable iron mines, several hundred dwellings and other buildings, a railroad extending from the mines to a valuable iron pier in Santiago Bay, a large number of cars, locomotives, repair shops, machinery, tools, waterworks, and all the necessary paraphernalia for running and operating such an extensive plant, including valuable houses, offices, and other property at the terminal point known as La Cruz.

The Spanish American Iron Mining Company at Saiguiri owns a property quite similar in scope and character to that of the Juragera company.

The Salanilla and Maroto Railroad, although under a Spanish charter, is nevertheless mostly owned by American capitalists. The main offices and shops are located in the city, and some 10 miles of the main track are within the zone mentioned. This company also owns a valuable manganese mine at Ponupo, one of the terminal points of the road, but outside of the limits of the zone.

Should the information in this communication prove insufficient, I will most cheerfully in any particular case aid your excellency in any way within my power in arriving at such facts as your excellency may desire.

With highest consideration, I am, etc.,

PULASKI F. HYATT,
United States Consul.

[Subinclosure 2 in No. 23.]

Francisco de Paula Auza. (Away.)
Dr. Frederick Arze.
Francisco Javier Auza. P.
Pablo J. Auza.
Agustin Aquilar.
Pablo Berges.
Zenon Hipolito Borde.
Martin Boix.
Antonio Boudet.
Manuel F. Blanco.
Thomas Badell.
Luis F. Carbonell. P. (Away.)
Julian Cendoya.
Domingo Capote. P.
Demetrio Castillo. (Away.)
Joaquin Castillo. P. (Away.)
N. Castillo de Garzon. P.
Elisha D. Ely.
Joaquin Ferrer. P.
Charles Fox.
Domingo Ferrer.
Horatio B. Fox.
Asher Gruver.
Juan Emilio Goule. P. (Away.)
Bernardo Hechavarria.
Dr. Phillips Hartmann. P. (Away.)
Luciano Hernandez. (Mulatto.)
Buenaventura Leon.
Robert Lyman.
Francisco Martinez.
John Mendoza.
Carlos Mesa. (Negro.)
Francisco Nunez. (Mulatto.)
Dr. Ramon Neyra. (Away.)
Catalina Tamayo de Neyra. (Away.)
Mrs. Lura Ely Navarro. P.
Thomas Ortiz.
Pedro N. Ortiz.
Mrs. Dolores Fayardo Ortiz.
Juan Francisco Portuon de Barcelo. P. (Away.)
Jose Picaso.
Adrian Portuondo.
Peter E. Rivery. P.
John A. Rivery. P.
Federico Soler.
Joseph Sans.
Leopoldo Tomassevich.
Andres Villalon. (Away.
Chas. Ziegenfus.
Juragua Iron Co.
Spanish American Iron Co.
Sabanilla and Maroto Railroad.

[Inclosure 2 in No. 23.]

Mr. Cridler to Mr. Lee.

DEPARTMENT OF STATE,
No. 452.] *Washington, August 24, 1897.*

SIR: I inclose for your information a copy of a dispatch from the consul at Santiago de Cuba in regard to the request of the military governor of the province of Santiago for a list of American property within the consular district.

Mr. Hyatt's reply to the governor illustrates the difficulty in the way of furnishing even a partial list of American owners of realty in the Santiago district in response to the request which it would seem has been addressed to the United States consul alone and not to the consul of any other nation. In the absence of any provision of United States law or treaty requiring the consular registration of American property in Spanish jurisdiction, the furnishing of lists based upon information voluntarily supplied by our citizens to our consuls in Cuba can not be suffered to prejudice in any way the rights of any other American property holders whose names may not so appear. Their rights under treaty and under public law are inherent in their national character and can not be impaired by any arbitrary formality of registration prescribed by local authority. The principle is much the same as in regard to the attempt last year to debar unregistered American citizens from their lawful rights. (See Foreign Relations, 1896, pp. 680–682.)

This Government is disposed to facilitate any reasonable resort to registration as a convenient means of announcing and making patent the rights of our citizens in case of need, but it can not admit that omission of a formality not required by our treaty or our laws can impair the mutual relation of allegiance and protection between the Government of the United States and its citizens in a foreign land.

Respectfully, yours, THOS. W. CRIDLER.

Mr. Woodford to Mr. Sherman.

No. 30.] SAN SEBASTIAN, SPAIN,
September 21, 1897. (Received Oct. 4.)

SIR: I have the honor to acknowledge the receipt of your No. 23, of August 28, 1897, inclosing for my information the correspondence had by your Department touching the request of the military governor of Santiago for list of American property. I note the Department's reply through the consul-general at Havana, and shall maintain with earnestness the position therein taken.

I have the honor, etc., STEWART L. WOODFORD.

VIOLATION OF NEUTRALITY LAWS.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, June 11, 1897.

MR. SECRETARY: I regret to inform you that, owing to the fact that the members of the *Dauntless* expedition have been acquitted, and that

that vessel has been released (concerning which decision I refrain from expressing an opinion), a new filibustering expedition is being organized on the southeastern coast of Florida. I have knowledge that a car of the Florida East Coast Railroad, with arms and munitions of war on board, left Jacksonville yesterday morning and passed last night through New Smyrna, going south, and that another car, loaded with rifles and dynamite, left Jacksonville this morning in a regular freight train for the east coast, the intention doubtless being that the goods which it has on board shall be transferred to some vessel. My agents suspect that the vessel which the filibusters will use is the yacht *Volusia*, of New Smyrna, which has been chartered to transship the goods for the expedition from the railroad to the vessel which is to carry the expedition.

In order to frustrate the criminal intentions of the filibusters, it will be well to exercise great vigilance on the southeastern coast of Florida, since it is very possible that the vessel which is to receive the expedition on board will not come near the shore.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Day to Mr. Dupuy de Lôme.

No. 259.] DEPARTMENT OF STATE,
Washington, June 14, 1897.

SIR: Upon the receipt of your note of the 11th instant, stating that you were informed that a filibustering expedition was under preparation on the southeast coast of Florida, and that 2 carloads of arms had been shipped to that part of the peninsula and would probably be transferred by the yacht *Volusia* to a vessel off the coast, the matter was at once brought by telegraph to the attention of the Secretary of the Treasury, the Secretary of the Navy, and the Attorney-General.

I am advised by the Acting Secretary of the Treasury that on Saturday, the 12th instant, telegraphic instructions were sent to the collectors of customs at Jacksonville and Key West, Fla., to notify the commander of the revenue cutter and the United States attorney to take necessary steps to prevent a violation of the neutrality laws, and to the collector of customs at St. Augustine, Fla., to notify the inspector at New Smyrna to take steps necessary to prevent violation of the neutrality laws.

Accept, etc.,

WILLIAM R. DAY.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 260.] DEPARTMENT OF STATE,
Washington, June 16, 1897.

SIR: Referring to your note of the 11th instant, I have the honor to say that I am advised by the Treasury Department that the collector of customs at St. Augustine, Fla., reports, on the authority of the inspector at New Smyrna, that the yawl *Volusia* is tied up at the dock and that there is no evidence of any expedition being fitted out there.

Accept, etc.,

JOHN SHERMAN.

Mr. Soler to Mr. Adee.

[Translation.]

LEGATION OF SPAIN,
Washington, August 2, 1897.

MR. SECRETARY: This legation has just learned that the steamer *Dauntless* proposes to set out to-morrow, Tuesday, the 3d, from the port of Jacksonville, for the purpose, doubtless, of carrying a new expedition for the Cuban insurgents, in manifest violation of the laws.

Remembering the orders which the Government of the United States has given, that an officer of its Navy be present in person upon the said vessel and watch her, I have also to inform your excellency that this legation has learned that the aforesaid officer has not considered himself obliged to go on board, because the arms which were on the *Dauntless* have been landed and she is now in ballast. But as it would appear that this has been done by the promoters of the expedition merely in order to dissemble their criminal purposes, I beg your excellency to be pleased to adopt the steps you may deem most appropriate for frustrating the intentions of our enemies, and, in particular, that you will direct that an officer of the Navy shall go on board the *Dauntless* and keep watch upon her, whereby I trust that this vessel will not venture to proceed further in the purposes she is seeking to hide by setting out in ballast and announcing that she is bound for Brunswick, Ga.

I take advantage of this occasion, etc.,

P. SOLER,
First Secretary of the Legation.

Mr. Soler to Mr. Adee.

[Translation.]

LEGATION OF SPAIN,
Washington, August 5, 1897.

MR. SECRETARY: As I had the honor to inform your excellency in person this morning, this legation has confidential information that a filibustering expedition intends to leave New York on Saturday, the 7th instant, and likewise knows that there exists in the said city of New York a deposit of arms and accouterments to be shipped and to form part of the expedition to which I refer.

Although I can not furnish your excellency with any more precise details at this moment, still, in view of the fact that there is not at present any vessel of the American Navy at New York, and that consequently there are no easy means of preventing the departure of expeditions, I venture to call your excellency's attention to the subject, and to request that, with all the haste that the case demands, the most suitable measures may be taken to watch and, at the proper moment, seize such vessel or vessels as, with criminal intent, are attempting to violate the neutrality laws.

To this end, and without loss of time, I shall communicate to your excellency, as soon I learn them, all possible details on the subject, for the better guidance of the American Government, and I now give the foregoing information in advance to enable your excellency to take the necessary steps for the attainment of the object in view.

I avail myself, etc.,

P. SOLER,
First Secretary of Legation.

Mr. Adee to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 282.] *Washington, August 6, 1897.*

SIR: I have the honor to further reply to the oral communication of Mr. Soler of the 2d instant and to his note of the same date notifying this Department that the steamer *Dauntless* proposed to set out the next day on a filibustering expedition. In this connection Mr. Soler said:

Remembering the orders which the Government of the United States has given, that an officer of its Navy be present in person upon the said vessel and watch her, I have also to inform your excellency that this legation has learned that the aforesaid officer has not considered himself obliged to go on board because the arms which were on the *Dauntless* have been landed and she is now in ballast.

Mr. Soler's communication having been referred to the Secretary of the Navy, I am to-day informed by the Acting Secretary that no orders have ever been issued by his Department directing a United States naval officer to be present on board that vessel, and that there is not at the present time an officer available for such service at Jacksonville.

It would appear from this that there is some confusion in the mind of Mr. Soler between a naval-marine and a revenue-marine officer, the latter acting, as you are aware, under direction of the Secretary of the Treasury.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Depuy de Lôme.

DEPARTMENT OF STATE,
No.283.] *Washington, August 6, 1897.*

SIR: I have the honor to acknowledge the receipt of Mr. Soler's note of the 5th instant, in which he states that, as he informed me in a personal interview of the same date, your legation has confidential information that a filibustering expedition is preparing to leave New York on Saturday, the 7th instant, and he requests that prompt measures be taken by this Government to watch and seize any vessels attempting to violate the neutrality laws.

I beg to inform you in reply that a copy of Mr. Soler's note has been communicated to the Secretary of the Treasury and to the Secretary of the Navy for consideration and appropriate action.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Memorandum.

[Translation.]

[Handed to Mr. Adee at the State Department, by Mr. Pla, August 21, 1897.]

The Spanish legation has been informed that the schooner *Donna F. Briggs* is 83 miles south by southeast of Cape Hatteras, awaiting a meeting with the *Dauntless* or the *Alexander Jones* in order to carry a filibustering expedition to Cuba.

In addition to the memorandum of yesterday, the legation of Spain asks that the orders relating thereto which have been sent to Savannah,

where the *Dauntless* now is, and from where she went this morning towing a barge, be reaffirmed in order that this vessel may be prevented from violating the neutrality laws; and, at the same time and with the same object in view, that proper precautions be taken in Brunswick, Ga., at which place the *Alexander Jones* is anchored, to prevent this vessel assisting in carrying an expedition.

ANTONIO PLA,
Attaché of Legation.

Memorandum.

[Translation.]

[Handed to Mr. Adee at the State Department, August 26, 1897, by Mr. Pla.]

The Spanish legation, having been informed that the steamer *Dauntless*, which returned last night to Savannah, has come back with the object of taking on board a filibustering expedition and to make the last preparations for sailing to meet the schooner *Donna F. Briggs*, begs the Government of the United States to place on board said vessel a representative of the Government that he may prevent a violation of the neutrality laws, or that the vessel be watched by United States cruisers.

ANTONIO PLA,
Attaché of Legation.

Mr. Depuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Lenox, Mass., September 2, 1897.

MR. SECRETARY: Continuing the work undertaken in order to remove from the shores of the United States a hostile expedition against a Spanish province, which work has, for some weeks past, given rise to various notifications from this legation, a large number of Cubans left Tampa last Saturday for Cleveland by special train, this point being about 6 miles from Punta Gorda, Fla., where they embarked, if my information is correct, on board of the schooner *Cherub*, from Key West.

The movements of certain well-known filibustering agents at Miami, Fla., and at Cape Florida lead me to suspect that the members of the Tampa expedition are on one of the keys near the points which I have mentioned, and I therefore beg your excellency to consider whether it would be proper for a revenue cutter to watch and search those keys in order to prevent the *Dauntless*, in one of the false sorties which she is making, from taking them on board, as is doubtless her intention, and conveying them to the place where they probably expect to receive the arms shipped by the schooner *Donna F. Briggs*.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

SPANISH LEGATION,
Lenox, Mass., September 28, 1897.

MR. SECRETARY: Since the close of the month of July, the legation of His Majesty has had the honor to inform the Department under your

worthy charge of the preparation and sailing of a filibustering expedition.

Your excellency has acknowledged the receipt of the written and verbal communications from this legation in your notes Nos. 276, 278, 280, 281, 282, 283, 285, 286, 287, 289, 290, and 292, dated July 24, 26, and 30; August 3, 6, 6, 14, 17, 18, and 31; September 7 and 10; and the official letter from Mr. Adee of August 14. To-day I can complete for your excellency the history of said expedition, which set out from Cleveland, near Punta Gorda (Florida), and landed in Cuba.

The arms which were carried from Jacksonville to New York on the steamer *Iroquois*, and the munitions which supplied the persons arrested on board the schooner *Blanche Morgan*, were shipped at New York on board the schooner *Donna T. Briggs*.

The men who sailed from New York on the steamer *Tallahassee* the 16th of August, and who later joined others, left Tampa by special train on the 28th, were in that city publicly engaged in military drills, dressed in the uniform of Cuban insurgents. On the 28th they went to Cleveland, where they embarked on the tugs ("remolcadores") *Mary Blue* and *A. F. Deney*, both of Punta Gorda, and from there were transported to the Mobile pilot boat *Sommers N. Smith*, Capt. Frank Dumm, which took the place of the *Dauntless*, the latter being detained by the authorities on the same day, the 28th. The so-called brigadier of the insurgents, Emilio Nunez, who in the United States devotes himself to directing expeditions, went at the head of this one.

The *Sommers N. Smith* rejoined the *Donna T. Briggs*, as proves—which I will show later on—the return in said steamer of Captain O'Brien, who had sailed in the schooner *Donna T. Briggs* and effected a landing in Cuba.

On Saturdary, September the 18th instant, the said *Sommers N. Smith* was seen lowering a boat containing a number of individuals at the upper point of Key West. It was attempted by the United States authorities to intercept and capture them, and a portion of the crew were captured, but the men were allowed to get off.

The latter, among whom were Emilio Nunez, from Cleveland; Capt. John O'Brien, who went on board the *Donna T. Briggs;* and the Cuban pilot, Silva, left that very night of the 18th instant for Tampa, in the steamer *Mascatti*, without any interference on the part of the local or Federal authorities.

Nunez came north and arrived at Philadelphia on the 21st, and went afterwards to New York to give an account of the accomplishment of his mission to the Junta, which from the United States directs and promotes the war in Cuba. O'Brien went to Jacksonville. In regard to the steamer *Sommers N. Smith*, it arrived at Pensacola the 19th of September and was quarantined. The *Donna T. Briggs*, so far as I yet know, has not entered any American port.

I need not attempt to impress upon your excellency the gravity of all this. Not only are the so-called neutrality laws a dead letter, since the men engaged in these expeditions have been encamped and drilled at Tampa without dissimulation, and have sailed to the knowedge of everyone how they were going and where they were going, but the sanitary laws so severely enforced elsewhere are suspended in order not to disturb the movements of such notorious transgressors of the law as Nunez, O'Brien, and Silva, without the authorities apparently having arrived at the knowledge of what is known to all.

As I am informed, in the baggage that was captured at Key West, there were letters which I hope may be preserved as evidence, to avoid

the escape of the guilty from punishment and to prevent the crew of the *Sommers N. Smith* from falsification of the facts in the investigation which I do not doubt the Government of the United States will order.

I avail myself, etc.. E. DUPUY DE LÔME.

Mr. Day to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
Washington, October 22, 1897.

MY DEAR SIR: Referring to your official note of the 27th of September last, I desire to refer to the case of the *Donna T. Briggs.* This vessel is now held at Norfolk in view of the statements contained in your note, and so far as the Treasury Department has investigated within its powers it has not been able to discover any charges upon which she can be legally detained.

In an informal conversation with one of the officials of the Treasury Department, I have been advised that, while that Department has every disposition to further the wishes of the Spanish Government so far as it may be possible to do so, the fullest investigation has been made with the above result. Before, however, releasing the vessel, I desire to inquire whether you have any facts to submit which will warrant the vessel's further detention and prosecution for violation of the neutrality laws of this country, and to say that the Department will be glad to receive them and see that they are promptly acted upon.

Asking that I may be favored with a reply at the earliest practicable date, I am,

Very truly, yours, WILLIAM R. DAY.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN.
Washington, October 26, 1897.

MR. SECRETARY: I have received your excellency's courteous notes of the 20th, 22d, and 25th of the present month, the first two relating to the case of the *Donna T. Briggs* and the third to that of the *Sommers N. Smith.*

In reply thereto, I tender to your excellency my thanks for the interest with which you attended to my statements in regard to the same, and I have the honor to inform you at the same time that I have issued instructions to the lawyers and consular agents in the service of Spain to facilitate the authorities of the United States at the places where the proceedings are held (by giving) every kind of data that may be requested by those authorities and such information as they may have, to the end of promoting the prosecutions for violation of the neutrality laws, and other laws of the United States likewise violated with the object of favoring filibustering expeditions.

I take this opportunity, etc., E. DUPUY DE LÔME.

Mr. Sherman to Mr. Depuy de Lôme.

No. 300.] DEPARTMENT OF STATE,
Washington, October 29, 1897.

SIR: I have the honor to communicate for your information copy of a report of Captain Gooding, of the revenue cutter *Winona*, to the collector of customs at Key West, Fla., touching his action in relation to a reported filibustering expedition about to leave that district from the vicinity of Bahia Honda or Knights Key. This report has been received from the Secretary of the Treasury.

The instructions given to Captain Gooding do not appear to have been in consequence of any representations made by your legation, but to have been based upon some report or information received by and from the Spanish consul at Key West. The erroneousness of the consul's information as to the occurrences at Knights Key is apparent from this report.

Accept, etc. JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

No. 301.] DEPARTMENT OF STATE,
Washington, October 29, 1897.

SIR: In further acknowledgment of your note of the 28th ultimo, respecting the operations of certain alleged filibustering steamers, I have the honor to inform you that I am to-day in receipt of information from the Treasury Department to the effect that the movements of the steamer *Dauntless* have been watched daily during the past two months by the United States authorities at Savannah; that she has been engaged in the towing business at that port, and has done nothing to indicate an intention to violate the neutrality laws; that on October 16 she towed a vessel in from the sea and returned at once without taking on board extra supplies of any kind, and that since that date she has not been at the port of Savannah. I am further informed that the *Sommers N. Smith* has returned and is at present on the Pensacola Bar.

Accept, Mr. Minister, etc.,

JOHN SHERMAN.

Mr. Adee to Mr. Dupuy de Lôme.

No. 303.] DEPARTMENT OF STATE,
Washington, November 1, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, wherein you say with reference to the alleged filibustering schooners *Donna T. Briggs* and *Sommers N. Smith*, that the consular officers and lawyers of Spain have been directed to furnish the competent authorities with all the data within their possession and to extend every possible assistance for the prosecution of the violations of the neutrality and other laws of the United States.

