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Foreign
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1931
Volume II

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Papers Relating to the
Foreign Relations
of the
United States
1931

(In Three Volumes)
Volume II



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1931 Aug. 15 (119)	<i>From the Ambassador in Cuba (tel.)</i> Information that Menocal and Mendieta and their staff have been taken prisoner and are en route to Habana where they will be jailed.	70
Aug. 17 (120)	<i>From the Ambassador in Cuba (tel.)</i> Information that Cuban officials are withdrawing note regarding arms embargo by United States.	70
Aug. 17 (121)	<i>From the Ambassador in Cuba (tel.)</i> Information regarding limited military activities; President Machado's intention to continue reform program.	71
Sept. 2 (840)	<i>From the Ambassador in Cuba</i> Conversation with President Machado regarding Cuban crisis, and proposal that he present reform program to the people through an address to representatives of various public organizations; President's feeling that he cannot make agreed-upon announcement of his retirement from office in September 1932.	71
Sept. 9 (847)	<i>From the Ambassador in Cuba</i> Delivery of President's message regarding constitutional reforms to people and to Congress, substantially as agreed upon, except for elimination of reference to President's retirement.	75
Nov. 12 (930)	<i>From the Chargé in Cuba</i> Indications of understanding between Government and Opposition elements.	77
Nov. 13 (931)	<i>From the Chargé in Cuba</i> Efforts of Opposition members to obtain release from prison of leaders of August revolution, and interposition of Liberal politicians to persuade President against such a course.	78
Nov. 20 (937)	<i>From the Chargé in Cuba</i> Lack of progress in political <i>rapprochement</i> between Government and Opposition; favorable press reception of passage of bill creating Superior Electoral Tribunal; failure of Senate to expedite consideration of Constitutional Reform Bill.	79
Dec. 24 (969)	<i>From the Ambassador in Cuba</i> Announcement by President Machado of his determination to remain in office until the end of his term; review of political situation.	80
Dec. 30 (973)	<i>From the Ambassador in Cuba</i> Communication by Cuban Superior Court to lower courts on present conflict of jurisdiction between civil courts and military authorities, because of suspension of constitutional guarantees.	82

DOMINICAN REPUBLIC

FAILURE OF THE DOMINICAN GOVERNMENT TO OBTAIN A LOAN IN THE UNITED STATES

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1931		
Jan. 26	<i>Memorandum by the Assistant Secretary of State</i> Interview with officials of the Dominican Financial Commission, who desire Department's authorization for negotiation of loan by the Dominican Republic; Department's objections to granting requested authorization, and suggestion that concrete proposal be submitted for Department's approval.	84
Feb. 3	<i>Memorandum by the Assistant Secretary of State</i> Interview with Mr. Gann, legal counsel for the Dominican Republic, who presented proposal of J. G. White and Co. for \$5,000,000 loan to the Dominican Republic.	85
Feb. 9	<i>From the Dominican Minister</i> Desire to know Department's decision regarding Dominican Republic's request for authorization for \$5,000,000 loan and proposal of J. G. White and Co.	87
Feb. 12	<i>Memorandum by Mr. W. R. Scott of the Division of Latin American Affairs</i> Interview with Dominican Minister and Secretary of Legation, at which Department's objections to J. G. White proposal were presented.	88
Feb. 12 (7)	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to inform President Trujillo regarding general principles formulated by Department as to Dominican financing and action taken on tentative proposal of J. G. White and Co.; request for information on report that President Trujillo has appointed financial adviser.	90
Feb. 14 (14)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that the President has been informed of Department's views; also that he has not yet appointed a financial adviser.	91
Mar. 5 (332)	<i>From the Minister in the Dominican Republic</i> Reported interest of Lee, Higginson and Co. in floating a loan, and details of loan plan desired by Dominican Republic; proposal by Dominican Government for modification of point 4 of Department's general principles, regarding procedure for control of expenditures.	92
Mar. 6 (9)	<i>To the Minister in the Dominican Republic (tel.)</i> Summary of Dominican financial situation; willingness of Lee, Higginson and Co. to consider moderate short-term loan on fulfillment of certain conditions; information that Department will recommend Mr. William E. Dunn as financial adviser if the President desires such an official.	95
Mar. 9 (21)	<i>From the Minister in the Dominican Republic (tel.)</i> Acceptance by President Trujillo of Lee, Higginson proposal provided Department will agree to proposed modification of point 4 of Financial Principles; request for information regarding salary and other arrangements for Dunn as Financial Adviser.	98
Mar. 12 (14)	<i>To the Minister in the Dominican Republic (tel.)</i> Department's non-objection to requested modification of point 4; information that Dunn can sail from New York on March 19. (Footnote: Dunn's arrival in Santo Domingo on March 24.)	99

DOMINICAN REPUBLIC

FAILURE OF THE DOMINICAN GOVERNMENT TO OBTAIN A LOAN IN THE UNITED STATES—Continued

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June 9	<i>From Lee, Higginson & Company</i> Résumé of financial negotiations with Dominican Republic and outline of suggested financial program, including future financing.	99
June 16	<i>To Lee, Higginson & Company</i> Advice that letter of June 9 is receiving careful consideration, and request for information regarding refunding loan referred to in financial program.	104
June 20	<i>From Lee, Higginson & Company</i> Requested information on the refunding loan.	104
June 30	<i>To Lee, Higginson & Company</i> Department's disinclination to undertake any increased responsibilities in finances of Dominican Republic; suggestions for modifying financial plan to eliminate participation by U. S. Government; request to be advised of any specific proposal made to Dominican Republic.	106
July 23	<i>From Lee, Higginson & Company</i> Information that since both Department and Dunn have indicated unwillingness to agree to certain points in financial program, company has advised Dunn by cablegram (text printed) that they are not interested in proceeding further with loan plan, but will be glad to reopen discussions should the Dominican President later wish to reconsider program recommended.	108

SUSPENSION OF AMORTIZATION PAYMENTS ON THE EXTERNAL DEBT OF THE DOMINICAN REPUBLIC

1931		
Aug. 25 (25788)	<i>From the President of the Dominican Republic to President Hoover</i> Outline of financial difficulties and plan (text printed) to meet domestic expenses and maintain foreign credit by means of an exchange of bonds of foreign debt for new conversion bonds to be issued in accordance with terms of Dominican-American Convention of 1924; request for immediate U. S. approval of plan as emergency measure.	110
Sept. 3 (31)	<i>To the Chargé in the Dominican Republic (tel.)</i> Opinion that there are insuperable objections to plan as stated. Instructions to urge delay in passage of law; also to urge sending of Mr. William E. Dunn, Financial Adviser, to Washington by plane for conference.	116
Sept. 4 (55)	<i>From the Chargé in the Dominican Republic (tel.)</i> Information that law was passed, but not promulgated by President, who is returning it to Congress for amendment; that Dunn will leave by plane September 6.	117
Sept. 5	<i>From President Hoover to the President of the Dominican Republic</i> Acknowledgment of President Trujillo's letter of August 25 and assurance of sympathetic and prompt consideration of Dominican financial problems.	117

DOMINICAN REPUBLIC

SUSPENSION OF AMORTIZATION PAYMENTS ON THE EXTERNAL DEBT OF THE DOMINICAN REPUBLIC—Continued

Date and number	Subject	Page
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Sept. 15 (59)	<i>From the Chargé in the Dominican Republic (tel.)</i> Senate amendment of emergency law, in violation of Department's advice of September 3.	118
Sept. 17 (32)	<i>To the Chargé in the Dominican Republic (tel.)</i> Information that Senate amendment will probably be superseded by plan which Dunn is taking back to the Dominican Republic after discussion with Department and with legal counsel in New York.	118
Sept. 28	<i>Memorandum by the Assistant Secretary of State</i> Telephone conversation with Judge Schoenrich, counsel for Dominican Government, regarding Department's objections to proposed bond exchange plan and suggestion to withhold final action pending complete discussion.	118
Oct. 6 (65)	<i>From the Chargé in the Dominican Republic (tel.)</i> Information that Dunn consulted Legation, on behalf of President Trujillo, as to propriety of promulgation of emergency law passed by Congress and was told there was no objection to promulgation.	119
Oct. 7 (66)	<i>From the Chargé in the Dominican Republic (tel.)</i> Dunn's intention to recommend formal communication to fiscal agents stating inability of Dominican Republic to meet debt service deficit; opinion that emergency measure may be suspended pending outcome of proposed conversion negotiations.	120
Oct. 7 (67)	<i>From the Chargé in the Dominican Republic (tel.)</i> Dominican Government's notification to fiscal agents (text printed) of inability to meet debt service deficit and suggesting formation of bondholders committee for 1926 and 1922 bonds to discuss terms of readjustment.	120
Oct. 11 (70)	<i>From the Minister in the Dominican Republic (tel.)</i> Announcement that Enabling Act was promulgated October 10.	121
Oct. 14 (72)	<i>From the Minister in the Dominican Republic (tel.)</i> Intention of Dominican Government to inquire whether National City Bank would object to Dominican Government's asking Lee, Higginson and Co., fiscal agents, to step aside and allow National City Bank to carry out refunding plan.	121
Oct. 14 (38)	<i>To the Minister in the Dominican Republic (tel.)</i> Instructions to advise Department as to basis of Dunn's belief that first series of 1926 bonds have prior lien over second series, since Department's records and bank circular indicate equal rank.	122
Oct. 15 (74)	<i>From the Minister in the Dominican Republic (tel.)</i> Basis for Dunn's belief regarding priority of first series of 1926 bonds over second series.	123
Oct. 16 (76)	<i>From the Minister in the Dominican Republic (tel.)</i> Information that negative reply has been received from National City Bank to Dominican Government's request reported in telegram No. 72, October 14, and that Lee, Higginson and Co. also declined to act as requested.	123