Referring to Mr. Day's note of October 22, 1897, I may remark that it was intended to ascertain whether your Government actually possessed and could furnish any information upon which judicial proceedings against the *Donna T. Briggs* could be based. The instructions to the Spanish consular officers and lawyers employed by the Spanish Government suggest that the holding of the vessel is expected in order

to give those officers time to gather inculpating evidence not now possessed by them upon which to base the prosecution.

In the regular course, probable cause shown by evidence which would of itself justify the institution of proceedings, should precede detention of the supposed offender. While under the law the President of the United States has the right to detain a vessel until he is satisfied of the character and of the purpose of its destination, yet it is not to be supposed that this permission gives him arbitrary authority to detain such vessel indefinitely, and it was evidence of this character that Mr. Day's note of the 22d ultimo sought, in order that the machinery of justice might be duly set in motion and the long detention of the vessel on mere allegation and suspicion be justified. If evidence upon which to institute suit be not forthcoming, the question of liability to her owners may naturally arise.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, November 3, 1897.

MR. SECRETARY: In reply to your polite note of the 1st instant, I have the honor to inform your excellency that I doubtless did not have the good fortune to explain myself with sufficient clearness in my note of the 26th ultimo relative to the *Donna T. Briggs* and the *Sommers N. Smith.*

In therein stating that I would instruct the lawyers and consular officers I did not mean that data and evidence were to be hunted up, but that they were in existence, and would be presented whenever the law officers of the United States should think that they were necessary for the better and more speedy administration of justice.

With respect to the *Donna T. Briggs*, there is evidence before the court at Wilmington, in the case of the *Laurada*, which, in my opinion, is sufficient to warrant proceedings against that schooner; and as to the same vessel and the tug *Sommers N. Smith*, which jointly effected three landings of men and munitions of war in Cuba, the Department of Justice, and probably also the Treasury Department, have received the information which, in pursuance of my instructions, must have been laid before them by Mr. Calderon Carlisle, counsel of this legation.

Trusting that these explanations will be sufficient to elucidate the meaning of my note of October 26, and hoping that the violators of the laws in this case will be held responsible,

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Sherman to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
Washington, November 4, 1897.

No. 305.]

SIR: Referring to the Department's note to your No. 303, of the 1st instant, in regard to the schooner *Donna T. Briggs*, now detained at Norfolk, Va., by the collector of customs, on a charge of filibustering and violation of the navigation laws of the United States; also to the

case of the *Sommers N. Smith*, I have now to apprise you of the receipt of a letter from the Attorney-General upon the subject, dated the 2d instant. Mr. McKenna says:

> The attorney for the United States at Norfolk has already been directed by this Department to correspond with Mr. Carlisle, the attorney for the Spanish Government, in reference to these vessels, and also to obtain from other possible sources all facts concerning the allegations against them and to advise the collector of the port of Norfolk in regard thereto. And the said United States attorney has been further directed that if the facts and circumstances sufficient are ascertained, judicial proceedings authorized by law be instituted against these vessels. Of course the Government will not be warranted in detaining these vessels, or either one of them, for an indefinite period upon a mere suspicion. Some tangible evidence of illegality should be found within a reasonable time after detention or the vessel should be released.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 309.] *Washington, November 12, 1897.*

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant in explanation of your note of the 26th ultimo relating to the *Donna T. Briggs* and *Sommers N. Smith*.

I have the honor to say in reply that copies of your note have been communicated to the Attorney-General and the Treasury Department.

Accept, etc.,

JOHN SHERMAN.

Mr. Adee to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 322.] *Washington, December 14, 1897.*

SIR: I have the honor, by direction of the Secretary of State, to inform you that he to-day received from the Secretary of the Treasury a communication stating that the district attorney at Wilmington, N. C., advises that the facts do not justify a libel against the schooner *Silver Heels*, now applying for a clearance at that port loaded with a full cargo of lumber for Barbados. I have, therefore, at the instance of the Secretary of the Treasury, the honor to inquire whether you have any evidence in your possession which would justify a libel against the vessel in question, inasmuch as the Treasury Department can not longer detain the vessel unless evidence be supplied.

Requesting the favor of an early reply, I avail myself, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

Mr. Dupuy de Lôme to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, December 15, 1897.

MR. SECRETARY: I have had the honor to receive your courteous note No. 322 of yesterday informing me that the district attorney of Wilmington does not deem sufficient the evidence which he possesses in

order to proceed against the schooner *Silver Heels*, which has applied for clearance for the Barbados Islands with a cargo of lumber.

I do not know what evidence has been obtained by the said attorney, but I can assure your excellency that Alfred Thompson, of St. George, Me., second officer on board the *Silver Heels* on her last voyage with an expedition, has publicly declared in Wilmington and is ready, as he says, to testify that the said schooner took on board on the 15th of October last a cargo of coal at Port Liberty; that on the Saturday following, in tow of the tug *P. H. Wise*, she went to the pier in the East River, of which your Department already has knowledge, where she shipped the cargo of which this legation has spoken in former communications; that the *Silver Heels* was towed by the said *P. H. Wise* to the Highlands, where a steamer, the name of which he says he does not know, delivered to her four boats to assist in discharging her cargo and seven Cubans, and that she remained there until the afternoon of that day, to wit, the 17th of October, when the *P. H. Wise* returned and took the schooner in tow and continued to tow her until the 19th.

Only after that date did the *Silver Heels* proceed under sail, doing so during some fifteen days, going to Ascension Island, and a week later the *Dauntless* arrived there, having on board Captain O'Brien and three or four of the Cubans who had embarked in New York, giving instructions to the schooner to go to a point outside of Orange Key, 16 miles east-southeast, and to anchor there until she should return.

From Ascension Island to the new anchorage took the schooner some five days, and they remained there, at the end of which time the *Dauntless* arrived again with the same Captain O'Brien and some 50 Cubans. They transshipped to the *Dauntless* the boats and the cargo, which latter the said Thompson declares contained cartridges, and the *Dauntless* set out for Cuba, as the captain of the steamer stated to the said Thompson. They likewise stated to him that the *Dauntless* had been to Key West and Jacksonville, where she had her bottom cleaned.

After this the *Silver Heels* undertook her return voyage to New York, but the bad weather obliged her to put in to Wilmington, N. C., with all her cargo of coal less some 8 or 10 tons, which she gave to the *Dauntless* at Orange Key.

The foregoing statements, which can assuredly be amplified by interrogating Alfred Thompson, appear to me to be more than sufficient for a serious investigation, and for proceeding not only against the *Silver Heels* but also against the *Dauntless*.

If your excellency will cause the dates to be compared with the entries of the aforesaid *Dauntless* upon voyages which she has not explained, and will be pleased to recall the note from this legation of the 11th of November last in which you were informed that the *Dauntless* had just arrived at Jacksonville with Captain O'Brien on board, you will be convinced of the certainty of my statements, and that the said vessel for more than a year past has not performed a single legitimate service, having been solely employed in carrying arms, munitions, and men to the Cuban insurgents.

I now permit myself to very seriously call your excellency's attention to the fact that at the very time that the *Silver Heels* asks a clearance for Barbados the *Dauntless* has completed the repairs which are being made upon her, and is preparing for another expedition, which there is reason to believe will be in concert with the schooner already so many times mentioned.

I avail myself, etc., E. DUPUY DE LÔME.

Mr. Sherman to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 323.] *Washington, December 16, 1897.*

SIR: I have the honor to acknowledge the receipt late yesterday afternoon of your note of the 15th instant in which, responding to this Department's communication on the 14th instant of the request of the Treasury Department to be supplied with any information you might possess tending to implicate the schooner *Silver Heels* now at Wilmington in acts violative of the laws of the United States, you convey to me certain information which has reached you tending to show that the vessel in question has been recently involved with the *Dauntless* in the carriage of men and munitions to Cuba in aid of the insurgents.

Your note has been communicated in translated copy to the Secretaries of War and of the Navy and to the Attorney-General for such consideration and action by their respective Departments as may be appropriate.

Accept, etc., JOHN SHERMAN.

Mr. Sherman to Mr. Dupuy de Lôme.

DEPARTMENT OF STATE,
No. 327.] *Washington, December 21, 1897.*

SIR: Referring to the note which I had the honor to receive from you under date of the 15th instant in regard to the recent voyage of the schooner *Silver Heels*, I have to inform you that the Secretary of the Treasury advises me that the collector of customs at Wilmington, N. C., was instructed on the 16th instant to detain the vessel in question until further advised and meanwhile to consult with the United States attorney, who has been instructed by the Attorney-General to go to Wilmington.

An earlier communication to you of this information was prevented by an inadvertence, which I regret.

Accept, etc., JOHN SHERMAN.

PACIFICATION OF CUBA.[1]

Mr. Olney to Mr. Dupuy de Lome.

DEPARTMENT OF STATE, *Washington, April 4, 1896.*

SIR: It might well be deemed a dereliction of duty to the Government of the United States, as well as a censurable want of candor to that of Spain, if I were longer to defer official expression as well of the anxiety with which the President regards the existing situation in Cuba as of his earnest desire for the prompt and permanent pacification of that island. Any plan giving reasonable assurance of that result and not inconsistent with the just rights and reasonable demands of all concerned would be earnestly promoted by him by all means which the Constitution and laws of this country place at his disposal.

It is now some nine or ten months since the nature and prospects of

[1] The two notes under this heading were inadvertently omitted from Foreign Relations for 1896.

the insurrection were first discussed between us. In explanation of its rapid and, up to that time, quite unopposed growth and progress, you called attention to the rainy season which from May or June until November renders regular military operations impracticable. Spain was pouring such numbers of troops into Cuba that your theory and opinion that, when they could be used in an active campaign, the insurrection would be almost instantly suppressed, seemed reasonable and probable. In this particular you believed, and sincerely believed, that the present insurrection would offer a most marked contrast to that which began in 1868, and which, being feebly encountered with comparatively small forces, prolonged its life for upward of ten years.

It is impossible to deny that the expectations thus entertained by you in the summer and fall of 1895, and shared not merely by all Spaniards but by most disinterested observers as well, have been completely disappointed. The insurgents seem to-day to command a larger part of the island than ever before. Their men under arms, estimated a year ago at from ten to twenty thousand, are now conceded to be at least two or three times as many. Meanwhile, their discipline has been improved and their supply of modern weapons and equipment has been greatly enlarged, while the mere fact that they have held out to this time has given them confidence in their own eyes and prestige with the world at large. In short, it can hardly be questioned that the insurrection, instead of being quelled, is to-day more formidable than ever, and enters upon the second year of its existence with decidedly improved prospects of successful results.

Whether a condition of things entitling the insurgents to recognition as belligerents has yet been brought about may, for the purposes of the present communication, be regarded as immaterial. If it has not been, it is because they are still without an established and organized civil government, having an ascertained situs, presiding over a defined territory, controlling the armed forces in the field, and not only fulfilling the functions of a regular government within its own frontiers, but capable internationally of exercising those powers and discharging those obligations which necessarily devolve upon every member of the family of nations. It is immaterial for present purposes that such is the present political status of the insurgents, because their defiance of the authority of Spain remains none the less pronounced and successful, and their displacement of that authority throughout a very large portion of the island is none the less obvious and real.

When, in 1877, the President of the so-called Cuban Republic was captured, its legislative chamber surprised in the mountains and dispersed, and its presiding officer and other principal functionaries killed, it was asserted in some quarters that the insurrection had received its deathblow and might well be deemed to be extinct. The leading organ of the insurrectionists, however, made this response:

> The organization of the liberating army is such that a brigade, a regiment a battalion, a company, or a party of twenty-five men can operate independently against the enemy in any department without requiring any instructions save those of their immediate military officers, because their purpose is but one, and that is known by heart as well by the general as the soldier, by the negro as well as the white man or the Chinese, viz, to make war on the enemy at all times, in all places, and by all means, with the gun, the machete, and the firebrand. In order to do this, which is the duty of every Cuban soldier, the direction of a government or a legislative chamber is not needed; the order of a subaltern officer, serving under the general in chief, is sufficient. Thus it is that the government and chamber have in reality been a superfluous luxury for the revolution.

The situation thus vividly described in 1877 is reproduced to-day. Even if it be granted that a condition of insurgency prevails and noth-

ing more, it is on so large a scale and diffused over so extensive a region, and is so favored by the physical features and the climate of the country, that the authority of Spain is subverted and the functions of its Government are in abeyance or practically suspended throughout a great part of the island. Spain still holds the seaports and most, if not all, of the large towns in the interior. Nevertheless, a vast area of the territory of the island is in effect under the control of roving bands of insurgents, which, if driven from one place to-day by an exhibition of superior force, abandon it only to return to-morrow when that force has moved on for their dislodgment in other quarters.

The consequences of this state of things can not be disguised. Outside of the towns still under Spanish rule, anarchy, lawlessness, and terrorism are rampant. The insurgents realize that the wholesale destruction of crops, factories, and machinery advances their cause in two ways. It cripples the resources of Spain on the one hand. On the other, it drives into their ranks the laborers who are thus thrown out of employment. The result is a systematic war upon the industries of the island and upon all the means by which they are carried on, and whereas the normal annual product of the island is valued at something like eighty or a hundred millions, its value for the present year is estimated by competent authority as not exceeding twenty millions.

Bad as is this showing for the present year, it must be even worse for the next year and for every succeeding year during which the rebellion continues to live. Some planters have made their crops this year who will not be allowed to make them again. Some have worked their fields and operated their mills this year in the face of a certain loss who have neither the heart nor the means to do so again under the present even more depressing conditions. Not only is it certain that no fresh money is being invested on the island, but it is no secret that capital is fast withdrawing from it, frightened away by the utter hopelessness of the outlook. Why should it not be? What can a prudent man foresee as the outcome of existing conditions except the complete devastation of the island, the entire annihilation of its industries, and the absolute impoverishment of such of its inhabitants as are unwise or unfortunate enough not to seasonably escape from it?

The last preceding insurrection lasted for ten years and then was not subdued, but only succumbed to the influence of certain promised reforms. Where is found the promise that the present rebellion will have a shorter lease of life, unless the end is sooner reached through the exhaustion of Spain herself? Taught by experience, Spain wisely undertook to make its struggle with the present insurrection short, sharp, and decisive, to stamp it out in its very beginnings by concentrating upon it large and well-organized armies, armies infinitely superior in numbers, in discipline, and in equipment to any the insurgents could oppose to them.

Those armies were put under the command of its ablest general, as well as its most renowned statesman—of one whose very name was an assurance to the insurgents both of the skillful generalship with which they would be fought and of the reasonable and liberal temper in which just demands for redress of grievances would be received. Yet the efforts of Campos seem to have utterly failed, and his successor, a man who, rightfully or wrongfully, seems to have intensified all the acerbities of the struggle, is now being reenforced with additional troops. It may well be feared, therefore, that if the present is to be of shorter duration than the last insurrection, it will be because the end is to come sooner or later through the inability of Spain to prolong

the conflict, and through her abandonment of the island to the heterogeneous combination of elements and of races now in arms against her.

Such a conclusion of the struggle can not be viewed even by the most devoted friend of Cuba and the most enthusiastic advocate of popular government except with the gravest apprehension. There are only too strong reasons to fear that, once Spain were withdrawn from the island, the sole bond of union between the different factions of the insurgents would disappear; that a war of races would be precipitated, all the more sanguinary for the discipline and experience acquired during the insurrection, and that, even if there were to be temporary peace, it could only be through the establishment of a white and a black republic, which, even if agreeing at the outset upon a division of the island between them, would be enemies from the start, and would never rest until the one had been completely vanquished and subdued by the other.

The situation thus described is of great interest to the people of the United States. They are interested in any struggle anywhere for freer political institutions, but necessarily and in special measure in a struggle that is raging almost in sight of our shores. They are interested, as a civilized and Christian nation, in the speedy termination of a civil strife characterized by exceptional bitterness and exceptional excesses on the part of both combatants. They are interested in the noninterruption of extensive trade relations which have been and should continue to be of great advantage to both countries. They are interested in the prevention of that wholesale destruction of property on the island which, making no discrimination between enemies and neutrals, is utterly destroying American investments that should be of immense value, and is utterly impoverishing great numbers of American citizens.

On all these grounds and in all these ways the interest of the United States in the existing situation in Cuba yields in extent only to that of Spain herself, and has led many good and honest persons to insist that intervention to terminate the conflict is the immediate and imperative duty of the United States. It is not proposed now to consider whether existing conditions would justify such intervention at the present time, or how much longer those conditions should be endured before such intervention would be justified. That the United States can not contemplate with complacency another ten years of Cuban insurrection, with all its injurious and distressing incidents, may certainly be taken for granted.

The object of the present communication, however, is not to discuss intervention, nor to propose intervention, nor to pave the way for intervention. The purpose is exactly the reverse—to suggest whether a solution of present troubles can not be found which will prevent all thought of intervention by rendering it unnecessary. What the United States desires to do, if the way can be pointed out, is to cooperate with Spain in the immediate pacification of the island on such a plan as, leaving Span her rights of sovereignty, shall yet secure to the people of the island all such rights and powers of local self-government as they can reasonably ask. To that end the United States offers and will use her good offices at such time and in such manner as may be deemed most advisable. Its mediation, it is believed, should not be rejected in any quarter, since none could misconceive or mistrust its purpose.

Spain could not, because our respect for her sovereignty and our determination to do nothing to impair it have been maintained for many years at great cost and in spite of many temptations. The insurgents could

not, because anything assented to by this Government which did not satisfy the reasonable demands and aspirations of Cuba would arouse the indignation of our whole people. It only remains to suggest that, if anything can be done in the direction indicated, it should be done at once and on the initiative of Spain.

The more the contest is prolonged, the more bitter and more irreconcilable is the antagonism created, while there is danger that concessions may be so delayed as to be chargeable to weakness and fear of the issue of the contest, and thus be infinitely less acceptable and persuasive than if made while the result still hangs in the balance, and they could be properly credited in some degree at least to a sense of right and justice. Thus far Spain has faced the insurrection sword in hand, and has made no sign to show that surrender and submission would be followed by anything but a return to the old order of things. Would it not be wise to modify that policy and to accompany the application of military force with an authentic declaration of the organic changes that are meditated in the administration of the island with a view to remove all just grounds of complaint?

It is for Spain to consider and determine what those changes would be. But should they be such that the United States could urge their adoption, as substantially removing well-founded grievances, its influence would be exerted for their acceptance, and it can hardly be doubted, would be most potential for the termination of hostilities and the restoration of peace and order to the island. One result of the course of proceeding outlined, if no other, would be sure to follow, namely, that the rebellion would lose largely, if not altogether, the moral countenance and support it now enjoys from the people of the United States.

In closing this communication it is hardly necessary to repeat that it is prompted by the friendliest feelings toward Spain and the Spanish people. To attribute to the United States any hostile or hidden purposes would be a grave and most lamentable error. The United States has no designs upon Cuba and no designs against the sovereignty of Spain. Neither is it actuated by any spirit of meddlesomeness nor by any desire to force its will upon another nation. Its geographical proximity and all the considerations above detailed compel it to be interested in the solution of the Cuban problem whether it will or no. Its only anxiety is that that solution should be speedy, and, by being founded on truth and justice, should also be permanent.

To aid in that solution it offers the suggestions herein contained. They will be totally misapprehended unless the United States be credited with entertaining no other purpose toward Spain than that of lending its assistance to such termination of a fratricidal contest as will leave her honor and dignity unimpaired at the same time that it promotes and conserves the true interests of all parties concerned.

I avail, etc.,

RICHARD OLNEY.

Mr. Dupuy de Lôme to Mr. Olney.

[Translation.]

LEGATION OF SPAIN, *Washington, June 4, 1896.*

MR. SECRETARY: As I had the honor to inform your excellency some time ago, I lost no time in communicating to the minister of state

of His Majesty the King of Spain the text of the note that your excellency was pleased to address to me, under date of the 4th of April last, in regard to the events that are taking place in the island of Cuba.