DOMINICAN REPUBLIC

SUSPENSION OF AMORTIZATION PAYMENTS ON THE EXTERNAL DEBT OF THE DOMINICAN REPUBLIC—Continued

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1931 Oct. 20 (80)	<i>From the Minister in the Dominican Republic (tel.)</i> Acting Receiver General's report on remittance to fiscal agents, representing deficit on amortization of 1926 bonds of \$77,589.43.	123
Oct. 20	<i>Memorandum by the Assistant Secretary of State</i> Conversation with Dominican Minister, who presented note from his Government regarding financial situation and proposed laws.	124
Oct. 20	<i>From the Dominican Minister</i> Report on financial crisis and measures proposed to meet it; proposed emergency laws (texts printed) regarding debt service and budget payments.	124
Oct. 23	<i>To the Dominican Minister</i> Acknowledgment of note of October 20, and advice that U. S. policy will be guided by an understanding of the special circumstances set forth.	131
Oct. 24	<i>From the Minister in the Dominican Republic (tel.)</i> Passage and signature on October 23 of emergency law and amendment to finance law.	132
Oct. 26	<i>From the Dominican Minister</i> Acknowledgment of Department's note of October 23.	133
Oct. 27	<i>Memorandum by the Assistant Secretary of State</i> Conversation with Dominican Minister in which arrangements were made for clearing up a discrepancy found to exist in Dominican notes of October 20 and October 22.	133
Nov. 9	<i>From Lee, Higginson & Company</i> Request for information, for communication to bondholders, as to U. S. policy and action in view of temporary modification by Dominican Government of terms of U. S.-Dominican Convention.	134
Nov. 10	<i>To Lee, Higginson & Company</i> Information that U. S. Government is not disposed at this time to take any action other than to continue to follow with attention and care developments in the Dominican Republic, in belief that this policy would be best for all concerned.	134
Nov. 12	<i>From Lee, Higginson & Company (tel.)</i> Introductory comments (text printed) to be included in letter to bondholders; request for Department's suggestions.	136
Nov. 17 (188)	<i>To the Minister in the Dominican Republic</i> Transmittal of Lee, Higginson and Co. telegram of November 12; information that Department made no comments on proposed statement.	137

ECUADOR

POLITICAL UNREST IN ECUADOR

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1931 Aug. 24 (37)	<i>From the Chargé in Ecuador (tel.)</i> Resignation of President Ayora and appointment of Colonel Luis Larrea Alba as Minister of Gobernacion, who thus automatically under Constitution becomes Acting President; comment that appointment is not well received by the people.	138
Aug. 24 (38)	<i>From the Chargé in Ecuador (tel.)</i> Information that President Ayora and his family are guests of the Legation until danger to the personal safety of the President has passed.	138
Aug. 25 (39)	<i>From the Chargé in Ecuador (tel.)</i> Information that Colonel Larrea Alba appears to have situation well in hand and to have support of entire army.	138
Aug. 25 (40)	<i>From the Chargé in Ecuador (tel.)</i> Opinion that, under the circumstances, question of recognition of present Ecuadoran Government does not arise, and Legation should deal with it as lawfully constituted successor of that previously in power; request for Department's views.	139
Aug. 25 (41)	<i>From the Chargé in Ecuador (tel.)</i> Information that former President Ayora and family have left Legation and returned to their home.	139
Aug. 25 (16)	<i>To the Chargé in Ecuador (tel.)</i> Acquiescence in sheltering former President Ayora and family in Legation during emergency.	139
Aug. 26 (17)	<i>To the Chargé in Ecuador (tel.)</i> Concurrence in opinion that question of recognition does not arise and that Legation may deal with present Government as constitutional successor to that of President Ayora; request to be informed when elections will be called.	140
Sept. 1 (44)	<i>From the Chargé in Ecuador (tel.)</i> Information that Presidential elections have been called for October 20 and 21, in compliance with article 81 of the Constitution.	140
Oct. 15 (55)	<i>From the Chargé in Ecuador (tel.)</i> Information that Larrea Alba has declared himself dictator and is meeting with both military and popular opposition.	140
Oct. 15 (56)	<i>From the Chargé in Ecuador (tel.)</i> Collapse of dictatorship, resignation of Larrea Alba, and assumption of Executive power by Minister of Gobernacion, former President Alfredo Baquerizo Moreno.	140
Oct. 16 (57)	<i>From the Chargé in Ecuador (tel.)</i> Report that city is quiet and that assumption of executive power by Baquerizo Moreno has been received satisfactorily by all sides.	141
Oct. 18 (58)	<i>From the Chargé in Ecuador (tel.)</i> Names of newly appointed Cabinet Ministers and information that Presidential elections will be held October 20 and 21 as planned.	141
Oct. 22 (59)	<i>From the Chargé in Ecuador (tel.)</i> Election of Bonifaz in orderly, free, and fair elections October 20 and 21.	141

EGYPT

EQUALITY OF REPRESENTATION AS AMONG THE PRINCIPAL CAPITULATORY POWERS
ON THE MIXED COURTS OF EGYPT

Date and number	Subject	Page
1931 Feb. 3 (15)	<i>To the Minister in Egypt (tel.)</i> Note for the Egyptian Government expressing U. S. Government's position with respect to principle of equality of representation of the principal capitulatory powers on the Mixed Court judiciary. (Footnote: Information that note was presented under date of March 3, 1931.)	142
June (29/7/1 (45))	<i>From the Egyptian Minister for Foreign Affairs to the American Minister in Egypt</i> Explanation of Egyptian Government's viewpoint that apart from arrangements with certain powers to select from their nationals a certain number of judges, Egyptian Government remains entirely free to choose judges for supplementary seats.	143
Oct. 28 (108)	<i>To the Minister in Egypt</i> Authorization to request audience with High Commissioner to enlist his support and to advise that American position is subject to recognition of special rights of Great Britain; instructions to telegraph reply of High Commissioner, and suggestions as to character of future representations.	144
Nov. 16 (2395)	<i>From the Chargé in Great Britain</i> Discussion of U. S. position with head of Egyptian Affairs Division, who said that not until Foreign Office and Residency at Cairo had had an exchange of views could he make a statement in the matter and agreed to communicate with Chargé as soon as possible.	146
Dec. 9 (109)	<i>From the Minister in Egypt</i> Substance of High Commissioner's oral statement expressing personal views unfavorable to U. S. position; Minister's suggestions as to future U. S. action.	147
Dec. 22 (346)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to make another informal approach to Foreign Office before preparation of its definitive reply to recent representations regarding U. S. representation on Egyptian Mixed Courts.	148

RESERVATION OF AMERICAN RIGHTS UNDER THE TERMS OF NOTES EXCHANGED IN
1930 WITH EGYPT RELATING TO THE EGYPTIAN CUSTOMS REGIME

1930 Dec. 16 (111)	<i>From the Minister in Egypt (tel.)</i> Information that Egyptian Government has increased import duties on certain articles; request for Department's views as basis for conversations with colleagues regarding position of Egyptian Government under provisional commercial accords with capitulatory powers.	150
Dec. 22 (73)	<i>To the Minister in Egypt (tel.)</i> Department's desire not to take the lead in questioning Egypt's right to change tariff rates without consulting capitulatory powers, but willingness to consider making similar representations should other powers decide to press the issue.	152

EGYPT

RESERVATION OF AMERICAN RIGHTS UNDER THE TERMS OF NOTES EXCHANGED
IN 1930 WITH EGYPT RELATING TO THE EGYPTIAN CUSTOMS REGIME—CON.