In his answer, dated May 22 last, the Duke of Tetuan tells me that the importance of the communication here referred to has led the Government of His Majesty to examine it with the greatest care and to postpone an answer until such time as its own views on the complicated and delicate Cuban question should be officially made public.

The minister of state adds that since the extensive and liberal purposes of Spain toward Cuba have been laid before the Cortes by the august lips of His Majesty in the speech from the throne, the previous voluntary decisions of the Spanish Government in the matter may serve, as they are now serving, as the basis of a reply to your excellency's note.

The Government of His Majesty appreciates to its full value the noble frankness with which that of the United States has informed it of the very definite opinion it has formed in regard to the legal impossibility of granting the recognition of belligerency to the Cuban insurgents.

Indeed, those who are now fighting in Cuba against the integrity of the Spanish fatherland possess no qualifications entitling them to the respect, or even to the consideration, of the other countries. They do not, as your excellency expresses it, possess any civil government, established and organized, with a known seat and administration of defined territory, and they have not succeeded in permanently occupying any town, much less any city, large or small.

Your excellency declares, in the note to which I am now replying, with great legal acumen and spontaneously, that it is impossible for the Cuban insurgents to perform the functions of a regular government within its own frontiers, and much less to exercise the rights and fulfill the obligations that are incumbent on all the members of the family of nations. Moreover, their systematic campaign of destruction against all the industries on the island, and the means by which they are worked, would, of itself, be sufficient to keep them without the pale of the universally recognized rules of international law.

His Majesty's Government has read with no less gratification the explicit and spontaneous declarations to the effect that the Government of the United States seeks no advantage in connection with the Cuban question, its only wish being that the ineluctable and lawful sovereignty of Spain be maintained and even strengthened, through the submission of the rebels, which, as your excellency states in your note, is of paramount necessity to the Spanish Government for the maintenance of its authority and its honor.

While expressing the high gratification with which His Majesty's Government took note of the emphatic statements which your excellency was pleased to make in your note of the 4th of April with regard to the sovereignty of Spain and the determination of the United States not to do anything derogatory to it, and acknowledging with pleasure all the weight they carry, the Duke of Tetuan says that nothing else was to be expected of the lofty sense of right cherished by the Government of the United States.

It is unnecessary, as your excellency remarks, and in view of so correct and so friendly an attitude, to discuss the hypothesis of intervention, as it would be utterly inconsistent with the above views.

The Government of His Majesty, the King of Spain, fully concurs in the opinion that your excellency was pleased to express in regard to

the future of the island in the event, which can not and shall not be, of the insurrection terminating in its triumph.

There can be no greater accuracy of judgment than that displayed by your excellency, and, as you said with great reason, such a termination of the conflict would be looked upon with the most serious misgivings even by the most enthusiastic advocates of popular government; because, as remarked by your excellency, with the heterogeneous combination of races that exist there the disappearance of Spain would be the disappearance of the only bond of union which can keep them in balance, and an unavoidable struggle among the men of different color, contrary to the spirit of Christian civilization, would supervene.

The accuracy of your excellency's statement is all the more striking, as owing to the conditions of population in the island no part of the natives can be conceded superiority over the others if the assistance of the Spaniards from Europe is not taken into account.

The Island of Cuba has been exclusively Spanish since its discovery; the great normal development of its resources, whatever it is, whatever its value, and whatever it represents in the community of mankind, it owes in its entirety to the mother country; and even at this day, among the various groups of people that inhabit it, whatever be the standpoint from which the question be examined, the natives of the peninsula are there absolutely necessary for the peace and advancement of the island.

All these reasons fully and clearly demonstrate that it is not possible to think that the Island of Cuba can be benefited except through the agency of Spain, acting under her own impulse, and actuated, as she has long been, by the principles of liberty and justice.

The Spanish Government is aware of the fact that far from having justice done it on all sides on these points, there are many persons, obviously deceived by incessant slanders, who honestly believe that a ferocious despotism prevails in our Antilles, instead of one of the most liberal political systems in the world, being enjoyed there now as well as before the outbreak of the insurrection.

One need only run over the laws governing the Antilles, laws which ought to be sufficiently known in the United States at this day, to perceive how absolutely groundless such impressions are.

A collection of the Cuban newspapers published in recent years would suffice to show that few civilized countries then enjoyed to an equal degree freedom of thought and of the press—the foundation of all liberties.

The Government of His Majesty and the people of Spain wish and even long for the speedy pacification of Cuba. In order to secure it, they are ready to exert their best efforts and at the same time to adopt such reforms as may be useful or necessary and compatible, of course, with their inalienable sovereignty, as soon as the submission of the insurgents be an accomplished fact.

The minister of state, while directing me to bring to the knowledge of your excellency the foregoing views, instructs me to remark how pleased he was to observe that his opinion on this point also agrees with yours.

No one is more fully aware of the serious evils suffered by Spaniards and aliens in consequence of the insurrection than the Government of His Majesty. It realizes the immense injury inflicted on Spain by the putting forth, with the unanimous cooperation and approbation of her people, of such efforts as were never before made in America by any European country. It knows at the same time that the interests of for-

eign industry and trade suffer, as well as the Spanish interests, from the insurgent system of devastation; but if the insurrection should triumph, the interests of all would not merely suffer, but would entirely and forever disappear amid the madness of perpetual anarchy.

It has already been said that, in order to prevent evils of such magnitude, the cabinet of Madrid does not and will not confine itself exclusively to the employment of armed force.

The speech from the throne, read before the national representatives, formally promised motu proprio, not only that all that was previously granted, voted by the Cortes, and sanctioned by His Majesty on the 15th of March, 1895, would be carried into effect as soon as the opportunity offered, but also by fresh authorization of the Cortes, all the new extensions and amendments of the original reforms, to the end that both islands may in the administrative department possess a personnel of a local character, that the intervention of the mother country in their domestic concerns may be dispensed with, with the single reservation that nothing will be done to impair the rights of sovereignty or the powers of the Government to preserve the same.

This solemn promise, guaranteed by the august word of His Majesty, will be fulfilled by the Spanish Government with a true liberality of views.

The foregoing facts, being better known every day, will make it patent to the fair people of other nations that Spain, far from proposing that her subjects in the West Indies should return to a régime unfit for the times when she enjoys such liberal laws, would never have withheld these same laws from the islands, had it not been for the increasing separatist conspiracies which compelled her to look above all to self-defense.

The Government of His Majesty most heartily thanks that of the United States for the kind advice it bestows on Spain; but it wishes to state, and entertains the confidence that your excellency will readily see, that it has been forestalling it for a long time past. It follows, therefore, as a matter of course, that it will comply with it in a practical manner as soon as circumstances make it possible.

Your excellency will have seen, nevertheless, how the announcement of this concurrence of views has been received.

The insurgents, elated by the strength which they have acquired through the aid of a certain number of citizens of the United States, have contemptuously repelled, by the medium of the Cubans residing in this Republic, any idea that the Government of Washington can intervene in the contest, either with its advice or in any other manner, on the supposition that the declarations of disinterestedness on the part of the Government of the United States are false and that it wishes to get possession of the island one of these days. Hence it is evident that no success would attend such possible mediation, which they repel, even admitting that the mother country would condescend to treat with its rebellious subject as one power with another, thus surely jeopardizing its future authority, detracting from its national dignity, and impairing its independence for which it has at all times shown such great earnestness, as history teaches. In brief, there is no effectual way to pacify Cuba unless it begins with the actual submission of the armed rebels to the mother country.

Notwithstanding this, the Government of the United States could, by the use of proper means, contribute greatly to the pacification of the Island of Cuba.

The Government of His Majesty is already very grateful to that of

the United States for its intention to prosecute the unlawful expeditions to Cuba of some of its citizens with more vigor than in the past, after making a judicial investigation as to the adequacy of its laws when honestly enforced.

Still, the high moral sense of the Government of Washington will undoubtedly suggest to it other more effectual means of preventing henceforth what is now the case, a struggle which is going on so near its frontiers, and which is proving so injurious to its industry and commerce, a fact justly deplored by your excellency, being prolonged so exclusively by the powerful assistance which the rebellion finds in the territory of this great Republic, against the wishes of all those who love order and law.

The constant violation of international law in its territory is especially manifest on the part of Cuban emigrants, who care nothing for the losses suffered in the meanwhile by the citizens of the United States and of Spain through the prolongation of the war.

The Spanish Government, on its part, has done much and will do more every day in order to achieve such a desirable end, by endeavoring to correct the mistakes of public opinion in the United States and by exposing the plots and calumnies of its rebellious subjects.

It may well happen that the declarations recently made in the most solemn form by the Government of His Majesty concerning its intentions for the future will also contribute in a large measure to gratify the wish that your excellency clearly expressed in your note, namely—that all the people of the United States, convinced that we are in the right, will completely cease to extend unlawful aid to the insurgents.

If, with that object in view, further particulars on the Cuban question should be desired, in addition to those it already has, by the Government of the United States, which shows itself so hopeful that the justice of Spain may be recognized by all, the Government of His Majesty will take the greatest pleasure in supplying that information with the utmost accuracy of detail.

When the Government of the United States shall once be convinced of our being in the right, and when that honest conviction shall in some manner be made public, but little more will be required in order that all those in Cuba who are not merely striving to accomplish the total ruin of the beautiful country in which they were born, being then hopeless of outside help and powerless by themselves, will lay down their arms.

Until that happy state of things has been attained Spain will, in the just defense not only of her rights but also of her duty and honor, continue the efforts for an early victory which she is now exerting regardless of the greatest sacrifices.

While having the honor of bringing, by order of the Government of His Majesty, the foregoing declarations to the knowledge of your excellency, I improve this opportunity, etc.

ENRIQUE DUPUY DE LÔME.

SWITZERLAND.

RESTRICTIONS UPON THE IMPORTATION OF AMERICAN MEATS.

Mr. Peak to Mr. Olney.

No. 51.] LEGATION OF THE UNITED STATES,
Berne, November 25, 1896. (Received Dec. 7.)

SIR: I have received from Mr. George E. Gifford, United States consul at Basle, a letter complaining that the cantonal authorities of Zurich and Schaffhausen, under the guise of sanitary regulations, had interdicted the importations into those cantons of American pork, and requesting my official services in behalf of the merchants whose business has been affected by these orders. I inclose herewith translations of the two orders made by the above-named cantons and a translation of the memorial filed with me by the merchants whose trade has been so seriously threatened.

The Swiss federal law, under which these two orders are professedly made, was designed to prevent the importation and sale of meat treated with borax as preserved or cured meat, but did not prevent its importation or sale as fresh meat. A copy of these laws was transmitted to the Department by Mr. Broadhead in his dispatch No. 67, of date of April 3, 1895.

These orders indicate a clear and unmistakable purpose of hostile discriminations against American pork, and if the statements contained in the inclosed memorial are found to be true such a purpose will be conclusively demonstrated. If it be true, as stated in the memorial, that borax is universally used in the treatment and preparation of pork in Austria, Germany, Italy, and England and Switzerland, and that the pork thus treated is permitted to be sold without objection upon the part of the Swiss authorities, then it will be clearly manifest that the law was passed in the first instance merely to furnish the pretext for the exclusion of American pork.

I have submitted this matter to the Department in order that the Department might, if it should deem it advisable, cause an investigation to be made through the consular service in the countries named as to the truth of the above statements, and after an ascertainment of the facts the Department could adopt such measures as might be deemed best calculated to protect American interests.

I have but little hope of being able to secure any substantial relief through the Swiss federal council in the present attitude of the case, but the effort can be made if thought advisable by the Department. I await the instructions of the Department.

I have, etc.,

JOHN L. PEAK.

[Inclosure 1 in No. 51.—Translation of extract from the National Zeitung, November 8, 1896.]

Exclusion of American meats at Zurich.

The Cantonal sanitary department renews its direction to Zurich police authorities charged with the inspection of provisions to bestow their utmost attention on the introduction and sale of foreign meats, especially those of American meats. They

are particularly instructed to require proof of the soundness of the merchandise (Gesundheitszenquisse) and to determine the manner in which it has been prepared. In the absence of such proof, or when it is found that borax or other substances have been employed as a preliminary treatment, the shipment shall be seized and sent back to the dealer. Should the examination show a beginning of decomposition the meat is to be destroyed.

[Inclosure 2 in No. 51.—Translation of notice.]

Exclusion of American meats by authorities of Schaffhausen.

On examination of the provisions offered for sale in this city, it has transpired that meats declared as picnic ham (picnic schinken), corned meat (pockelfleisch), etc., for the most part of American origin, have been preserved by a preliminary treatment in which substances are used that are directly injurious to the health.

The employment of table salt and saltpeter alone is permitted for the preservation of meat.

The sale of meat otherwise prepared is therefore forbidden.

BOARD OF HEALTH (GESUNDHEITS COMMISSION).

SCHAFFHAUSEN, *October 22, 1896.*

[Inclosure 3 in No. 51.]

Translation of memorial in regard to the hostile measures taken by the authorities of the Cantons of Zurich and Schaffhausen against the introduction of American salt meats which have been subjected to a preliminary treatment.

Ever since salted or smoked ham has existed there has been a discussion as to the best method of preparing it, and no agreement has ever been reached as to whether the use of salt and saltpeter alone or a mixture of the preservatives is to be preferred. In former years pork was generally pickled or smoked by the raiser in the country and by him marketed, but later the butchers took possession of the trade in this article, once in very limited demand, but now become a leading and indispensable article of consumption.

The primitive method of preserving meat by the use of salt or saltpeter always proved more or less unsatisfactory, and for a long time the attempt to discover a better process was without success. As it was necessary to use saltpeter in connection with salt for the completion of the pickling, the meat acquired in this way an acrid, pungent, disagreeable taste. To find a means of avoiding this unpleasant result was the constant aim of specialists in this branch of business as well as of chemists. In the years from 1870–1880 Dr. Jannasch, of Bernberg, first offered an article especially adapted to the preservation of meat which attracted much attention among German specialists. The essential ingredient of this preparation was borax, and after the authorities had declared its employment permissible its use by butchers, sausage makers, and all who are interested in the salting or preparation of meat, fish, etc., continually increased. Meantime a number of factories were built for the manufacture of curing salts and other means of preserving meats. The basis of all of them was borax.

The employment and effect of borax as a means of curing meat are decidedly different from those of saltpeter. The latter substance forms with the salt a pickle, which completely penetrates the meat, so that the saltpeter remains in the piece after it has been withdrawn from the pickle and smokes. Merchandise treated in this way retains, therefore, no inconsiderable percentage of saltpeter, and, what here is essential, a harsh, unpleasant taste, which impairs its quality and, as we shall show hereafter, renders it unwholesome. With borax and borax preparations it is quite otherwise; the meat, slightly salted, is sprinkled with borax, by which the air is excluded and the meat kept in a state of perfect preservation. The borax lies on the exterior of the piece and can be removed by proper treatment before the merchandise is smoked and offered for consumption, so that only slight traces of it remain. Meat treated with borax has the advantage of being only slightly salted and of having a fresh, agreeable taste. It is clear that the superiority of the treatment with borax, rather than with saltpeter, was everywhere recognized, and to-day butchers and the allied branches of trade universally make use of borax and borax preparations, not only in Germany, Austria, Italy, and America, but also in Switzerland.

Meats introduced into Switzerland from Austria (ham, kaiserfleisch, corresstucke,

schopfbraten), Italy (bacon, salami, martadella, etc.), Germany (Westphalia ham, gothaercervelatwurst, other sausage, and bacon), England (Yorkshire ham, etc.), and America (ham, corned meat), are, with few exceptions, treated with borax preparations; and in Switzerland itself the ham and other pork contain more or less borax, according to the season of the year.

It is true that the question has come up whether meat having undergone a preliminary treatment is unwholesome, and this question has been discussed by the chemical experts occupied in examining provisions. So far no proof founded on facts has been offered that the health of any human being has been in the least degree impaired by eating meat that has been treated with borax. Prof. Dr. Bischoff, official chemical expert for provisions in Berlin, who is regarded as an authority on this subject, has repeatedly declared, as the result of many years' experience, that the meat treated with borax is absolutely wholesome. The same opinion has been expressed by the Liverpool board of health, the English naval office, the sanitary authorities of Brussels, and many other states and cities. The best proof, however, that the process in question is not harmful lies in the fact that during the twenty-four years since borax has been employed and the fifteen years since its use has been universal no man's life or health has suffered injury or peril in consequence.

The like favorable judgment can not be formed in regard to the treatment of meat with saltpeter. Not only does the pork receive the acrid, unpleasant taste already mentioned, but it loses a part of its value as nourishment, it having been shown that the frequent use of salt meat works injury by disturbing the digestion.

Under these circumstances it is astonishing to find that the authorities of two Swiss Cantons—Zurich and Schaffhausen—have absolutely forbidden the sale of meat preserved by borax. The proscriptions of the Zurich authorities contain no indications of the grounds of the exclusion, but suggest that it is the American meats that are aimed at. The board of health of Schaffhausen expresses itself more clearly, and says: "The sale of meat, picnic ham, corned meat, principally of American origin, is forbidden because they are injurious to the health."

We see from the decrees of both Cantons that the measures of exclusion are directed against meat of American origin. Both say that the employment of salt and saltpeter for the curing of meat is authorized. It would be difficult for the Schaffhausen board of health to bring the shadow of a proof for its declaration that meats treated with borax are directly injurious to the health. So long as no facts are cited as proof, we must reject this assertion as utterly devoid of foundation. Still more singular is the regulation appearing in both decrees that only table salt and saltpeter shall be employed. We should like to ask both the authorities in question, especially those of Schaffhausen, if they really believe that saltpeter is a harmless means of preserving food. It is difficult to believe that the answer would be in the affirmative.

For persons engaged in the trade the affair presents itself in this way: The producers of salt meats are to be forced to prepare their merchandise with saltpeter, according to a method long since rejected, and thus obtain a product of inferior quality which can be sold with difficulty at reduced prices. A further disadvantage connected with the process prescribed by the officials mentioned is that in the opinion of the best chemical experts the saltpeter to be used is directly injurious to the health. So it could easily happen that while Zurich forbids borax and prescribes saltpeter, Berne might forbid saltpeter and prescribe borax. The regulations issued by the two Cantons would, under existing circumstances, be completely unintelligible were it not that a simple solution to the riddle is afforded by their common reference to "meats principally from America." At any rate, American producers are forced to observe the regulations and prepare their meat in such a way as to obtain an inferior product of difficult sale and drenched with saltpeter; then will be obtained what, after all, is no doubt the chief purpose in view—an insurmountable obstacle to the importation of American meat.

But the principal point in the whole matter is this: The proscriptions and prohibitions of Cantonal or Federal Government neither ought to nor can be other than of a general nature; that is to say, we may not make regulations in regard to the products of a country with which we are on friendly terms that do not apply to the producers of other countries also. Yet this is here the case, for while meats treated with borax are introduced from Italy, Austria, Germany, and other countries with practically no limitation, like American products are forbidden; nay, we learn on the best authority that the officials charged with the inspection of meats expressly refuse to extend their researches for borax to the products of the countries mentioned. It is further to be considered that the domestic products are subject to no control as to the use of borax.

We are not called upon here to discuss the legal aspect of the question. We are convinced that the American Government and its officials, as in former instances, will take energetic measures to secure for American products in Switzerland the same treatment as that accorded to those of other countries.

Mr. Peak to Mr. Olney.

No. 55.] LEGATION OF THE UNITED STATES,
Berne, December 12, 1896. (Received Dec. 24.)

SIR: I have the honor to inclose herewith for the information of the Department a translated copy of the correspondence between Messrs. Jenny & Kiebiger and the Swiss Government in reference to the exclusion of American meats by the Cantons of Zurich and Schaffhausen, the subject of my dispatch No. 51. This correspondence was sent to me by Mr. Gifferd, the United States consul at Basle.

It will be observed from the reply of the Swiss Government that two inspections are provided for in reference to the importation of foreign meats, one made at the frontier by the Federal authorities, and the other made by the authorities of the Canton in which the meat is offered for sale, and that in the latter case the Swiss Government has no supervision or control. It would seem, therefore, that each Canton may enforce this law in such manner as it may deem proper, giving to it such construction as may best serve its views, and from its judgment there is no appeal.