Date and number	Subject	Page
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Feb. 18 (22)	<i>From the Minister in Egypt (tel.)</i> Imposition of increased customs duty on matches; recommendation that Legation be instructed to present <i>aide-mémoire</i> following position taken by other capitulatory powers.	152
Feb. 19 (24)	<i>From the Minister in Egypt (tel.)</i> Views of principal capitulatory powers regarding Egyptian tariff increases; opinion that it would not be advisable to raise tariff issue at this time.	153
Feb. 21 (23)	<i>To the Minister in Egypt (tel.)</i> Request for additional information regarding Egyptian decree before issuance of any instructions.	154
Feb. 25 (27)	<i>From the Minister in Egypt (tel.)</i> Information regarding the tariff decree.	155
Feb. 28 (25)	<i>To the Minister in Egypt (tel.)</i> Instructions to seek interview with Foreign Minister and inform him orally of this Government's reservation of its rights under provisional commercial agreement of May 24, 1930.	157
Mar. 4 (26)	<i>To the Minister in Egypt (tel.)</i> Instructions to inform Foreign Minister that U. S. Government makes full reservations of its position pending study of texts of the new tax law and decree.	157
Mar. 19 (36)	<i>From the Minister in Egypt (tel.)</i> Request for authorization to inform Foreign Office of non-objection to levying of tax on U. S. citizens, in response to oral request of Egyptian Government.	158
Mar. 23 (31)	<i>To the Minister in Egypt (tel.)</i> Authorization to address written communication to Foreign Minister agreeing to application of tax to U. S. citizens.	158
Apr. 14 (40)	<i>To the Minister in Egypt (tel.)</i> Intention not to discuss matter further with Egyptian Government at present time.	159
May 6 (50)	<i>To the Minister in Egypt</i> Authorization to engage in informal conversations with French, Italian, and Belgian colleagues regarding conclusion of permanent commercial conventions with Egyptian Government.	160

PROPOSAL OF THE EGYPTIAN GOVERNMENT FOR AN INTERNATIONAL CONFERENCE
TO REGULATE COTTON PRODUCTION

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Aug. 26 (93)	<i>From the Minister in Egypt (tel.)</i> Discussion with Prime Minister of proposed cotton conference.	161
Aug. 29 (84)	<i>To the Minister in Egypt (tel.)</i> Information that Egyptian proposal for cotton conference has been referred to appropriate authorities.	163

EGYPT

PROPOSAL OF THE EGYPTIAN GOVERNMENT FOR AN INTERNATIONAL CONFERENCE
TO REGULATE COTTON PRODUCTION—Continued

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1931 Sept. 18	<i>To the Egyptian Minister</i> Information that since U. S. Government would be unable to apply program of production limitation and limitation and control of cotton exports, it would be unable to participate in a conference having such objects in view; suggestion for informal discussions between an Egyptian Government representative and American Farm Board regarding formulation of methods of cooperation.	163
Sept. 22 (6538)	<i>From the Egyptian Minister</i> Proposal of Egyptian Government to send two delegates to Washington, and request for date to be fixed for meeting with representatives of American Farm Board.	164
Sept. 25	<i>To the Egyptian Minister</i> Information that Farm Board will be glad to start discussions at any time convenient to Egyptian representatives. (Footnote: Information that discussions took place in Washington in 1933.)	165

AGREEMENT BETWEEN THE UNITED STATES AND EGYPT FOR ARBITRATION OF THE
CLAIM OF GEORGE J. SALEM, SIGNED JANUARY 20, 1931.

1931	(Note: List of published documents relating to claim of George J. Salem (Salm) against Egypt, including correspondence between U. S. and Egyptian Governments.)	165
Jan. 20	<i>Agreement Between the United States of America and Egypt</i> Text of Executive agreement for arbitration of the claim of George J. Salem against Egypt, signed at Cairo.	166

EL SALVADOR

REVOLUTION IN EL SALVADOR

1931 Dec. 3 (97)	<i>From the Minister in El Salvador (tel.)</i> Information that revolution broke out night of December 2 and now controls city.	169
Dec. 3 (98)	<i>From the Minister in El Salvador (tel.)</i> Comment that leaders of revolution appear to have no fixed plan beyond getting rid of present government; arrangements for 2-hour truce.	169
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Dec. 3 (63 bis)	<i>From the Minister in Guatemala (tel.)</i> Foreign Minister's receipt of telegram from military junta of El Salvador; decision of Guatemalan Government to adhere to terms of 1923 treaty and to take no action except in agreement with United States.	170
Dec. 3 (55)	<i>To the Minister in El Salvador (tel.)</i> Inquiry as to who is leading revolution.	171

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Dec. 4 (64)	<i>From the Minister in Guatemala (tel.)</i> Efforts of President Araujo to obtain war materials; intention of Guatemalan Foreign Minister to refuse all such requests under article 4 of 1923 treaty.	171
Dec. 4 (56)	<i>To the Minister in El Salvador (tel.)</i> Assumption that U. S. policy of being guided by 1923 treaty provisions regarding nonrecognition of governments coming into power through revolution has been made clear to leaders of revolution.	172
Dec. 4 (105)	<i>From the Minister in El Salvador (tel.)</i> Information regarding leaders of revolution.	172
Dec. 4 (65)	<i>From the Minister in Guatemala (tel.)</i> Information that President Araujo transferred Presidential powers to Third Designate, Dr. Olano, and crossed Guatemalan border at 2 p. m., December 4.	173
Dec. 4 (88)	<i>To the Chargé in Honduras (tel.)</i> Explanation of U. S. policy in regard to revolution in El Salvador, and instructions to make the position known in conversation with Government officials and other political leaders of the country. (Repeated to Nicaragua and Costa Rica.)	173
Dec. 4 (32)	<i>To the Minister in Guatemala (tel.)</i> Instructions to make known informally to various Government officials Department's policy in El Salvador.	174
Dec. 5 (187)	<i>From the Chargé in Honduras (tel.)</i> Information that Honduran Government will await action of U. S. Government before making a decision in regard to recognition of present Salvadoran Government.	174
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Dec. 5 (60)	<i>To the Minister in El Salvador (tel.)</i> Request for information as to part played in revolution by Vice President Martínez and the three <i>designados</i> , and whereabouts of the latter.	175
Dec. 5 (61)	<i>To the Minister in El Salvador (tel.)</i> Request for views and recommendations as to steps necessary to bring about a constitutional government in El Salvador which could be recognized under the 1923 treaty.	175

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Dec. 5 (56)	<i>From the Chargé in Costa Rica (tel.)</i> Foreign Minister's refusal to commit himself in respect of eventual Costa Rican attitude as to recognition of new Salvadoran regime.	176
Dec. 5 (21)	<i>From the Minister in El Salvador</i> Detailed report of revolution, its causes, and constitutional and international problems created by it.	177
Dec. 6 (108)	<i>From the Minister in El Salvador (tel.)</i> Information in reply to Department's request, regarding Vice President Martínez and the <i>designados</i> .	185
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Dec. 7 (63)	<i>To the Minister in El Salvador (tel.)</i> Request for further facts as to President's departure, and as to implication in the revolution of Vice President and designates.	187
Dec. 7	<i>Memorandum by the Assistant Secretary of State</i> Conversation with Salvadoran Minister, who was told that no decision would be made on recognition of Provisional Government until further information was received on the subject.	189
Dec. 7 (111)	<i>From the Minister in El Salvador (tel.)</i> Report that conditions are apparently becoming more settled.	189
Dec. 8 (190)	<i>From the Chargé in Honduras (tel.)</i> Foreign Minister's desire to know Department's decision regarding recognition of present Salvadoran Government.	190
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Dec. 8	<i>Memorandum by the Assistant Secretary of State</i> Request by Counselor of French Embassy to be informed of Department's decision in regard to recognition of present Salvadoran Government, as French Government would like to follow U. S. lead.	192