It will be further observed that Messrs. Jenny & Kiebiger, in their communication to the Swiss Government, expressly charge that the Cantonal authorities of Zurich and Schaffhausen habitually admit other foreign meats treated with borax and refuse to subject them to inspection, and that these orders are directed exclusively against American meats. And yet, notwithstanding these direct charges, no investigation is ordered by the Swiss Government, and no relief is given.

This correspondence has confirmed me in the opinion expressed in my dispatch No. 51, and has convinced me that the suggestions therein contained offer the speediest method of securing relief from this alleged discrimination.

I beg to suggest to the Department that, in my opinion, this present case is but another one of the many where the Swiss cantonal and Federal jurisdictions clash and where the Federal Government may seek to avoid redress or relief on the ground of incompetency to interfere, and, though this alleged discrimination seems to me to be in direct violation of articles 8, 10, and 12 of the treaty of 1855, between the United States and Switzerland, I am doubtful if adequate redress or substantial relief can be obtained unless the case were so completely presented that the facts would clearly show an intent upon the part of the cantonal authorities to discriminate against American meat. If convinced that the objectionable orders were a violation of the terms of the treaty above referred to, the Swiss Government would probably cause them to be revoked.

I inclose by separate mail for the use of the Department the rules for the enforcement of the Federal laws adopted October 14, 1887, printed in the French language, to which reference is made in the inclosed correspondence.

I have, etc., JOHN L. PEAK.

[Inclosure 1 in No. 55.]

Translation of letter of Messrs. Jenny & Kiebiger, Basle, to the Swiss Department of Commerce, Industry, and Agriculture.

NOVEMBER 16, 1896.

When, in the year 1895, the question of the admission for sale and consumption of meats treated with borax or borax preparations came

up, the sanitary authorities of the different Swiss cantons arrived at conclusions not at all in harmony with each other; for, while the impression prevailed in most places that meats so prepared were absolutely innocuous, other health officers came to the contrary conclusion and held that such meats should not be offered for sale.

Hereupon the Swiss department of agriculture felt called upon, after a preliminary investigation, to communicate its views to the cantonal authorities. In its messages of February 18 and 23, 1895, it divided the meats coming under consideration into two distinct classes. (1) Meats, neither smoked nor, according to the notions that prevail in this country, salted, which have been treated with borax. Such meats must be regarded, in conformity with articles 100 and 101 of the Federal executive order of December, 1893, as fresh, and excluded from importation as well as from sale. (2) Meats, however, which may show traces of borax, but, at the same time, exhibit indications of smoking or salting, may be imported when they conform to the prescriptions of sections 4 and 6 of the articles above cited.

So far as our firm is concerned we beg to remark that we have never dealt in meats of the kind mentioned in (1), though we very well know that others have introduced considerable quantities of the same. More than twenty years of business experience has taught us that the offer of such merchandise is inadmissible. From our special standpoint it is even a matter of congratulation that its importation and subsequent marketing is forbidden. We know, however, that others have observed this rule only in part or have wholly ignored it. On the other hand, we have taken the greatest pains to conform to the regulations touching meats of the second class.

The sixth section of the Federal order of December 1, 1893, prescribed literally:

> Salted and smoked hams, i. e., meats that through adequate dessication give perfect confidence that they will keep, and moreover possess the persistent characteristic color, odor, and firmness of salted or dried meat, may be admitted to entry.

We have not only given our furnishers strict orders to salt the merchandise sufficiently in accordance with the directions of your Department, which we have sent them, but we have bestowed our conscientious attention on a natural, gradual smoking of the meat, so that we have never offered the consumer a single piece that did not completely answer to requirements of section 6. Without hesitation we can invoke the testimony of every Swiss inspector of provisions and demand whether he has ever found anything to censure in our wares, or anything not in accordance with the above-mentioned prescriptions.

We take the liberty to add that it is by no means to be assumed that our merchandise is, so to speak, pickled with borax. For that purpose salt is now employed just as it always has been. Borax is employed only as a packing for the already corned meat, to preserve it during transportation. On arrival of the merchandise the borax is carefully removed from the outside of the meat, which is thereupon smoked. Our process of curing is such that the flesh when smoked and offered for sale retains only insignificant traces of borax.

We now believe that, having so carefully and conscientiously observed all the requirements of the agricultural department, we could carry on our long-established business in peace and security; but unfortunately this has not been the case. Quite recently the sanitary authorities of the cantons of Zurich and Schaffhausen have abruptly forbidden the introduction of and sale of meats that have undergone a preliminary treatment with borax. We inclose copies of the orders in question.

We believe ourselves justified in laying before you our protest against these prohibitory measures and at the same time in giving notice of our claim to indemnity for the considerable loss thus occasioned us. As we have observed all legal requirements on importation of the merchandise, paid the duties, and offered it for sale in such a condition as to conform entirely to the prescriptions of the agricultural department, issued on the 13th and 23d of February, 1895, we believe we have acquired the right to sell our meats. That the prohibited import and the reasons given for it are in complete contradiction with your department's orders and regulations needs no further proof, and is self-evident from the foregoing explanations. But even were it to be conceded that the health officers of Schaffhausen and Zurich are justified in their action—and this we deny in the most decided manner—the prohibition must in that case apply to all meats imported and offered for sale, and not especially, or as actually occurs, exclusively to meats imported from America.

From Italy, Germany, and Austria shipments of salted meat, ham, sausage, etc., which, with few exceptions, have been treated with borax (and all are sold without objection), and in Zurich the authorities charged with the execution of the prohibitory measures formally refuse to subject them to an examination. Swiss meats are treated, according to the time of the year, with borax, more or less, known here as "conservemittel" or "conservesalz," consisting almost wholly of borax. Of this fact we possess ample proofs, as well with reference to domestic products as to those of Italian, German, and Austrian origin.

If, then, the treatment with borax is to be forbidden, it is not permissible to enforce the prohibition exclusively against the United States. It is not for us to determine whether meats prepared with borax are injurious to the health or not; we would simply point out that, up to the present time, no case is known where it has been proved that such food has been harmful, although borax has everywhere been employed in this way for more than ten years. It is to be added that after our treatment above described only a trifling quantity of borax is retained in the meat. But the question arises whether the saltpeter prescribed by Zurich and Schaffhausen for preserving meats can be regarded as harmless. We doubt it. From the specialist's point of view we must declare, as the result of our long experience, that—

(*a*) There can be prepared from flesh treated with borax a slightly salted, fresh, agreeable bacon, which is universally popular, and which for working people is to-day a cheap, indispensable article of food of prime importance.

(*b*) From meat of like quality as (*a*) prepared with saltpeter only, bacon can be produced that retains a sharp, unpleasant taste of saltpeter, which is disliked by the consumer and regarded by the trade as of inferior quality.

It is unnecessary for us to draw the obvious conclusion from the above premises. While respectfully requesting your Department to take steps that will lead to the speediest possible removal of the obstacles placed in our way by the cantons of Zurich and Schaffhausen, we beg to state further: Thus far we have conducted our business in conformity with the laws relating to it and have strictly observed all the regulations laid down by the Federal authorities. We have, therefore, besides our considerable stock of the merchandise in question, made large purchases of the same for future delivery, which we in turn have sold to our customers in the same way. The law does not allow us to annul

these business engagements, and we can only look forward to a series of disastrous suits at law, while at the same time we do not know what disposition to make of the merchandise should the prohibition be maintained. Freight and import duties have been paid, and since the meats have been cut and prepared for the Swiss market their shipment to a foreign market is impossible.

Commending our application to the benevolent consideration of your Department, we remain, etc.

[Inclosure 2 in No. 55.]

Translation of reply of Bundesrath Deucher to Messrs. Jenny & Kiebiger.

BERNE, *November 20, 1896.*

In yours of the 16th instant you complain of the action of the competent authorities of the cantons of Schaffhausen and Zurich in forbidding traffic in meats preserved by the use of borax. Invoking the provisions of article 100 of the Federal executive order in regard to the cattle plague police of October 14, 1887, you request us to effect the repeal of the prohibitory measures.

We have the honor to reply that article 100, which you cite, has exclusive reference, so far as its execution belongs to the Confederation, to the action of the frontier veterinary surgeons touching meats introduced from abroad when, from the standpoint of the cattle plague police, such action seems necessary. In the present case the competence of the Federal authorities is limited to the oversight of the certificates of origin prescribed by section 6 of article 100, while, according to section 9 the sanitary inspection is committed exclusively to the cantons, whose right and duty it is made to superintend the introduction of all meats and to require a renewed inspection of the same if the occasion requires it. Also, according to the tenor of article 80 of the order in question, the traffic in meats, etc. (meat inspection), in the interior of Switzerland lies exclusively in the jurisdiction of cantonal authorities. We can not, therefore, take any action against the measures adopted by the cantons of Zurich and Schaffhausen and opposed by you.

Very respectfully,

SWISS DEPARTMENT OF AGRICULTURE, DEUCHER.

Mr. Sherman to Mr. Peak.

No. 90.] DEPARTMENT OF STATE,
Washington, March 17, 1897.

SIR: Referring to your dispatch No. 51, of November 25 last, relative to the discrimination alleged to be made by the Cantons of Zurich and Schaffhausen against American meat upon the ground that borax is used in curing the same, I have to inform you that, in accordance with the suggestion contained in your dispatch, the Department, on the 11th of December, 1896, issued a circular instruction to the consular officers of the United States in Austria, Germany, Great Britain, Italy, and Switzerland, directing them to inform the Department, as promptly as

possible, whether in their respective districts borax is used in the curing of pork, and if so whether any of the pork thus cured is exported to Switzerland.

I transmit herewith, as indicated below, copies of the reports[1] on the subject which have been received from our consular officers in the countries above named. It seems from the tenor of these reports that, while there is considerable diversity of practice in different places in the use of borax in curing pork, there is no question but that the use of that article is forbidden in most, if not all, the Cantons of Switzerland. The information thus far obtained does not appear to clearly establish the claim that there is discrimination in Switzerland against the importation of American pork upon the ground that borax is used in curing the same.

The Department will await a further report from your legation on the subject before taking any action in reference thereto.

Respectfully, yours,

JOHN SHERMAN.

Mr. Peak to Mr. Sherman.

No. 84.] LEGATION OF THE UNITED STATES,
Berne, April 1, 1897. (Received April 13.)

SIR: I have the honor to acknowledge the receipt of the Department's dispatch No. 90, of the 17th ultimo, relative to the exclusion of American meats cured with borax by certain cantons of Switzerland and inclosing for my information copies of reports from United States consular officers in Austria, Germany, Great Britain, and Switzerland.

From these reports it would seem that Switzerland has adopted the same regulations in regard to the importation of meats from other countries and that the orders were not issued for the purpose of discrimination against American meats, as alleged by Messrs. Jenny & Kieberger, reported in my dispatches to the Department No. 51 and No. 55, of dates November 25 and December 12, 1896, respectively.

The cantons have, undoubtedly, the right to adopt such sanitary regulations as they may deem proper in reference to the importation and sales of meats and, in the absence of any proof that a discrimination was made against American meats in the enforcement of these regulations, it would not be possible to appeal to the Swiss Federal Council for its interposition upon the ground that these orders were a violation of our rights under the treaty. In the absence of such a claim upon our part, supported by convincing proof, I am convinced that any appeal for the revocation of the objectionable orders and the admission of the interdicted meats would be met with a refusal on the ground that the Swiss Federal Government has no authority to interfere in matters of cantonal regulations.

However regretable, the conclusion, therefore, seems to be inevitable that American exporters of meats must either relinquish their profitable trade in Switzerland or abandon their present method of curing their meats with borax.

I have, etc.,

JOHN L. PEAK.

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[1] Not printed.

RIGHTS OF NATURALIZED CITIZENS OF THE UNITED STATES OF SWISS BIRTH.

Mr. Peak to Mr. Olney.

No. 71.] LEGATION OF THE UNITED STATES,
Berne, February 3, 1897. (Received Feb. 15.)

SIR: I have the honor to acknowledge the receipt of the Department's dispatch, No. 54, of date of October 27, 1896, in relation to the rights of naturalized citizens of the United States of Swiss origin in Switzerland, and the repeated but ineffectual efforts of the United States to secure a naturalization convention with a Swiss Government for the better security and protection of those rights, and referring to the report made in May, 1888, by the commission appointed by the Swiss National Council, recommending that the "Swiss Federal Council enter into a consideration of the convention proposed," and instructing me to secure copies of the report in question for my own use and that of the Department, with a view to reopening negotiations for a naturalization convention should a favorable disposition thereto on the part of the Federal Council be discernible.

I have the honor to report that immediately upon the receipt of the Department's dispatch I called upon the President of the Swiss Conferation, and also upon Colonel Frey, a member of the Swiss Federal Council, and explained to each of them that the United States would feel inclined to reopen negotiations for a naturalization convention with Switzerland, provided a favorable disposition thereto should be entertained by the Swiss Government. I called the attention of each of them to the report made by the commission of the Swiss National Council in May, 1888, recommending that the Federal Council enter into a consideration of a naturalization convention with the United States, and requested to be advised as to the views entertained by the Federal Council as to their competency to negotiate such a convention and their disposition in relation thereto. I was courteously received by both gentlemen and both seemed to recognize the great desirability of such a convention, but neither expressed an opinion as to the competency of the Federal Council to negotiate in relation thereto. They both promised, however, to submit the subject to the judgment of the Federal Council and to report their conclusion thereon in a few days.

About one month subsequently, on December 8, 1896, I called on the President of the Confederation again, at his invitation, and he expressed regret that he had not had time to investigate the subject of a naturalization convention with the United States as thoroughly as its merits required, and requested me to address him a note embodying the request which I had submitted to him and Colonel Frey, answering me that the Federal Council would then give the subject their immediate attention. In compliance with this request I did, immediately upon returning to the legation, address a communication to the President of the Swiss Confederation, dated December 8, 1896, a copy of which I inclose herewith. On January 28, I received a reply thereto in the French language, dated January 22, a copy and translation of which are inclosed herewith.

It will be observed that the Swiss Government declines to consider a naturalization convention now, as in 1885, on the ground that such a convention would be opposed to article 44 of the Swiss constitution. This article as it appears in the constitution of 1848 reads as follows:

ART. 44. No canton shall expel from its territory one of its own citizens or deprive him of his rights, whether acquired by birth or settlement. (Origine on cite.)

This was amended in 1874 by the following:

Federal legislation shall fix the conditions upon which foreigners may be naturalized as well as those upon which a Swiss may give up his citizenship in order to obtain naturalization in a foreign country.

The Federal Assembly in 1876, in accordance with this amendment, prescribed the process whereby one might lose or gain the right of Swiss citizenship. This law provides, among other things, that a Swiss citizen, in order to renounce his citizenship, must no longer have a domicile in Switzerland; that he must enjoy a civil capacity under the laws of the country in which he resides and must have a citizenship in some foreign country already acquired or assured, for himself, his wife, and his minor children. The declaration of renunciation should be in writing, accompanied by proper proof and presented to the cantonal government. The right of contest is limited to four weeks, and in case of contests the Federal Tribunal decides.

It will be observed that the amendment to article 44 gives to Federal legislation the right to prescribe the conditions whereby one might lose his citizenship, and, therefore, it would seem to follow logically that such a prescription as the one sought to be embodied in the proposed treaty (that a Swiss acquiring American citizenship should be held to relinquish his Swiss citizenship) might properly fall within the authority of that body. But, as a matter of fact, whatever the words of the amendment may clearly mean, they have been so often and so forcibly interpreted so as to exclude from the Federal Council or Federal Assembly this power that these bodies do not dare, nor do they consider that they have the right, to oppose themselves to this idea. Thus it is that the declination of the Federal Council to enter into negotiations for a naturalization treaty with the United States must be attributed to a real lack of capacity and not to any wish on their part to oppose it.

As presenting the Swiss point of view on this subject, I send herewith inclosed to the Department, a translation of an interesting and instructive exact from the Handbuch des schweizerischen Bundesstaatrechts, by Dr. J. J. Blumer, a work of noted authority. In this article the author has presented from the Swiss standpoint, a clear and succinct view of the doctrine of perpetual allegiance and a history of the interesting discussions to which it has given rise.

It will be observed that, however illogical and indefensible the doctrine may be, it is most profoundly embedded in the sentiment of the Swiss people. Citizenship is regarded by them not only as a sacred possession but also as a valuable property right, entitling the citizen to demand of his commune or canton aid and assistance in case of poverty, or even a home and support in the event of old age and helplessness. It is, perhaps, this aspect of the case which appeals most strongly to Swiss patriotism and is responsible for the manifest repugnance of the Swiss citizen to renounce his citizenship, even after acquiring citizenship in another country. He reserves his Swiss citizenship, as a valuable contingency for old age and helplessness, in the event he should not prosper in his adopted country. The doctrine is thoroughly understood and appreciated by all the people of Switzerland, even among the most ignorant peasants, and is taught in all their schools. Those who emigrate to the United States are not ignorant of its nature but are unwilling to renounce their Swiss citizenship and, hence, when on their return to Switzerland, they are required to perform the duties of citizenship they are not entitled to much sympathy, however desirous the Government of the United States may be to shield them.

They have voluntarily placed themselves in the attitude of owing allegiance to two different sovereignties, and the burdens and inconveniences resulting therefrom would seem to be as essentially a part of this dual allegiance as the advantages which they hope to derive from it. As naturalized citizens of the United States they owe allegiance to our Government and are entitled to its protection; as native citizens of Switzerland they hold and claim the right to return to their commune and demand its aid and assistance in case of poverty or helplessness. As long as they remain in their Swiss jurisdiction Switzerland claims the right to exact of them military service and other duties of citizenship as an equivalent for the possible benefit they may receive from their commune in the event of decrepitude and helplessness.

For harmonizing views so widely and radically different and so conflicting as those entertained by the two Governments upon this important subject, a naturalization convention would seem to be the wisest and best remedy, but I regret to say that I see nothing in the present attitude of the Swiss Federal Council or in the sentiment of the people to justify the hope of such consummation in the near future.

I have, etc.,

JOHN L. PEAK.

[Inclosure 1 in No. 71.]

Mr. Peak to the President of the Swiss Confederation.

BERNE, *December 8, 1896.*

SIR: I have the honor to invite your excellency's attention to the subject of a naturalization convention between the United States and Switzerland. This subject has engaged the attention of the two Governments as far back as in 1884, at which time the Government of the United States urged the project of such a treaty upon the Swiss Government. On the 20th of February, 1885, the Swiss Government, in response to this proposed treaty, replied that Swiss nationality depends upon citizenship of or in a Canton; that article 44 of the Swiss constitution forbids the Cantons to deprive a citizen of his citizenship, and the confederation also has no authority to do so, and that, consequently, the confederation lacks the competence by treaty to connect with the acquisition of citizenship in the United States the loss of citizenship in Switzerland. In view of this constitutional objection upon the part of Switzerland, the subject was no further pressed at that time.

In May, 1888, the committee of the National Council in its report upon the acts of the Federal Council made reference to the repeated suggestions of the United States for a naturalization treaty, set out the objections theretofore made by the Federal Council, and added that the Federal Council had latterly felt well disposed to the project of such a treaty, and concluded with a recommendation that the Council enter into a consideration of the convention proposed.

It is the purpose of this note to inquire of your excellency whether the Federal Council now has the competency to negotiate a naturalization convention with the United States, as suggested in the foregoing report, and whether the Swiss Government at present feels disposed to enter into consideration of such a convention.

I take this occasion, etc., JOHN L. PEAK.

[Inclosure 2 in No. 71—Translation.]

The President of the Swiss Confederation to Mr. Peak.

BERNE, *January 22, 1897.*

SIR: In answer to the note of your excellency of December 8 last, submitting to us the project of a treaty between Switzerland and the United States on the subject of naturalization, we have the honor to inform you that to the conclusion of such a treaty as outlined in the above-mentioned project there is opposed to-day, as in 1885, the principle enunciated in Article 44 of the Federal Constitution.