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Dec. 11 (115)	<i>From the Minister in El Salvador (tel.)</i> Additional information regarding implication of Martínez in revolution.	193
Dec. 11 (67)	<i>To the Minister in El Salvador (tel.)</i> Instructions to seek suggestions and views of Martínez as to manner of placing government on basis that will allow its recognition by U. S. and Central American Governments.	194
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Dec. 14 (71)	<i>From the Minister in Guatemala (tel.)</i> Information that Foreign Minister, in reply to Salvadoran request for recognition, had stated his intention to be guided by the treaties.	196
Dec. 15	<i>To the Minister in Honduras (cir. tel.)</i> Conversation with Honduran Minister regarding Salvadoran request for recognition; hope that Honduran reply may be deferred until Department receives sufficient information on which to base its decision. (Instructions to repeat to Guatemala, Nicaragua, and Costa Rica.)	197
Dec. 15 (26)	<i>From the Minister in El Salvador</i> Corrections of certain reports made on events of first days of revolution.	197
Dec. 15 (27)	<i>From the Minister in El Salvador</i> Facts indicating that Martínez Government is entitled to recognition under treaty; comment that undue delay in granting recognition might lead to attempt by other Presidential aspirants to overthrow existing Government.	198
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NEGOTIATIONS FOR THE SALE OF SURPLUS AMERICAN WHEAT AND COTTON TO
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July 22 (130)	<i>To the Ambassador in Germany (tel.)</i> Suggestion on deliveries of goods and changed viewpoint on prices; belief that German credit would be strengthened by the transaction. Instructions to express to the German Government the opinion that upon its inquiry something might be worked out on the lines indicated.	298
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1930		
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1931 Mar. 17	<i>Memorandum by Mr. P. T. Culbertson of the Division of Western European Affairs</i> Suggestion to Major F. L. Herron of Motion Picture Producers and Distributors of America, Inc., of commercial disadvantage outlined in Ambassador's telegram No. 26, and Major Herron's opinion that film industry would not press for further showing of the picture in Germany.	315
Sept. 12 (1135)	<i>From the Ambassador in Germany</i> Report that Film Censorship Bureau in Berlin reversed its decision after the deletion of a few scenes and the receipt of a letter from American Universal Pictures Corporation stating the expurgated German version would be adopted; continued protest by Nazis, but indication that Government no longer feels bound to make concession to them.	316

ARRANGEMENT BETWEEN THE UNITED STATES AND GERMANY REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES EFFECTED BY EXCHANGE OF NOTES, SIGNED SEPTEMBER 11 AND DECEMBER 16, 1931

1931 Sept. 11 (585)	<i>From the American Ambassador in Germany to the German Minister for Foreign Affairs</i> Provisions for mutual recognition of load-line marks and certificates, and information that receipt of a note from German Government expressing concurrence in this understanding will constitute agreement.	317
Dec. 16	<i>From the German Undersecretary of State for Foreign Affairs to the American Ambassador in Germany</i> Confirmation of understanding.	318

STATUS OF NATURALIZATION TREATIES BETWEEN THE UNITED STATES AND THE GRAND DUCHY OF BADEN, SIGNED JULY 19, 1868, AND WÜRTTEMBERG, SIGNED JULY 27, 1868

1930 Oct. 28 (567)	<i>From the Chargé in Germany</i> Despatch from the Consul General at Stuttgart (text printed) inquiring whether naturalization treaties between United States and Baden and Württemberg, prior to formation of German Empire, are considered in force.	319
Dec. 4 (487)	<i>To the Ambassador in Germany</i> Information that these treaties were not renewed after the World War as provided by treaty and were, therefore, no longer in force after May 11, 1922; that Department has refrained from expressing an opinion on the status of treaties with Germany from April 6, 1917, to May 11, 1922; that, however, the treaties with Baden and Württemberg were applicable to women naturalized in those countries. (Copy to Stuttgart.)	320