If the Government of the United States of America finds it strange (Report of the Secretary of State to the President for the year 1896, p. 28) that Switzerland clings to this principle, it is prayed to remember that it is for each state to regulate for itself the conditions under which one acquires or loses the right of citizenship within its boundaries, and that the practice followed in Switzerland has its foundation in the point of view and sentiment of the Swiss people, just as the principles of law in force in the United States, and differing from ours, spring, no doubt, from the particular character of the American people.

Besides, it is not exact that a Swiss citizen can renounce his Swiss citizenship only with the consent of his commune. If the right of renunciation of Swiss citizenship is contested, the applicant, following the Federal law of July 3, 1896, can have recourse to the Federal tribunal which, if the conditions mentioned in this law are complied with, decides what is necessary to enforce his demand. Thus, even lately, the Federal tribunal has held that the fact of not having paid the military tax is not a valid reason for withholding the right to renounce citizenship.

Receive, sir, the assurance, etc.,

DEUCHER,
The First Vice-Chancellor.
SCHATZMANN.

[Inclosure 3 in No. 71.]

Translation of an extract from the Handbuch des Schweizerischen-Bundesstaatrechts, by Dr. J. J. Blumer, vol. 1, page 330.

The possession of the right of Swiss citizenship is derived from the right of citizenship cantonal, as this in turn is subordinated to the possession of the right of citizenship communal, or of a commune.

It is, therefore, to the Cantons that belongs the privilege of promulgating the regulations upon the loss or acquisition of citizenship, but inasmuch as contests between the Cantons and even international conflicts may arise from this state of things, the constituted authorities believed, as early as in 1848, that it was necessary to insert in the constitution this principle: "That no Canton can deprive any of its citizens of the right of origin or of citizenship." It was sought to avoid thus a return to the system of "heimat losat" or "homeless people," resulting formerly from the fact that certain Cantons had withdrawn the right of citizenship or commune from their citizens who embraced another religion or contracted marriage with the professor of another faith, whereas other Cantons had sought to prevent this by a vote of the assembly of Cantons.

At the diet in 1848 the deputation from Zurich proposed to make an exception to the principle above stated in the case where a Swiss should possess uncontested citizenship rights in a foreign country. It was urged that if one continued to consider forever and in all circumstances the emigrants as citizens, the Cantons and communes would have in time a population outside of its boundaries, without direct connection with their country, and who would not avail themselves of the right of citizenship except upon such occasions as it should be to their advantage. It was objected to the proposition of Zurich that the right of Swiss citizenship should be held so

sacred that any proscription of it was absolutely inadmissible; that this notion of the value and importance of the right of Swiss citizenship was bound up and linked with the sentiments of the Swiss people; that a citizen of the confederation should not be allowed to lose his right of citizenship except upon his voluntary renunciation and proof that he had acquired another domicile. Following this discussion the proposition of Zurich was rejected by only two votes majority.

During the discussion upon the revision of the constitution in 1871 and 1873, it was sought to add to article 42 of the ancient constitution a prohibition against the banishment of citizens of other Cantons from the territory of the Canton where they were. At the same time the National Commission proposed the following amendment: "He who acquires or accepts the citizenship of a foreign country loses his citizenship Swiss and cantonal." This amendment was supported by arguments analogous to those which were urged in 1848 in favor of the proposition of Zurich. It was stated that the Swiss who were naturalized in America refused upon their return to Switzerland to fulfill their duties of Swiss citizenship when such was inconvenient to them, invoking their newly-acquired citizenship; and, on the other hand, when they found themselves in need of it they reclaimed the aid and assistance of the Cantons and communes, pretending that, notwithstanding their American citizenship, they had not lost their rights of Swiss citizenship and still possessed all the privileges belonging to a citizen, both cantonal and communal. It was added that a position so equivocal and which could be easily modified provoked conflicts, and that it was, moreover, contrary to the spirit of the ancient country. But the National Council itself rejected this amendment, which had been opposed by such arguments as these: That in 1850 they had tried to remedy the inconveniences springing from the "heimat losat," and that now this proposition would open the door anew to the same disorder; that it was in contradiction of Swiss history and the development of its public rights; that it was opposed to the sentiments of the people, who held firm to the praiseworthy theory that one could never, except by his expressed will, lose his right of citizenship in Switzerland; that often it did not depend upon the free will of the citizen that he had acquired citizenship in a foreign country, but that in many countries he was directly compelled by circumstances to naturalize himself; that thus in a number of countries, and, indeed, in America, it was necessary to be naturalized before one could acquire the power to own land, and that in certain of the German States, where exists the system of concessions, citizenship was an indispensable condition to the exercise of certain professions. It was recognized that this double right of citizenship could give rise to conflicts, particularly where the jurisdiction of tribunals was concerned; but these inconveniences, it was urged, were not so great that it should be necessary to discredit a theory widely upheld and deeply imbedded in the hearts of the Swiss people, and especially was this true when the acquisition of foreign citizenship had never as yet occasioned to Switzerland any grave difficulties with other countries.

The principle that a Swiss can not lose his Swiss citizenship except he himself renounce it, has been thus maintained since the last revision. But as the legislation of the Canton presented great divergencies as to this renunciation, and as the right of renunciation, even, was placed in doubt by certain Cantons, it was declared in the project of the constitution of 1872 that this matter was to be submitted to Federal legislation. And this amendment was passed without change in the present constitution, of which article 44, or that part of it which concerns the present question, reads thus: "No Canton can * * * deprive one of its citizens of the right of citizenship." "Federal legislation will determine the conditions under which a Swiss can renounce his nationality to obtain naturalization in a foreign country."

The Federal Council has fully explained the signification of the above in many notes addressed to foreign governments. It can be summed up as follows: The right of Swiss citizenship can not be proscribed; every Swiss conserves his citizenship as long as he does not renounce it himself and as long as he can prove his descent; the fact of his having acquired a foreign citizenship is not sufficient to make him lose his Swiss citizenship; he preserves it even during a prolonged sojourn in a foreign country, and even when he has not paid his military and civic taxes in Switzerland; this is also true if he has accepted military service or entered into the administration of the foreign country; to lose his Swiss citizenship a formal and express renunciation is necessary, which also extends in its effect to his minor children; but in order to make such a renunciation valuable or valid it is necessary to prove that he has acquired domicile in another country or Canton.

From all that precedes it follows that the Swiss laws admit the principle of double citizenship, which is prohibited in many countries. Thus, in 1851, when the government of Outer Appenzell Rhodes claimed the authority to withdraw the right of citizenship from one of its citizens who wished to acquire citizenship in another Canton, the Federal Council instructed it that this point of view was contrary to the constitution, and that it would be obliged to admit as established the right of recourse of a citizen of Appenzell who complained against such a withdrawal of his

citizenship. The Federal Council has also refused to ratify an article of the constitution of Uri, in 1850, whereby it was sought to exclude citizens who, after having acquired citizenship in a foreign country, had not renewed his Swiss citizenship within a certain time. The same decision was made in an analogous case concerning the constitution of St. Gall, in this sense, that the Federal Assembly reserved the right of interpreting article 43 (present article 44).

In conclusion, it should be mentioned that the Federal Council has declared inadmissible an ordinance of the Canton of Nidwalden prescribing that the widows of its citizens, originally of the Canton of Obwalden, should be returned to the charge of their original commune. In a word, the acquisition of the right to aid or assistance is a consequence of the right of citizenship, which, under the terms of article 44, can not be lost.

MILITARY SERVICE—CASE OF FREDERICK ARNOLD SCHNEIDER.

Mr. Olney to Mr. Peak.

No. 88.] DEPARTMENT OF STATE,
Washington, March 6, 1897.

SIR: I have to acknowledge the receipt of your dispatches, Nos. 75 and 76, of the 15th and 18th ultimo, both in relation to the claim of the Swiss Government to exact military service from American citizens of Swiss origin temporarily sojourning or being in Switzerland, and having particular reference to the case of Mr. F. A. Schneider, a native-born citizen of the United States, who has been ordered by the military commander of the district of Zurich to report immediately for physical examination and military duty.

The Department can not see without regret the revival of this controversy, which has at intervals been so exhaustively argued in the past, and in regard to which the duty of this Government toward its citizens can admit of but one construction on its part.

It may be convenient, in view of the peculiar circumstances of Mr. Schneider's case, to forego for the present, without prejudice, consideration of the allied questions involved in the cases of persons of Swiss birth becoming naturalized in the United States, without previous renunciation of Swiss citizenship, and returning to Switzerland. As instructions of the Department have heretofore shown, this Government can make no distinction between a native and naturalized citizen in claiming for them the benefits of its treaties with foreign States, although it may be recognized as a fact—regrettable but still a fact—that the circumstances of the acquisition of American citizenship by an alien may leave a conflicting claim to dual allegiance on the part of the Government of the state of his nativity, should he voluntarily return thither.

Mr. F. A. Schneider is, as you have previously reported in your dispatch No. 45, of October 12, 1896, a native-born citizen of the United States, his father at the time of his birth being lawfully invested with the full and complete character of an American citizen by naturalization, after compliance with all the requirements of the United States statutes in that regard. He is not a citizen of the United States by any process of municipal absorption; he is a native-born citizen of citizen parentage. Whatever may be advanced in a contrary sense as respects the dual status of a person acquiring another allegiance without the consent of the State of his origin, this Government can not for an instant admit that such a contention is applicable to the case of a native-born citizen. So far as the knowledge of this Department exists—over more than a century of intercourse with its sovereign

equals—no such contention has been maintained by any other Government, and if suggested has been emphatically denied.

Even upon the careful statements you have recently made concerning the Swiss rule of cantonal citizenship this extraordinary and exceptional doctrine of inherited allegiance appears nowhere distinctly formulated, and if it be put forward as a doctrine it not only finds no color in the received teachings of international law, but it is in itself faulty because apparently unlimited. There seems to be no end to the chain of inherited subjection which must ensue should the Swiss premise be admitted, for if a native-born son of a citizen of the United States can be claimed by Switzerland as a citizen because his father was formerly a Switzer, the grandson and the descendant of the remotest generations may with equal reason, or rather with equal unreasonableness, be claimed as Swiss citizens.

In the correspondence which took place in 1894 in respect to the case of Frederic Tschudy, the present claim in its full extension did not appear, the discussion then being partly as to the imputed dual allegiance of Mr. Tschudy and partly as to the obligation of persons sojourning in Switzerland to pay, under Swiss law, a military tax in default of service, which is a matter regulated by treaty. In Mr. Schneider's case no theory of dual allegiance can be admitted by this Government, and the offer of the interested party to remove possible contention on the ground of liability to the military tax by tendering payment of the sum, has been rejected. It seems that he is held to service purely and simply on the alleged score of owing paramount allegiance to Switzerland. In this respect Article I of our treaty with Switzerland of November 25, 1850, appears to be distinctly contravened. At the time that treaty was concluded there was no question touching the attitude of the United States in the vital regard of citizenship. It had been sedulously and strenuously maintained for half a century.

The doctrine that a state is competent to admit aliens to its citizenship and to incorporate them in its body politic on a footing indistinguishable from native-born citizens was proclaimed, asserted, and enforced, and has become a recognized principle of public law among nations with the exception of three States—Switzerland being one of them and Russia and Turkey the other two—which hold to the doctrine of perpetual allegiance, only to be dissolved by the consent of the subject's sovereign. But whatever may be argued as to the dual status of an individual forsaking his native land and embracing the allegiance of another Government, or whatever claim may be made that the treaty between the United States and Switzerland may not specifically apply to those precise cases, there can be no doubt that the United States purposed and that Switzerland assented to the full protection of all native-born citizens of the United States. It is for the benefit of such that our treaties were and are concluded, and for their benefit we must claim their full application. This is not a question of an even counterpoise of claim between two conflicting jurisdictions in which each may in practice be supreme to enforce its own law over all affected persons voluntarily resorting to its territories. Any theory of an equally balanced conflict of the laws between the two states is absolutely and necessarily excluded in the case of native-born citizens of either, they being in turn the sons of lawful citizens.

It is proper that you should temperately but distinctly acquaint the Swiss Government with the view here entertained of the present question. Your firm and earnest remonstrance should be interposed in

such shape as to leave no doubt in the mind of the Federal Council of the sincerity of our attitude and of our determination to uphold the rights of our native-born citizens, and the council should not be left in ignorance of the severe strain which the claim of indefinitely inherited allegiance so put forth in the case of Mr. Schneider and any person similarly situated may perforce impose upon the traditional and fast friendship which the United States feels for Switzerland.

I am, etc.,

RICHARD OLNEY.

Mr. Peak to Mr. Sherman.

No. 88.] LEGATION OF THE UNITED STATES,
Berne, April 27, 1897.

SIR: I have the honor to inclose herewith a copy and translation of the reply of the Swiss Government to my note of March 24, in relation to the case of Mr. Frederic Arnold Schneider, an American citizen, a copy of which note was inclosed to the Department in my dispatch No. 83.

Immediately upon receipt of this reply I addressed a note to Mr. Germain, United States consul at Zurich, to ascertain the present status of Mr. Schneider's case, and have just received his reply, in which he informs me that Mr. Schneider is still absent from Switzerland awaiting his discharge from Swiss citizenship, which has not yet been granted.

I am not informed whether the Canton has refused to grant his discharge or whether the matter still remains undetermined. When he returns to Switzerland he is liable to arrest for refusal to obey the orders of the military authorities.

As the Swiss Government has finally and unequivocally refused to release him from military service, I await the further instructions of the Department in regard to his case.

I have, etc.,

JOHN L. PEAK.

[Inclosure in No. 88.—Translation.]

The Swiss Federal Council to Mr. Peak.

BERNE, *April 20, 1897.*

SIR: In your note of March 24, relative to the military service of Mr. Frederic Arnold Schneider, of Pfaffikon, Canton of Zurich, your excellency asks that the Federal Council reconsider its decision of March 5 last, which, in your opinion, is in harmony neither with the principles of international law nor with the treaty of settlement between Switzerland and the United States of November, 1850.

You observe that, Mr. Schneider being born in the United States of a father a naturalized American, is beyond dispute a citizen of the United States, and, therefore, entitled to the benefits of Article II of the treaty, which exempts from personal military service the citizens of one of the two countries sojourning or residing in the other. Local or municipal laws, you add, by virtue of which Mr. Schneider would be held to possess simultaneously the quality of Swiss citizen, could not prevail, according to your point of view, against the provisions of the said treaty,

which is applicable to all American citizens, without excepting those of whom the parents are of Swiss origin.

We regret the inability to recognize the logical basis of these arguments, which we should regard rather as being in manifest contradiction as well with the universally recognized doctrines of international law as with the fundamental principles, beyond all controversy, according to which a sovereign and independent state determines for itself the conditions and the manner whereby the quality of citizenship is acquired or lost.

We are far from contesting that Mr. Schneider may not be, by the laws of the United States, an American citizen, but it remains no less true that by our public law he is a Swiss citizen, and that as such, finding himself within our jurisdiction, he is subject, in the same manner as all other citizens of Switzerland, to the inherent obligations of such quality.

It would be superfluous to repeat here what we have already stated many times in the correspondence exchanged on the subject of a projected treaty having in view precisely the regulation of this matter. Your excellency, in fact, is not ignorant of the fact that Swiss nationality, by virtue of a principle sanctioned by the constitution itself, is not lost by the simple fact of acquisition of a foreign domicile, but only following a renunciation expressly declared in the prescribed forms of the law of July 3, 1876. Now, if neither the father nor the son, Schneider, has as yet made this declaration, it follows that both are still citizens of their commune of origin of Pfaffikon, and hence citizens of the Canton of Zurich and of the Swiss Confederation.

We have certainly at heart the fulfillment of all our obligations contracted by solemn treaties with other countries, and we would not await the representations of your excellency to conform to the convention of November 25, 1850, if it were really applicable in this case. Article II of this treaty declares, indeed, that the citizens of each of the two Governments shall be exempt, in the other, from all personal military service, but there is not the shadow of a doubt that in order to determine the persons who shall be regarded as citizens of each of the two countries, the treaty must necessarily be referred to the laws in force in each of the two countries. It is, therefore, for Switzerland, the Swiss law which determines if a certain person living in Switzerland should be considered as a Swiss citizen; a contrary doctrine would imply the pretention of imposing upon Switzerland legislation not its own, which would be inadmissible and irreconcilable with its position as a sovereign and independent state.

If the treaty of November 25, 1850, had the meaning which your excellency wishes to attribute to it in your letter of March 24, it would be difficult to understand what object the Government of the United States had in proposing many times the conclusion of a treaty stipulating, among other things, that "any Swiss citizen who has been or shall be or is naturalized in the United States of America conformably to the law, shall be regarded in all ways and in every manner by the Swiss Federal Government as a citizen of the United States of America and treated as such by the Swiss Confederation." Such a stipulation would be, indeed, superfluous if Switzerland was already obliged in virtue of the treaty of 1850 to recognize as American citizens and to treat as such all who could prove having acquired such quality comformably to the laws of the United States.

The attitude taken by us in this matter is that which we have always taken toward all other Governments and that all other Governments

have taken and take toward us. It is sufficient to recall, in this regard, the French laws of June 26, 1889, and of July 22, 1893, the effects of which were so widespread as to entail inconveniences upon many foreign Governments. In order for the treaty to derogate internal legislation and the constitution of Switzerland, it would have been necessary to have a stipulation expressly including citizens of Swiss origin naturalized in America, just as special treaties have been necessary to settle like difficulties between the United States of America and other Governments. Apropos of this can be mentioned the conventions concluded by the United States of America with the Confederated North German States February 22, 1868, with Austria September 20, 1870, and with Belgium November 16, 1868.

We can not, then, in the absence of any international stipulation, admit that Mr. F. A. Schneider, son of a Swiss citizen, not having renounced his original nationality, should be regarded otherwise than all other Swiss citizens and freed from military duty. Mr. Schneider is not in the least forced to keep his Swiss citizenship against his will. He can renounce it in the forms provided by law of July 3, 1876, and, if he does not do so, it is to be presumed that it suits him to remain a Swiss citizen in spite of the duties inherently attached to such quality.

Besides, even in the case where the Swiss law would refuse to Mr. Schneider the right of renouncing his original nationality, it would not be disputed that Switzerland has the right to exact that he fulfill his obligations toward her. This point of view was participated in by an eminent American statesman, Mr. Daniel Webster, Secretary of State, who, in a note of June 1, 1852, to the Minister of Prussia to the United States [the Minister of the United States near the King of Prussia], observed that if a government did not accord to its subjects the right of renouncing their allegiance, it could, in all justice, reclaim their services any time they were found within its jurisdictlon.

We wish to hope that these explanations will suffice to convince your excellency that, greatly desirous as we are of maintaining with the United States of America the best relations and of being in accord with your Government, we can not accede to the request made in your letter of March 24 without departing from the laws and the constitution confided to our safe keeping.

Receive, etc., etc., in the name of the Swiss Federal Council.

DEUCHER,
The President of the Confederation.
RIUGIER,
The Chancellor of the Confederation.

Mr. Sherman to Mr. Peak.

No. 97.] DEPARTMENT OF STATE,
Washington, May 12, 1897.

SIR: Your dispatch No. 88, of April 27, has been received. You therewith inclose copy and translation of the reply of the Swiss Government to your note of March 24 in relation to the case of Mr. Frederick Arnold Schneider, an American citizen.

But little appears to be gained in the way of detailed analysis of and answer to the note of the Swiss Federal Council of April 20, inasmuch as nearly all of the elaborate argument therein presented rests on a

fallacious disregard of the essential point which the Department's instruction and your note of March 24 endeavored to present clearly to the Federal Government, viz, that, whatever may be said touching the application of express treaties of naturalization to the case of native subjects emigrating from one state to cast their lot in another and to become citizens thereof by due process of law, that conventional feature is wholly lacking in the case of persons native-born citizens of citizen fathers. By no just process of reasoning can it be claimed that such native-born citizens of citizen parentage are in the category of emigrants of whom the native state may exact renunciation of their original status as a condition to recognizing the acquisition of a new status. It is impossible to admit, even by way of argument, that a person so born a citizen of any sovereign state holds his birthright by any artificial title of acquisition such as naturalization necessarily implies.

What the note of the Swiss Federal Council says, therefore, respecting the necessity of treaties of naturalization to determine points of allegiance not covered by the general treaties of amity and commerce between states can not be admitted as having reference to the case of a native-born citizen of a citizen father. The Swiss claim in this regard, as you have been already instructed, is far in advance of that presented by any country with which the United States maintain relations, and the United States can not be expected to acquiesce in so exceptional a contention.

It is observed that the note of the Swiss Federal Council rests its argument in part upon a citation from a note stated to have been written June 1, 1852, to the United States minister in Prussia by Daniel Webster, when Secretary of State. The citation is not quite accurate, for no instruction of the date and character described was written by Mr. Webster. Under date of February 14, 1853, Mr. Webster's successor, Edward Everett, writing to Mr. Barnard at Berlin, in treating the case of naturalized citizens of the United States who had been drafted into the Prussian army upon their return to Prussia, refers to a letter written by Mr. Webster to a notary public of New York, named J. B. Nones, of June 1, 1852, in which, allowing for differences for translation, much the same language is found as in the citation made by the Swiss Federal Council.

It is to be insisted upon, however, that the reference is only valid to the case involved, namely, those citizens of a foreign state who emigrate in evasion or omission of military service and acquire another status by naturalization. As to such persons the doctrine of dual allegiance equally subsisting toward the country of origin and the country of adoption, and necessarily regulated by a treaty of naturalization, may be applied as an academic proposition; but in point of fact the claim is not pressed, so far as known, by any State except Italy and Russia, unless the emigration shall have been at or near the military age and constitute of itself an evasive violation of the law of origin. While the countries named have at times asserted that an infant emigrant carries his dual condition during minority and subsequently through life, neither of those countries has claimed that the yet unborn emigrant, so to speak, being born of a father who has lawfully become a citizen of the country of his birth, can be held for evasion of military duty toward the country of his ancestors.

Reverting to the particular case which has given rise to this correspondence, the Department approves your inquiry as to the present status of Mr. Schneider's case, and is disposed to await the result of his renunciation of Swiss citizenship and application for discharge there-

from, which, as you state, has not yet been granted. It is observable that throughout the note of the Swiss Federal Council the right of renunciation of citizenship is spoken of as pertaining to the individual, provided it be declared in the prescribed forms of the law of July 3, 1876.

Although not recognizing the obligation of the native-born American son of an American citizen father to make the application of renunciation referred to, that procedure may afford a practical solution to a position which otherwise is and would remain intolerable as between two sovereign states. It remains to be seen whether the release of Mr. Schneider from the peculiar claim of Switzerland to his allegiance will follow his voluntary acquiescence with the terms of the Swiss law on the subject or whether it may not, after all, be discovered that the real point at issue is in the form and manner in which a person claimed to owe Swiss allegiance may be released therefrom. It may prove that the canton reserves an equal discretion to refuse to recognize the individual's renunciation. It is, however, trusted, in the interest of the friendly relations which this Government earnestly desires to maintain with Switzerland, that such a contingency will not arise.

Respectfully, yours,

JOHN SHERMAN.

Mr. Leishman to Mr. Sherman.

No. 8.] UNITED STATES LEGATION,
Berne, September 6, 1897. (Received Sept. 20.)

SIR: Replying further to your dispatch No. 97, addressed to my predecessor, Mr. Peak, I beg leave to inclose copy of letter from Mr. Eugene Germain, United States consul at Zurich, in regard to Fred. Arnold Schneider; also copy of letter from the father of said Schneider, Arnold Schneider, sr., addressed to Mr. Germain.

While the acceptance by the Swiss Government (through the department of justice of the canton of Zurich) of Mr. Schneider's formal application to be released from Swiss citizenship settles the Schneider matter and avoids any further trouble or complication at present, it is to be regretted that it still leaves the vital point at issue in an unsettled condition, and I can only hope that a similar case will not arise again.

I have, etc., JOHN G. A. LEISHMAN.

[Inclosure in No. 8.]

Mr. Germain to Mr. Leishman.

UNITED STATES CONSULATE,
Zurich, August 30, 1897.

SIR: In reply to your favor of August 26, I have the honor to inclose herein a letter just received from Mr. Arnold Schneider, sr., the father of Frederick Arnold Schneider, explaining the status of his son's case, now closed.

I advised young Schneider when he first applied for protection at this consulate, and all along during the pendency of his case, to allow himself to be arrested or impressed into military service in order to establish a precedent and a case to work on through the good offices of

our minister at Berne. This, however, he declined to do, and left the country in preference, applying for a release from exile. His request was granted, but only after his father paid the military tax, due up to date of his release.

Yours, obediently,

EUGENE GERMAIN,
United States Consul.

[Subinclosure in No. 8.]

Mr. Schneider to Mr. Germain.

ZURICH, *August 29, 1897.*

SIR: In answer to your favor of yesterday, inquiring about the status of my son's case concerning his rights as a free-born American citizen while residing in Switzerland, I must report, as you know already, that our former United States minister at Berne had left my son so completely at the mercy of the Swiss authorities that he could do nothing else, if he would preserve untarnished his American citizenship, but to flee from the "Land of Tell," and then demand his discharge from Swiss claims according to the formalities which the guardians of ancient Swiss views would dictate.

He got his release now, and I suppose should he return to this country he would not be placed in chains or prison for adhering faithfully to his native land and refusing to be pressed into a foreign army, unless another flaw could be discovered whereby some bloated busybody could have his fun with American citizenship.

Very respectfully, yours,

ARNOLD SCHNEIDER.

Mr. Sherman to Mr. Leishman.

No. 13.] DEPARTMENT OF STATE,
Washington, September 24, 1897.

SIR: I have to inform you that your dispatch No. 8, of the 6th instant, relative to the case of Mr. Fred. Arnold Schneider, has been received.

The Department is gratified to learn that the case in question has at last been terminated.

Respectfully, yours,

JOHN SHERMAN.

TURKEY.

PROTECTION OF MISSIONARIES.

Mr. Terrell to Mr. Olney.

No. 1166.] LEGATION OF THE UNITED STATES,
Constantinople, February 6, 1897.

SIR: I have the honor to inclose the copy of a letter, long delayed in delivery, from Rev. C. Sanders, writing for Miss Shattuck, which compliments the Turkish troops for their efficient protection afforded at Ourfa, and desires that Miss Shattuck's approval of the conduct of the colonel commanding be made known to the war office.

I have, etc.,
A. W. TERRELL.

[Inclosure in No. 1166.]

Mr. Sanders to Mr. Terrell.

OURFA, *December 1, 1896.*

DEAR SIR: Miss Shattuck wishes very much to write you this week, but had no time, so I write a few words in her place.

You probably remember that the redifs of Ourfa were sent away from Ourfa very soon after the massacre by the Ferik Ahmed Loufti Pasha, on account of their disgraceful behavior during those two days. In their places came two Arab regiments, one from Maghara, in the vilayet of Aleppo, and one from Hamid, in the vilayet of Damascus. What is especially now brought to your notice is the fine record of the colonel of the Maghara regiment.

This regiment has guarded those parts of the city in which the Armenians live, and also all the region around our premises. Only a single untoward incident, and that only affecting three or four men out of the whole regiment, has occurred during all their long stay here. They have won the entire confidence of the Christians. I may add also that we have found the men detailed to watch over our premises all that heart could wish. They have been very faithful, very respectful, and very zealous in performing their duties.

There have been rumors that this regiment is to go home and [be] dismissed. While certainly a very pleasant rumor for them, the Christians of Ourfa have felt very sorry over such news. The absolute confidence they now feel promises to change to entire certainty [uncertainty], which can not but continue until the disposition of those who take their place has been ascertained.

The colonel of this Maghara regiment has given Miss Shattuck to understand that he would be pleased if she would bear witness to his conduct here during these ten and half months. He has been so just and so kind, and so zealous in protecting the Christians that it is a very great pleasure to bear witness to his splendid record. Miss Shattuck has had a short certificate prepared, which has been sent to the Muschir Pasha in command, and if you can use the inclosed copy

in any way that will help him in the war office it will be a very great personal favor.

Thanking you in advance in behalf of Miss Shattuck, yours,

C. S. SANDERS.

Mr. Terrell to Mr. Olney.

No. 1167.] LEGATION OF THE UNITED STATES,
Constantinople, February 9, 1897. (Received March 1.)

SIR: I have the honor to inclose certain reports from the interior of the Ottoman Empire which tend to verify my statements recently made, to the effect:

First. That no school taught by an American citizen in the Ottoman Empire has been closed during the present administration of Mr. Cleveland.

Second. That no Turks are either educated or converted by American missionaries. To my astonishment three Turkish students are reported in the inclosed letter from Mr. Fuller. (If they are really Mohammedans, their presence in the American school is exceptional, and I certainly think must be without the knowledge of the Mohammedan priests.)

Third. The value of the property owned by the missionaries and mission board.

Additional data of value will be sent forward to your Department as received, which for reference may be useful hereafter in determining the value, the reasonableness of claims for damages, should trouble be renewed and spoliations occur after my departure from this post.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1167.]

Mr. Sanders to Mr. Terrell.

CESAREA, *December 26, 1896.*

DEAR SIR: I will reply at once to the questions, as far as I may be able:

1. As far as I can recall, no schools taught by Americans, or under the supervision of Americans, have been closed in our section of the country.

2. Mr. Wingate, teacher in the Cesarea high school; Miss Burrage, in the two kindergartens in Cesarea; Misses Classen, and Miss Nasen, in the boarding school at Talat.

As the second question is not complete, I can not answer it in full, but I send you inclosed a copy of our "inventory of property," which may perhaps enable you to find the answers desired. If anything further is desired, I shall be glad to assist you to the best of my ability.

Yesterday was a great day of rejoicing here (Cesarea), for all the political prisoners except three were released. These three have been given a capital sentence, I understand, but with how much justice I can not say. I am told that many Turks who are known to have murdered Armenians in Cesarea and Everek have also been not [set?] free. Early in the week we were greatly rejoiced to see that the son of our best helpers, who have been in prison since October 4, was set free, and that, too, with specific and peremptory orders that no "bribes" should be given to anyone.

The only Americans in this field, but those (3) fall under the evident purport of your question. I beg are (9) the Central Turkey College in Aintab, of which Dr. A. Fuller is the president; (6) the Aintab Girls' Boarding School * * * Miss L. Foreman is at present principal; (c) the Ourfa Girls' High School * * * Ourfa * * * Miss Shattuck is the principal. Just now other affairs make it impossible for Miss Shattuck to give her time for such work, but since the period in 1895, about which you ask for information, she has given much time to the school, until the great troubles made such work for the time impossible on account of the pressure of the relief work.

In answering the remaining part of the question I am governed by the rule which Mr. Pettibone told me was their rule at Constantinople, viz, to call nothing American property which the mission considered as given to the native congregations, even if the title is in our hands. Per contra, some of our property stands in native hands.

The following is out-and-out American property, though in most cases we do not expect ever to sell it, and really the first four are owned in partnership with Americans:

1. The Central Turkey College in Aintab, with large college building and three residences.
2. The Aintab Girls' Boarding School, school.
3. The hospital building, with a residence occupied by Americans.
4. The Third Church in Aintab.
5. The missionary residence in Ourfa.
6. An establishment in Aleppo—church, schoolhouses, and preacher's residence, all in one yard.
7. * * * Beylan * * * all together.
8. A small church and schoolhouse in Antioch.
9. A parsonage in Soghoouslook, Kaimakamlik of Antioch.
10. * * * Bitias * * *.
11. Two missionary residences in Kessab (Shaghoor in Kaimakamlik of Aleppo.)

Please note that I do not include the American property in Suadia, assuming, of course, that you have communicated with them as with ourselves.

12. A missionary residence not connected with schools in Aintab, forgotten above. You ask for value. The values given approximately the cost for the schools and residences of missionaries, a mere estimate in the other cases. Probably at public sale none would bring a half of the price appended; just as true is it that they could not be replaced at these prices. As I have not our account books at hand, I depend on my memory.

	Pias.	United States currency.
1. C. T. College and residences	550, 000	$24, 200
2. Aintab Girls' School	180, 000	7, 920
3. Hospital and residence	200, 000	8, 800
4. Third Church, Aintab	60, 000	2, 640
5. Residence in Ourfa	65, 000	2, 860
6. Aleppo establishment	100, 000	4, 400
7. Beylan	50, 000	2, 200
8. Antioch buildings	18, 000	792
9. Bitias parsonage	4, 000	176
10. Soghoouslook	6, 000	264
11. Kissab residences	62, 000	2, 728
12. Aintab residences	80, 000	3, 520
Total	1, 375, 000	$60, 500

There are photographs in abundance of the Aintab buildings, copies of which will doubtless be sent on. A photograph of the Ourfa buildings will be sent as soon as one is obtainable that is satisfactory.

3. c/t college, maximum 132, average 95.110; Aintab Girls' Seminary, maximum 82, average 65.70; Ourfa High School, maximum 52, average 45—all Armenians.

Our scholars go up into the thousands, but only the above can really be construed strictly under the class of thought by Americans, and just for the present Americans do not teach in Ourfa, though they do superintend, and very closely.

4. No injuries whatever to Americans during the period you mention, to their persons. On the contrary, during these times of trouble the persons of all connected with our station, and the residences where they lived, have been carefully protected. The first attack in Ourfa may be an exception, but as the American premises were not attacked no harm resulted. I presume you do not include retention of boxes and stealing of horses in your inquiries.

The Third Church in Aintab, though American property, was badly looted. While the building was American, the things carried off belonged to the Armenian congregation. I think Mr. Fuller put in claim for damages, but do not know how it turned out. Of course no redress has yet been given.

5. From Aintab to Aleppo, the nearest American consular post, it is about 48 Turkish hours—about 144 miles.

6. This question can, of course, only be answered by each person for himself. For myself, I have taken no inventory for years, and have been burned out once; but, at a venture, think I could sell out for less than $4,400 with great advantage to myself.

7. I suppose this question refers to book colporteurs exclusively under American patronage and employment. If so, none have been imprisoned since the date you mention. In our field, though, two were imprisoned, then released under bonds, and finally unconditionally released just a little before the time you mention.

Hoping these answers will be satisfactory, I remain, yours, respectfully,

C. S. SANDERS.

[Inclosure 2 in No. 1167.]

Mr. Fowle to Mr. Terrell.

OURFA, *January 26, 1897.*

DEAR SIR: Your circular letter addressed to Miss Shattuck arrived yesterday, and, as Miss Shattuck is much pressed for time, I answer for her.

Mr. Fuller writes me that he received such a circular from you, and I presume will answer for Aintab and the part of our field which lies to the west and south of Aintab.

Since writing the above I have glanced over Mr. Fuller's note, and I see he intends I shall answer for that part of the field. The answers are not difficult, as we have not had much, if any, trouble previous to the great troubles of the last sixteen months. So I will proceed to answer your questions at once.

1. None such [1] have been closed in our station, which embraces all the

[1] Schools taught by Americans.

work among Armenians in the vilayet of Aleppo, excepting the Sanjak of Marash, and also a house of the Adana vilayet, the two Kaimakanliks of the Malatiya Sanjak which lie below the Taurus Mountains, and also the Kaimakamlik of Severic in the Diarbekir vilayet.

2. No schools are taught exclusively by Americans. The only thing that could be brought against the young man was that he had translated into Armenian a letter prepared at my request for Dr. Tefiwes, giving an account of the need in Cesarea, especially in regard to orphans.

The officials feigned to believe that there was gross exaggeration in the letter; but my opinion is that it was far within the truth. It was in connection with this letter that I was "summoned" to appear as a witness. Our Turkish watchman was also arrested, but he, too, was released two weeks ago, and without bribery. We are glad to report these two cases. Would that this custom might become "epidemic."

We are hoping for a favorable reply from you by the next post to Mr. Wingate's letter in regard to our right to travel in the empire and superintend our long-established works.

Again with thanks for your assistance, and with greetings of the season, sincerely,

J. L. FOWLE.

[Inclosure 3 in No. 1167.]

Western Turkey Mission, Cesarea Station, inventory of property.

1. Dwelling house in Cesarea, now occupied (title in name of J. O. Barrosot)	£T400
2. Dwelling house in Cesarea, unoccupied (title in name of J. L. Fowle)	175
3. Dwelling house in Cesarea, residence of Miss Burrage, and used for kindergarten	300
4. Dwelling house adjoining (title in name of Pempeijian, for F. E. Burrage)	100
5. Boarding school, Talat, also residence of Misses Classen and Naton (title, W. S. Dodd)	2,000
6. Dwelling house in Talat (title of W. S. Dodd), occupied by J. L. Fowle	740
7 Dispensary and laboratory (title, Mary C. Dodd)	870
8. Dwelling house, occupied by H. K. Wingate	960
Nos. 7 and 8 are adjoining the boarding school.	
9. Stable, with 3 rooms above (title, W. S. Dodd), on school lot	175
10. Garden in Talat (title, L. Bartlett)	250
Permit for school refused in 1881; in 1890 foundations were removed.	
Total of real estate ($345,522)	6,070

N. B.—In addition to the above, surgical instruments, medicines, and personal effects for four families amount to worth not less than £T1,500 more, perhaps to £T1,800.

Cesarea, December 26, 1896.

J. L. FOWLE.

[Inclosure 4 in No. 1167.]

Rev. Mr. Fuller to Mr. Terrell.

AINTAB, *January 25, 1897.*

DEAR JUDGE TERRELL: Your letter of inquiry of December 28 and 30 are at hand and I reply at once. My duties being chiefly with the college, I can speak from personal knowledge of only affairs that have occurred at Aintab. Mr. Sanders, to whom I presume you have addressed the same questions, can give you all needed information for the general field.

1. Within our field (Aintab Station, including Aintab), Ourfa, Severek, Adiaman, Biredjik, Aleppo, Killis, Antioch, Beilan, and Scenderoon, and there are only two schools in which Americans are teaching (the college and the girls' seminary at Aintab). Neither of these have been seriously interfered with. Government officials have, however, tried repeatedly and persistently to raise prejudices and to secure petitions from the people for their suppression.

Of schools under our care and wholly or partly supported by us but taught by Armenians:

(1) The school room and houses and church building of our church in Aintab were plundered by the mob on November 16, 1896, and the school temporarily broken up. Damage to our property at that time £50.

(2) At Biredjik our school was broken up; school building, house, and church plundered; our lady teachers robbed of everything but the clothes on their backs, and after two weeks' detention in Moslem houses were sent to us at Aintab.

(3) In Ourfa our teacher was killed and the school broken up temporarily.

(4) In Severek, school, church, and house plundered, preacher killed, teacher wounded and left for dead, and school, of course, broken up.

(5) In Adiaman everything was plundered and our work wholly broken up.

(6) At Beilan our church building has been closed and under Government seal for more than two years and still we are required to pay taxes on it.

None of the above schools have, as far as I am aware, been closed by order of the department of education, but as the result of the disturbances.

2. Only two, as explained above: sixteen church buildings, ten school buildings (school buildings are largely owned by natives), our college, our girls' seminary, several teachers, and missionary houses owned by Armenians. The value I can not give without consulting Mr. Sanders, who is now away. The value of this property would be approximately $150,000.

3. Students in college, 135, three of whom are Moslems and the remainder Armenian.

* * * Girls' seminary, 85, all Armenian. I am not aware that any proselyte has ever been made from Islam in any of our schools.

5. Of personal violence very little to complain of in this field. For unfriendly acts, injuries, and losses I refer to my letter of August 12, 1896, and to statements above.

6. Two days' journey to Aleppo.

(1) In reply to yours of December 30: Houses are the property of the mission board; furniture, books, clothing—estimated value in Aintab:

A. Fuller	$1,200
Dr. Sheperd	1,000
Miss E. M. Trowbridge	500
Dr. Hamilton	600
Miss E. Forum	500
Miss E. M. Pierce	500
M. G. Papazion (nat.)	600
C. S. Sanders	600

(2) As to colporteurs: Since the time, October, 1895, I think there has been no attempt at colporteurs' work in the field. My belief is that

such work would not have been permitted. Mr. Bowen, at the Bible house, can give more information on that point.

What we have chiefly to complain of in addition to the destruction of property and closing of schools and churches by the murder and plunder and terrorizing of the people, for and among whom we are chiefly working, is the disquieting and persistent efforts of zealous officials to stir up hostile feelings against us and expel us from the country. These efforts, I may add, have now apparently wholly ceased, and the present attitude of Government officials toward us is, outwardly at least, all that we could desire.

With kindest regards, very sincerely, yours,

A. FULLER.

P. S.—Only about one-half of our papers and magazines are now reaching us. Letters do not appear to be interfered with.

A. F.

Mr. Terrell to Mr. Olney.

No. 1169.] LEGATION OF THE UNITED STATES,
Constantinople, February 10, 1897. (Received Feb. 27.)

SIR: I have the honor to inclose the copy of a letter from Rev. A. W. Hubbard, at Sivas, containing answers to questions regarding missionary interests. He gives further evidence that no schools taught by American missionaries have been closed during Mr. Cleveland's present term.

The effort made by our missionaries to take charge of the Turkish school system with Armenian teachers who were under their control had failed, and such schools had very generally been closed before 1893, as a former dispatch informed you.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1169.]

Mr. Hubbard to Mr. Terrell.

SIVAS [without date].

DEAR SIR: I reply to yours of December 30, 1896.

As to closing schools:

1. No schools taught by Americans in our mission station (Marsovan is in our vilayet, but not in our Sivas station) have been closed since March, 1893. Schools under American supervision and supported to a considerable extent by American funds, but employing Armenian teachers, have been broken up by the massacres in Gurun, Ashode, and Divrik.

Schools taught by Americans:

2. Taught somewhat by Americans in Sivas station are Sivas Normal School for Boys, consisting of three departments—primary, intermediate, and high—course of eleven years; Sivas Graded Schools for Girls, primary and intermediate and high, covering a course of seven years.

Schools owned by religious organizations in America, and value:

(*a*) The missionary residences now occupied by Messrs. Perry and Hubbard and Miss Brewer, and the Girls' Boarding School connected with them at Sivas, and about three-quarters of an acre of land, all much increased in value now, at first cost $6,600.

(*b*) The chapel at Sivas and connecting yard, cost thirty years ago (now much increased) $2,640.

(*c*) Two schoolhouses, boys' boarding-school rooms, all connected with said chapel, cost $900.

(*d*) Chapel and nearly 3 acres at Tocat, $2,200.

Average school attendance:

3. Average school attendance in schools taught by Americans: Sivas Graded School (normal) for Boys, 300; Sivas Graded School for Girls, 300. All Armenians at present.

Besides the above, we are just founding two orphanages at Sivas, one for Armenian boys and another for girls. We propose to care thus for 100 or more orphans, to whom the Americans will occasionally teach a thing.

4. I have made a report of injuries to our mission work and sent it to our Sivas consulate for them to add what information they have to it and to forward all.

5. The distance from the missionary residences to the nearest consular post is about a three-minute walk, which brings us under the United States and British flags, and a four-minute walk brings us under the French tricolor.

Yours, most respectfully, A. W. HUBBARD.

Mr. Terrell to Mr. Olney.

No. 1188.] LEGATION OF THE UNITED STATES,
Constantinople, February 25, 1897. (Received March 13.)

SIR: I have the honor to inclose for your information the copy of a letter from the Rev. G. C. Reynolds, of Van, dated February 3, 1897, in answer to my circular letter for information.

It contains the statement that no schools taught by Americans have been closed since 1893, and no colporteur imprisoned. The cases of theft referred to had not been reported to me.

I have, etc., A. W. TERRELL.

[Inclosure in No. 1188.]

Mr. Reynolds to Mr. Terrell.

VAN, *February 3, 1897.*

DEAR SIR: Your favor of December 30, containing various inquiries with reference to our work, is received, and in reply I would say that none of our schools have been closed since 1893, though a school under our care at the village of Agants, in the Kasa of Ajesh, was closed some years earlier and considerable correspondence was had on the subject with the legation, but with no result.

II. We have on one premises a school for boys and one for girls, in both of which Americans give instruction, and a girls' school in the

walled city, 3 miles distant, under our direct supervision. The buildings owned by the A. B. C. F. M. are as follows:

A dwelling house occupied by G. C. Reynolds	$1,600
A dwelling house occupied by H. M. Allen	1,700
Building used as girls' school and teachers' residence	3,500
Building used as boys' school	1,900
Building used as stable	350
Building used as gate keeper's house	75
Land inclosed in our premises	1,250
A separate lot, with small house	570
Chapel, school, and preacher's residence, Agants	260
Total value of property held in name of Americans	11,205
A chapel in the walled city in the name of the native brethren	660

III. The present number of pupils in the boys' school on the premises is 250 and in the girls' school 200, while there are nearly 50 in the school in the walled city, making a total of 500.

IV. No direct injury to American persons or property has been inflicted within the time specified, but during the troubles in June a boat load of grain belonging to the relief fund was stolen at Ajesh, and though it is perfectly well known who took it, and the consul has made demand for the return of the grain, and has, I think, referred the matter to his embassy, nothing has yet been done about it. At the same time a horse belonging to the relief was stolen from one of the relief agents as he was returning from the near village of Arshag, and though the zabtieh who was with him testified as to the person who took it, and this matter has also been brought to the attention of the Vali by Mayor Williams, nothing has been done about it.

V. If Erzerum is considered as a "consular post," it is a little over 200 miles away as the road goes, though less in a direct line.

VI. No real estate is owned by Americans in this province save what is reported above as belonging to the A. B. C. F. M., but this is held in the name of individuals. The value of the personal effects of each individual is more difficult to determine. For myself, I presume my personal belongings could not be replaced for $1,000, perhaps not for $1,500, but if they were sold here they would not reach that amount.

VII. No colporteur has been imprisoned during this period.

It is proper to add that there are medicines and surgical instruments belonging to the board, having an estimated value of $1,500.

I trust that this report may be found satisfactory. I most earnestly second the wish that "the era of distrust and violence" may soon be among the things of the past.

I remain, etc.,

G. C. REYNOLDS.

Mr. Terrell to Mr. Olney.

No. 1193.] LEGATION OF THE UNITED STATES,
Constantinople, March 1, 1897.

SIR: I have the honor to inclose for your information the copy of a letter just received from Rev. L. O. Lee, of Marash, dated February 15, in which he states that the college under his charge adjoins the French consulate, and that he has, therefore, had no guards for several months, and that the general condition was improving until the day of his writing, when stones were thrown at some teachers "on their way

home from the academy." From this I infer that these teachers were resident natives who lived away from the college.

I will, however, at once bring the incident to the notice of the Porte to prevent its repetition.

Mr. Lee remarks that no facts are requested by me "respecting schools in which our [their] workers are employed." He adds that unless they are protected "the reason for our [their] continuance in this land would soon cease to exist."

The dispatches from my predecessors and the report of Rev. H. O. Dwight, dated October 18, 1893, and which was inclosed in my No. 1099, of December 10, 1896, shows that over thirty of such schools were closed before my appointment to this post. Such action did not disturb friendly relations with Turkey during the administration of President Harrison.

If the continuance of American missionaries in Turkey depends upon their being protected in the right to establish and control schools when and where they please, which are not to be taught by American citizens, and which yet shall be free from the authority of the Turkish Government to permit or close them at will, then the stay of missionaries here will not be long.

Mr. Lee's letter makes a plain statement of the missionary claim. It ignores the sovereign right of the Government to control at will the education of its own children by its own subjects.

The American missionary alone among foreigners asserts this claim of right. It is one for which I have never contended. My failure in this respect has provoked resentment.

I have, etc., A. W. TERRELL.

Mr. Terrell to Mr. Olney.

No. 1197.] LEGATION OF THE UNITED STATES,
Constantinople, March 4, 1897. (Received March 20.)

SIR: I have the honor to inclose herewith the copy of a letter from President C. C. Tracy, dated at Marsovan February 24, in which he expresses the opinion that the Turkish guard which is kept for the security of Marsovan college should be retained. In this I quite agree with him.

In many cases in Asia Minor our missionaries have, without consulting me, caused the guard which I secured for them to be withdrawn. The little American children are now nearly all out of Turkey, and I therefore refrain from forcing upon the grown people the protection which they thus reject.

I have, etc., A. W. TERRELL.

[Inclosure in No. 1197.]

Mr. Tracy to Mr. Terrell.

MARSOVAN, *February 24, 1897.*

DEAR JUDGE TERRELL: In addition to the inclosed answers to your questions I have to sav that we are sure our guard ought to be retained so long as the present condition continues. There is often uneasiness or terror about us. That is the case at present.

I have to complain also that my telegram to you about accepting a firman offered me here was not delivered, as I suppose, for I got no answer.

We are all well. Redifs are passing through here enroute for Constantinople.

Yours truly, C. C. TRACY.

Mr. Terrell to Mr. Olney.

No. 1198.] LEGATION OF THE UNITED STATES,
Constantinople, March 4, 1897. (Received March 20.)

SIR: I have the honor to inclose the copy of a letter from President C. C. Tracy, dated at Marsovan, February 24, 1897, which, in answer to my request for information, contains:

1. A statement that no schools taught by Americans have been closed since 1893.

2. A statement of the average attendance in the schools, showing that no Mohammedans are taught in them.

3. Interference by the Turkish Government with books. (*a*) Imprisonment of pupils; (*b*) interference with pupils; (*c*) failure to give satisfactory firman; (*d*) that no colporteurs of American missionary publications have been imprisoned since the massacres, the period to which my inquiry referred.

4. His letter also states the value of personal property belonging to American teachers, which I desired for future reference in case of spoliation hereafter.

My inquiry, to which Mr. Tracy's letter is a response, was confined to schools taught by Americans. It will be seen that he claims as American schools five in which no Americans teach, but which are established with American money. Thus missionary enterprise has projected itself eighteen hours' travel beyond consular protection, and established schools in which the children of Turkish subjects are taught by subjects of Turkey. The claim is often made that such schools should be protected by the United States against any control by the Government of Turkey.

I have, etc., A. W. TERRELL.

[Inclosure in No. 1198.]

Mr. Tracy to Mr. Terrell.

MARSOVAN, *February 24, 1897.*

SIR: In reply to your inquiries of December 30, I will say that we have within the limits of our station, of all grades, 15 schools superintended by Americans and carried on with American funds. In three of these of high grade Americans are regular teachers in addition to the management of the institutions.

The value of the buildings is very nearly as follows:

One college building	$2,000
One college building	1,400
One college building	1,800
One college building	2,600
One college for girls	7,000
Shops and bath	700

Two houses, $1,600 each	$3,200
One house	400
Apparatus (college) implements (shops)	7,500
Apparatus in girls department	1,500

The value of personal property is as follows:

Mr. White	1,000
Mr. Tracy	1,000
Mr. Riggs	1,100
Mr. Kaljian	1,000
Lady teachers	1,200

2. No schools closed by the Government since 1893.

3. The average attendance upon schools under American superintendence is about 1,200, of which pupils about 400 are under constant American instruction. Of these pupils as many as four-fifths are Armenians, the rest mainly Greeks, with a few Germans and other nationalities, but no Mohammedans.

4. As to unredressed injuries we mention the following: (*a*) Retention of text and other books in the custom-house, the same sometimes reaching us after months or more than a year, sometimes being lost entirely, though passed; (*b*) prevention of the attendance of pupils coming to our schools; (*c*) imprisonment of our pupils for days, weeks, or months, though no charges against them are substantiated; (*d*) interference with our mails, opening of letters and total loss of periodicals; (*d*) no satisfactory firman yet given.

5. Nearest American consular post, eighteen hours.

6. No American colporteur imprisoned.

Yours, truly, CHARLES TRACY.

Mr. Terrell to Mr. Olney.

No. 1206.] LEGATION OF THE UNITED STATES,
Constantinople, March 12, 1897. (Received March 26.)

SIR: I have to inclose the copy of an extract from a letter from the Rev. R. M. Cole, of Bitlis, in answer to a circular letter sent to all missionaries.

It shows (1) that no schools taught by Americans have been closed since I came to this post; (2) that no Mussulmans attend the missionary schools; (3) that no colporteur, selling the publications of the American religious societies, has been imprisoned since the massacres began in 1895.

I have, etc., A. W. TERRELL.

[Inclosure in No. 1206.]

Extract of a letter from Rev. R. M. Cole, of Bitlis, without date.

Your excellency's communications of December 18 and 30 came to hand, but they have received no particular attention, chiefly because December 23 I was taken down with a serious run of influenza, from which I have not yet fully recovered, my strength being much lacking. Of course work has fallen back.

As to the circular—

1. No schools closed in our field.

2. Only our girls' school is held by United States subjects—the Elvy sisters—and they teach in it when here. We teach in the boys' high school, though the building is in the name of the people.

4. Mohammedans do not attend our service.

5. The chief unredressed injury to American citizens is that of Mr. Knapp, so well known.

6. Our nearest consul is at Erzerum, if indeed he is that; for good man as we believe him to be for the position, we are not informed that he yet has his exequatur.

7. No colporteur has been imprisoned.

Questions 2, 3, and 8 I can not answer at this writing, as looking to the amount of property titles and scholastic attendance in the schools. Most of the property has heretofore been purchased in the name of a native (for formerly we could not hold it in our own), and later turned over to us in the nature of a pawn or mortgage, but not before the Government, and how valid it would be I do not know.

Mr. Terrell to Mr. Sherman.

No. 1260.] LEGATION OF THE UNITED STATES,
Constantinople, April 24, 1897. (Received May 7.)

SIR: I have the honor to inclose herewith for your information copy of a note from the foreign minister, which states that the missionaries in the interior caused the guards placed for their protection to be withdrawn.

In view of the disturbed condition of the Empire, I have obtained telegraphic orders from the minister of the interior to establish guards at every missionary post in Asia Minor and that they shall be maintained until their withdrawal is requested by me or by my successor, no matter what representations may be made to the authorities by the missionaries themselves.

I have, etc., A. W. TERRELL.

[Inclosure 1 in 1260.]

Tewfik Pasha to Mr. Terrell.

MR. ENVOY: In reply to the note which your excellency addressed to me the 16th of January last, No. 162, I have the honor to inform you that, according to reports received from the provincial authorities, the guards placed for the protection of American citizens during the last disturbances have been withdrawn at the request of these same citizens.

They will, of course, be reestablished if necessity arises.

Please accept, etc., TEWFIK.

CONSULAR IMMUNITY FROM ARREST.

Moustapha Bey to Mr. Olney.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, February 14, 1897.

MR. SECRETARY OF STATE: Mr. J. A. Iasigi, consul-general of Turkey at Boston, telegraphs me from New York that he has just been arrested in a civil suit in the latter city, in pursuance of a warrant received by telegraph from Boston.

This arrest, which has been made in a purely civil case, is in violation of Article II of the treaty of 1830, according to which Ottoman consuls in America are to enjoy suitable distinction.

As a matter of course, this provision of Article II of the treaty in question guarantees, in principle, to our consuls and officers the usage which is secured to the consuls and officers of the most favored nation, without excluding the principle of reciprocity according to which Ottoman consuls and officers in the United States are entitled to the same regard and consideration with which United States consuls and officers are treated by the Imperial Ottoman Government in Turkey.

For all these reasons, and deeply regretting the inconsiderate action of the authorities of the city of New York in this matter, I beg your excellency to be pleased to transmit a suitable communication to the proper authorities, to the end that the consul-general of Turkey at Boston, who has been arrested at New York in violation of an existing treaty, may be immediately released.

Be pleased to accept, etc.,

MOUSTAPHA.

Mr. Olney to Moustapha Bey.

No. 9.] DEPARTMENT OF STATE,
Washington, February 19, 1897.

SIR: I have the honor to acknowledge your favor of the 14th instant, informing me that Mr. J. A. Iasigi, consul-general of Turkey at Boston, had telegraphed to you that he had just been arrested in New York in a civil suit in pursuance of a warrant received by telegraph from Boston.

Assuming Mr. Iasigi to have been arrested on a purely civil case, you call my attention to Article II of the treaty of 1830, and ask that a suitable communication be addressed to the proper authorities in New York to the end that the consul-general of Turkey, arrested in violation of the article of the treaty to which you call attention, may be immediately released.

It seems to be sufficient answer to your note and to the suggestion contained in it to say that information received at this Department makes it entirely certain that Mr. Iasigi's arrest was not made in a civil suit, but on a criminal charge of embezzlement. He was detained in New York with a view to his extradition to Massachusetts to be there tried upon such criminal charge.

I avail myself, etc., RICHARD OLNEY.

Moustapha Bey to Mr. Sherman.

IMPERIAL LEGATION OF TURKEY,
Washington, March 9, 1897.

MR. SECRETARY OF STATE: I hereby apprise your excellency, in pursuance of instructions received, that Mr. Iasigi has been relieved of his functions as consul-general at Boston, and is consequently in no sense an agent of the Imperial Government.

Be pleased to accept, etc.,

MOUSTAPHA.

STATUS OF NATURALIZED CITIZEN RETURNING TO AND RESIDING INDEFINITELY IN THE COUNTRY OF HIS BIRTH.

Mr. Terrell to Mr. Sherman.

No. 1233.] LEGATION OF THE UNITED STATES,
Constantinople, April 8, 1897. (Received April 24.)

SIR: I have the honor to inform you that this legation is often at a loss to know what rule should govern in determining when a naturalized American citizen, after returning to the land of his origin and residing there for many years, has lost his acquired citizenship.

This uncertainty has resulted largely from the fact that one Ghika, a Greek, received a passport from your Department after he had returned and lived many years in the land of his origin, with no property interests in America, and when all these facts showed that his acquired nationality had been abandoned. I refused him a passport; he obtained one after a visit to Washington.

A case is now presented about which a specific instruction is desired, viz:

Dr. Garabed Vartanian was naturalized as a citizen of the United States, and returned to Turkey, of which country he was a native. Here he was married, and has grown sons who can not speak the English language, but claim American citizenship. He has a home here. He has no property in America. He has never, I learn, manifested a disposition to return during the last thirty years, and never left this city.

I again inform your Department that the ink in a majority of cases was scarcely drying over half the certificate of naturalization seen at this post before a passport had been issued on which the party returned to Turkey, where he passed as an American citizen, claiming the protection of two Governments, and yet so situated that he can not be forced to respond to the demands of either. He almost invariably returns to stay, and has no use for his acquired nationality except to be protected after he has abandoned the United States with a view of permanently residing abroad.

I can only regard such a proceeding as a fraud on our naturalization laws.

I have, etc., A. W. TERRELL.

Mr. Rockhill to Mr. Terrell.

No. 1410.] DEPARTMENT OF STATE,
Washington, April 27, 1897.

SIR: Your dispatch No. 1233, of the 8th instant, has been received. You therein ask what rules should govern in determining when a naturalized American citizen, after returning to the land of his origin and residing there for many years, has lost his acquired citizenship.

There is no mode of renunciation of citizenship prescribed by our laws, and the Department hesitates, in any case, to declare that an American citizen, whether native or naturalized, has forfeited his citizenship.

Our statutes vest in the Secretary of State the power to regulate the discretionary issue of passports, and to decline to issue them or to authorize their issuance in cases where a citizen, native or naturalized,

by the circumstances of residence abroad, appears to have voluntarily foregone the right to continued protection as a citizen while abroad. It may happen that a person to whom a passport is refused, while abroad, may, upon return to this country, establish his right thereto in the absence of any judicial impugnment of his status. That was the case with the man Ghika, to whom you advert.

The volumes of the Foreign Relations for many years past contain numerous opinions and decisions of the Department to the effect that a passport may be refused to a person applying therefor while abroad when the circumstances show a purpose to reside indefinitely in a foreign country or fail to show a reasonable intention to return to the United States.

The case of Dr. Garabed Vartanian, the particulars of which are briefly given by you, does not upon your showing appear to be one in which the applicant is entitled to a passport and to continued protection thereunder, unless his purpose to return to this country, here to perform the duties of citizenship, within some reasonable time, should be shown to your satisfaction and the statements of the declarant not be obviously negatived by the circumstances of his domicile abroad.

Respectfully, yours,

W. W. ROCKHILL,
Acting Secretary.

PROTECTION OF GREEKS IN THE EMPLOY OF UNITED STATES CITIZENS.

Mr. Terrell to Mr. Sherman.

[Telegram.]

CONSTANTINOPLE, *April 24, 1897.*

I have protested against the sudden expulsion of peaceful Greeks who are in the employ and who protect American interests here.

TERRELL.

Mr. Terrell to Mr. Sherman.

No. 1267.) LEGATION OF THE UNITED STATES,
Constantinople, April 28, 1897. (Received May 13.)

SIR: I have the honor to transmit herewith copies of telegrams from the Stamford Manufacturing Company, dated April 23, 25, and a telegram sent by me to the same, also a copy of a note to the minister for foreign affairs, April 24, regarding the expulsion of Greek subjects, also a telegram from the Stamford Company, April 25, 1897.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1267.—Telegram.]

Stamford Manufacturing Company to Mr. Terrell.

ALEXANDRETTA, *April 23, 1897.*

Our agents at Adalia and Lattakia ordered to leave, leaving American property in transit to coast unprotected. If nothing can be done for protection please hold Government responsible for all loss.

STAMFORD.

[Inclosure 2 in No. 1267.—Telegram.]

Stamford Manufacturing Company to Mr. Terrell.

ALEXANDRETTA, *April 25, 1897.*

English and French consuls received instructions to aid Hellenes connected with English and French firms. We beg you have telegraphic order sent protection our men at Adalia and Lattakia.

STAMFORD.

[Inclosure 3 in No. 1267.—Telegram.]

Mr. Terrell to United States Consul at Alexandretta.

LEGATION OF THE UNITED STATES,
Constantinople, April 26, 1897.

Assist with your good office Stamford Manufacturing Company in retaining their agents until they can get others.

TERRELL.

[Inclosure 4 in No. 1267.]

Mr. Terrell to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES,
Constantinople, April 24, 1897.

SIR: The recent order of the Imperial Government which requires all subjects of Greece to depart from the Ottoman Empire in fifteen days has caused very many to apply to this legation for protection.

This has not been extended, for I have no information that the Government of Greece has requested the intervention of the United States. But there are quite a number of peaceful Greeks who are now in the employment of American citizens whose abrupt discharge would result in serious pecuniary loss and would not fail to provoke feelings of resentment among the people of the United States. I hope that the Government of His Imperial Majesty will see the justice of extending the time for the departure of such peaceful Greeks.

These considerations I submitted to your excellency three days ago during my interview.

The failure of the Imperial Government to modify the severity of its order of expulsion seems to require that my views be submitted in a more formal manner.

Receive, etc.,

A. W. TERRELL.

[Inclosure 5 in No. 1267.—Telegram.]

Stamford Manufacturing Company to Mr. Terrell.

ALEXANDRETTA, *April 25, 1897.*

English and French consuls received instructions to aid Hellenes connected with English and French firms. We beg you have telegraphic order sent protecting our men at Adalia Lattakia.

STAMFORD.

Mr. Terrell to Mr. Sherman.

No. 1268.] LEGATION OF THE UNITED STATES,
Constantinople, April 28, 1897. (Received May 13.)

SIR: I have the honor to append on the overleaf a telegram received from the Stamford Manufacturing Company regarding the expulsion of the Greek subjects from the Ottoman Empire, and also the copy of my answer.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 1268.—Telegram.]

Stamford Manufacturing Company to Mr. Terrell.

APRIL 26, 1897.

Marmarak, Greek subject, one of our employees, is forced to leave Alexandretta to-morrow. Forty thousand dollars of our property in his hands unaccounted for. Our two engineers also leave, causing our factory be closed. We regard Ottoman Government responsible for accruing losses.

STAMFORD.

[Inclosure 2 in No. 1268.—Telegram.]

Mr. Terrell to the Stamford Manufacturing Company.

APRIL 28, 1897.

The Turkish Government has been requested to give further time for the departure of Greeks in your employ.

TERRELL.

Mr. Terrell to Mr. Sherman.

No. 1280.] LEGATION OF THE UNITED STATES,
Constantinople, May 7, 1897. (Received May 21.)

SIR: I have the honor to inclose copy of dispatch No. 2, from Consul Washington at Alexandretta, dated the 27th ultimo, which shows permission for the Greek agent of the Stamford Manufacturing Company to remain for a time to settle his accounts.

A general order for further extension of time for Greeks to depart was issued from the Porte.

A disposition is now shown to make special exemption for individuals on the application of diplomatic representatives.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 1280.]

Mr. Washington to Mr. Terrell.

UNITED STATES CONSULATE,
Alexandretta, April 27, 1897.

SIR: I have the honor to acknowledge the receipt of your telegram dated the 26th instant, as follows:

Assist with your good offices Stamford Manufacturing Company in retaining their agents until can get others.

I have to report that on hearing the decree of expulsion of Greek subjects I addressed the vali of Aleppo and Kaimakam here, representing the condition this American corporation was placed in by the said order, and supplemented the notes by personal representation at the Kaimakamiyeh, but without securing practical results. To-day, however, citing the instruction of the legation, above acknowledged, the point which the Stamford Company principally urged—permission for its chief Greek agent, Lionidas Marmaraki, to remain until next week to settle his accounts—was granted by the Kaimakam, with an understanding that the man should remain as secluded as possible. To obtain wider concessions has proved impossible, although I have urged them strenuously.

The agent of the company appeared before a commission now sitting to determine questions of indebtedness of Greek subjects, accompanied by the acting dragoman of this consulate, and recorded a statement of the company's position.

I have, etc.,

HORACE LEE WASHINGTON,
United States Consul.

RIGHT OF NATURALIZED AMERICAN CITIZENS OF OTTOMAN BIRTH TO HOLD REAL ESTATE IN TURKEY.

Mr. Sherman to Mr. Terrell.

No. 1400.] DEPARTMENT OF STATE,
Washington, April 15, 1897.

SIR: I inclose herewith for your examination and report copy of a letter[1] from Messrs. Seropian Brothers, brokers and commission merchants at Fresno, Cal., relative to information that has reached them that they are to be deprived of certain real estate in Marsovan on the ground that "no citizen of the United States has a right to inherit or own real estate in Turkey."

Respectfully, yours, JOHN SHERMAN.

Mr. Terrell to Mr. Sherman.

No. 1270.] LEGATION OF THE UNITED STATES,
Constantinople, April 30, 1897. (Received May 13.)

SIR: Referring to your No. 1400 of April 15, regarding the case of the Seropian Brothers, I have the honor to inform you that under article 111 of the Turkish law of April 21, 1858, which relates to real estate, land once owned by a Turkish subject who has abandoned his nationality does not descend to his children. I know of no treaty stipulation between the United States and Turkey which would relieve from the operation of this rule naturalized citizens of the United States who have become such without the consent of the Sultan since 1869.

The letter of J. M. Seropian, which was inclosed in your dispatch, leaves it uncertain whether the suit referred to by him is for the recovery of the land claimed under the will of his stepbrother alone or whether it embraces also the land inherited from their parents before their emigration to the United States.

I have, etc., A. W. TERRELL.

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[1] Not printed.

Mr. Sherman to Mr. Terrell.

No. 1460.] DEPARTMENT OF STATE,
Washington, May 26, 1897.

SIR: You are requested to procure and forward to the Department, with as little delay as possible, a copy of the special law governing the holding of real estate in Turkey by subjects of Ottoman birth who have changed their nationality, referred to in Article I of the legislative enactments, printed on page 826 of the volume of "Treaties and Conventions between the United States and other Powers," edition of 1889.

Respectfully, yours, JOHN SHERMAN.

Mr. Riddle to Mr. Sherman.

No. 1323.] LEGATION OF THE UNITED STATES,
Constantinople, July 5, 1897. (Received July 24.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 1460 of May 26. The "special law" to govern the holding of real estate in Turkey by subjects of Ottoman birth who have changed their nationality, referred to in Article 1 of the legislative enactments printed on page 826 of the volume of "Treaties and Conventions between the United States and other Powers," edited in in 1889, has not yet been enacted. Subjects of Ottoman birth who have changed their nationality before 1869, or who have obtained the Imperial sanction to a change made since that year, are considered as foreigners and are subject to the provisions of Article 1 referred to above, while subjects of Ottoman birth who have changed their nationality since 1869 without the Imperial sanction are still at law Ottoman subjects and their naturalization is null and void. There is a provision of law by which persons of this latter class may have pronounced against them the loss of Ottoman citizenship entailing the forfeiture of their real property. (Article 6 of the "Loi sur la Nationalité Ottomane" of the 19th January, 1869, and Article 111, with note of the Code de la Propriete Fonciere in the "Legislation Ottomane" annotated by Aristarchi Bey). This provision of law has, however, never been put into practice by the Ottoman Government.

It would seem that the large class of former Ottoman subjects who have acquired American citizenship since 1869 without the Imperial sanction, and who subsequently return for a longer or shorter sojourn in the land of their origin, must in a majority of cases profit by a dual nationality. As stated in No. 881 of May 23, 1896, all such persons who are land owners in Turkey are unable to accomplish any act affecting their real property before a Turkish tribunal or bureau unless they accept the designation of "Ottoman subject." It may therefore be stated as generally true that the naturalized American of Armenian origin who returns to this country and acquires fresh holdings of real property or disposes of property of which he is already possessed performs these acts in the guise of a subject of the Sultan.

I have, etc.,

(Not signed.)

Mr. Sherman to Mr. Terrell.

No. 1466.] DEPARTMENT OF STATE,
Washington, June 4, 1897.

SIR: Referring to your No. 987 of September 19, 1896, relative to the indemnity claim against the Turkish Government of Mrs. Haighanoosh S. Abdalian, widow of Dr. Nahabed Y. Abdalian, a naturalized American citizen who was killed during the disturbances at Gurun, Turkey, I inclose herewith copy of a letter from Mr. William Ives Washburn, and of Mrs. Abdalian's accompanying memorial, in which she claims $50,000 for the murder of her husband, $10,000 for her imprisonment, bodily suffering, and distress of mind and the death of her infant child, caused by starvation and exposure, and $1,312 for the pillage and destruction of property belonging to her husband and herself; in all, $61,312.

I also inclose copy of a report in the case by the consul of the United States at Sivas.

You are instructed to present this claim to the Turkish Government and to urge the payment of a suitable indemnity.

Respectfully, yours,

JOHN SHERMAN.

Mr. Riddle to Mr. Sherman.

No. 1331.] LEGATION OF THE UNITED STATES,
Constantinople, August 4, 1897. (Received Aug. 20.)

SIR: Referring to your instruction No. 1466, of June 4, and my dispatch No. 1320, of June 26, relative to the indemnity claim of Mrs. Haiganoosh S. Abdalian, I have the honor now to inclose copy of the reply I have received from the minister for foreign affairs.

I have the honor, etc.,

J. W. RIDDLE.

[Inclosure in No. 1331.—Translation.]

Minister of Foreign Affairs to Mr. Riddle.

SUBLIME PORTE, *July 27, 1897.*

MR. CHARGÉ D'AFFAIRES: I have received the note, No. 184, of June 22, addressed to me by you in relation to the claim of Mrs. Haiganoosh S. Abdalian.

As the Sublime Porte can not admit the principle of granting indemnities for claims arising out of the disorders which took place in certain localities of the Empire (as I before informed his excellency, Mr. Terrell) no exception can be made in favor of the aforementioned person.

Receive, etc.,

TEWFIK.

CLAIMS OF UNITED STATES CITIZENS AGAINST TURKEY.

Mr. Sherman to Mr. Terrell.

No. 1362.] DEPARTMENT OF STATE,
Washington, March 22, 1897.

SIR: I inclose herewith copies of the below-mentioned papers in the matter of the claim of Levon H. Seyranian, a citizen of the United States, against the Government of Turkey for the destruction of personal property in the village of Huseinig, amounting in value to the sum of $1,190.45.

1. Letter from T. Henry Dewey, of May 1, 1896, transmitting the memorial of Mr. Seyranian, dated April 25, 1896.

2 and 3. Nos. 77 and 79, of June 2 and July 8, 1896, respectively, from the consul of the United States at Sivas, reporting on the case.

4. Letter from T. Henry Dewey, of October 15, 1896, transmitting Mr. Seyranian's supplementary memorial.

5. Letter from the same of March 19, 1897, transmitting affidavits in support of the claim.

You are instructed to present this claim to the Turkish Government.

Respectfully, yours,

JOHN SHERMAN.

Mr. Terrell to Mr. Sherman.

No. 1284.] LEGATION OF THE UNITED STATES,
Constantinople, May 13, 1897. (Received May 27.

SIR: I have the honor to inclose a translated copy of the note of the Turkish minister of foreign affairs to my demand for the payment of indemnity for losses sustained by Levon H. Seyranian, which demand was made in obedience to your 1362 of the 22d March last.

It will be seen that the Ottoman Government adheres to its determination not to pay indemnity for losses sustained during civil "disorders."

I have, etc., A. W. TERRELL.

[Inclosure in No. 1284.]

The Minister of Foreign Affairs to Mr. Terrell.

MAY 7, 1897.

MR. MINISTER: I have received your excellency's note, No. 174, of the 12th ultimo relative to the claim of the American citizen, Levon H. Seyranian.

As I have already informed your excellency, the Imperial authorities exerted all efforts to assure the protection of the Americans residing in the district where disorders took place.

Under these circumstances and in consideration of generally recognized rules the Sublime Porte can not admit the principle of granting indemnities on the score of said disorders.

I regret, consequently, that it is impossible for me to satisfy the demand set forth in the aforesaid note.

Receive, etc., TEWFIK.

Mr. Sherman to Mr. Angell.

No. 7.] DEPARTMENT OF STATE,
Washington, August 23, 1897.

SIR: Mr. Riddle's dispatch, No. 1331, of August 4, concerning the indemnity claim of Mrs. Haiganoosh S. Abdalian, has been received.

The reply of the Turkish minister for foreign affairs, of which Mr. Riddle incloses copy, disclaiming responsibility for acts arising out of the recent disorders, is not satisfactory to this Government. His excellency refers to previous expressions of denial to Mr. Terrell to admit similar claims. A review of the correspondence in this relation shows that in every case of this kind the Turkish Government either ignores or distorts the abundantly supported contention of this Government that the injuries to American property during the recent disorders were suffered through the insufficiency of the protective measures afforded. A government being able to quell and not quelling such disorders, and damage to American property having resulted, the United States contends that Turkey can be held responsible under a well-recognized principle of international law. A general disclaimer of responsibility, such as is set forth in his excellency's present note, can not, therefore, be accepted, and you are instructed to press for a specific reply to the repeated demands of this Government that Turkey acknowledge liability, urging the desirability of a just and prompt settlement of this and other indemnity claims, that the friendly relations which have hitherto existed between the two Governments may continue uninterrupted.

For your better understanding of the position heretofore held by the Department in this matter you should refer to the correspondence found in the volume of Foreign Relations for 1896, pages 879 to 900.

Respectfully, yours,

JOHN SHERMAN.

URUGUAY.

PROTECTION PAPERS.

Mr. Stuart to Mr. Sherman.

No. 119.] LEGATION OF THE UNITED STATES,
Montevideo, April 9, 1897. (Received May 24.)

SIR: Herewith inclosed find statement of passports issued by this legation during the quarter ended March 31, 1897.

These three passports are irregular in that the persons receiving them have all been absent from the United States more than two years, but they are native-born citizens, and in danger of being surreptitiously seized and forced into the army and sent to the front, as is being done to foreigners as well as natives, and when seized they are not allowed to communicate with anyone, and as no lists of the killed are made public their fate would never be known if they fell in battle.

Hence I have taken the responsibility of issuing them passports, holding that prevention of the outrage in these countries is better than any amount of reclamation after the harm is done.

I have also issued protection papers in another form to eight native-born and six naturalized citizens of the United States, to wit:

Native-born: John J. Golden, William Clagett, Ernest Clagett, Samuel John, Wilson Kellogg, Edward Hall (colored), Henry Estrázulas, William Decker, James E. Lensby.

Naturalized: Antonio B. Macree, Antonio Labriole, Gennaro Ruggiero, Charles Querollo, Lewis Lawrence Richards, Fred. H. Olsen.

These papers are as follows:

LEGATION OF THE UNITED STATES,
Montevideo, ——— (date).

To whom it may concern:

This is to certify that the bearer, ——— (name) ———, is a citizen of the United States, and is entitled to protection as such.

Description: Age, —— years; height, ———; eyes, ———; nose, ———; mouth, ———; hair, ———; complexion, ———.

[Red seal of legation.] (Official signature.)

I charged no fee for these papers, and as soon as this civil war now raging here is over will cease issuing them, and also passports, unless the parties are clearly entitled to them under the instructions of the Department, and I trust my issuing these papers will be approved in consideration of the terrible state of affairs prevailing here.

I have felt it my duty to use every means in my power to protect any and all American citizens, and have issued these papers for that purpose.

I have, etc.,

GRANVILLE STUART.

Mr. Sherman to Mr. Stuart.

No. 106.] DEPARTMENT OF STATE,
Washington, May 25, 1897.

SIR: Your No. 119, of April 9, has been received, and your statement of passports issued by your legation during the quarter ending March

31, 1897, has been examined. The Department is disposed to overlook the irregularity to which you call attention, as it is inclined to be lenient in the case of native-born American citizens whose occupation in a foreign country may represent native American interests, as is presumed to be the case in the present instances.

This tendency to leniency is especially admissible in times of disturbance like the present, when such citizens are threatened with impressment into the army.

It is noted that you have also issued what you call "protection papers in another form" to eight native-born and six naturalized citizens of the United States, whose names you mention. You give the text of this certificate, from which it appears that the document certifies that the bearer "is a citizen of the United States and is entitled to protection as such."

It is supposed that these certificates of protection are required by the local authorities in pursuance of some rule of registration or matriculation such as prevails in the various Spanish-American countries.

The question of the issuance of such certificates came up for consideration in 1894, when Minister Buchanan reported the custom of the foreign consuls at Buenos Ayres to issue forms of certificates of nationality known as "papeletas" in consequence of the regulations governing the mobilization of the national guard, under which the police had authority to arrest persons not reporting for duty unless they presented a "papeleta" evidencing the fact of foreign birth or citizenship, which, being the only form of certificate known to or accepted by the Argentine police, was considered preferable to a regular visaed passport. Those papeletas were required to be in the Spanish tongue, and Mr. Buchanan submitted a proposed form for the stated purpose. The Department ruled that any form which originally certified the fact of citizenship was quite inadmissible, being simply a passport in the Spanish language. The only certificate of citizenship issued by the United States is a passport, and the giving of any document of the nature or in lieu of a passort is not authorized. Mr. Buchanan was instructed that only two ways of certification or matriculation of American citizens were available—either (1) deposit of the regular passport in the legation or consulate and of his registration in the legation or consulate, or (2) indorsement on the passport itself of a certificate in Spanish to the effect that the within passport attests that A. B. is a citizen of the United States of America, and as such is entitled to the rights and privileges of such a citizen in a foreign country.

In view of this rule, the Department can not approve the "protection papers" which you report having given to the fourteen persons named. They should have applied for and received regular passports. If a further protection paper in Spanish is needed, the form prescribed for use in the Argentine Republic might conveniently be followed by you upon the deposit of the regular passport in the legation or a consulate of the United States, such certificate being given free of charge. The form so authorized is as follows:

El infrascrito ——— ——— consul de los Estados Unidos de America, en ——— certifica que ——— esta matriculado en este consulado como ciudadano de los Estados Unidos de America, y que es portador del pasaporte No. ——— firmado por ——— ———
Filiacion: Edad ———; estatura ———; frente ———; ojos ———; nariz, ———; boca ———; barba ———; pelo ———; tez ———; cara ———.
Firma del portador:

———— ————

No. ——.

Respectfully, yours, JOHN SHERMAN.

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