GERMANY

PETITIONS FOR REHEARINGS IN THE SO-CALLED SABOTAGE CASES: BLACK TOM
AND KINGSLAND

Date and number	Subject	Page
1931 Jan. 12	<i>From the Solicitor for the Department of State to the Assistant Secretary of State</i> Information of the filing of a motion for a new trial in Black Tom explosion case on grounds of newly discovered evidence, and other reasons. (Footnote: Information of filing in Kingsland case on January 22.)	322
Jan. 15	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the German Ambassador, who expressed concern over the motion by Mr. Bonyng, U. S. Agent, for retrial of the Black Tom case, as it opened the way for retrial of other cases; his desire to end the matter quickly by sending for Mr. Boyden, Umpire for the Mixed Claims Commission, as had been suggested by the Under Secretary of State.	322
Undated [Rec'd Jan. 15]	<i>From the German Embassy to the Department of State</i> Opinion that the procedure in the Black Tom case was regular and in accordance with agreement of August 10, 1922, and with the Rules of the Commission.	323
Jan. 16	<i>Memorandum by the Solicitor for the Department of State</i> Suggestion by the Counselor of the German Embassy that Mr. Boyden arrive earlier to facilitate a disposal of the petition before the German Agent's departure on January 21; his opinion that German Government will cooperate with any request for interpretation of claims agreement; solicitor's opinion that early hearing will be desirable but that disposition should be left to the Commission.	325
Jan. 17	<i>Memorandum by the Assistant Secretary of State</i> Conversation with the German Ambassador, who was informed that Department was requesting Mr. Boyden's earlier arrival in Washington and that the Commission itself should decide on the question of procedure. (Footnote: Arrival of Mr. Boyden on January 19.)	326
Jan. 22	<i>Memorandum by the Secretary of State</i> Conversation with the German Ambassador, who was advised that the Department's practice was to leave all control to the U. S. Agent and that it was hoped the Commission would settle the question of procedure, but that everything would be done to expedite settlement.	327
July 1	<i>From the Agent for the United States</i> Notification of the filing of supplemental petition for rehearing on basis of new evidence.	328
Nov. 18	<i>Memorandum by the Under Secretary of State of a Telephone Conversation With the German Ambassador, November 17, 1931</i> Information that German Government concurs in the agreement reached in Washington, that appointment of an umpire is unnecessary at the moment, as the Commissioners might reach an agreement without one, but, in any case, prompt decision on the appointment would be easy. (Footnote: Death of Mr. Boyden, October 25, 1931; appointment of Owen J. Roberts, of U. S. Supreme Court, March 24, 1932.)	328

GERMANY

ADMISSION TO THE UNITED STATES OF GERMAN STUDENT LABORERS

Date and number	Subject	Page
1931		
Jan. 30 (St. D.E. 4/31)	<i>From the German Embassy</i> Request that a final decision on the admission of additional German work-students be made as soon as possible, without waiting until April 1, in view of time required for selection of students and for necessary travel arrangements.	329
Mar. 10	<i>From the German Embassy</i> Expression of hope that Department will not suspend the exchange of German-American student laborers.	330
Mar. 26	<i>To the German Ambassador</i> Reply to German inquiries giving Secretary of Labor's decision (text printed) to discontinue temporarily the student laborer arrangement because of employment conditions.	331
Apr. 16 (St. Dep. A 16)	<i>From the German Embassy</i> Request for reconsideration of decision of Immigration Commissioner at Ellis Island, in which German student laborers now in United States were refused the extension of stay usually granted.	332
Apr. 22	<i>To the German Embassy</i> Confirmation of information that the requests of 29 students to remain in the United States for a further period are under consideration, as the German Embassy has been informed.	333
Nov. 12	<i>Memorandum by the Assistant Secretary of State</i> Request by the First Secretary of the German Embassy that 19 German students be granted another extension of time; refusal of extension by Department of Labor on basis that the students are holding jobs which could be filled by Americans.	333
Dec. 16 (VI W 9435)	<i>From the German Ambassador</i> Proposal that U. S. Government admit German industrial students under certain specified conditions.	334
Feb. 9	<i>To the German Ambassador</i> Quotation from Labor Department's communication advising that German proposal cannot be given favorable consideration at this time.	335

GREAT BRITAIN

EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN AND EXCHANGES OF NOTES EXTENDING THE APPLICABILITY OF THE TREATY TO PALESTINE AND TRANS-JORDAN, SIGNED DECEMBER 22, 1931

1928		
Nov. 19 (3182)	<i>From the Chargé in Great Britain</i> Foreign Office note (text printed) proposing a new extradition treaty of comprehensive character, in reply to U. S. earlier suggestion of a supplementary treaty.	337
1929		
Mar. 14 (1734)	<i>To the Ambassador in Great Britain</i> Conclusions and suggestions regarding British draft of extradition treaty; instructions to bring to the attention of the Foreign Office.	340

GREAT BRITAIN

EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN AND EXCHANGES OF NOTES EXTENDING THE APPLICABILITY OF THE TREATY TO PALESTINE AND TRANS-JORDAN, SIGNED DECEMBER 22, 1931—Continued

Date and number	Subject	Page
1930		
June 24 (996)	<i>From the Chargé in Great Britain</i> Foreign Office reply (text printed) giving views on revisions suggested by United States.	344
Aug. 11 (471)	<i>To the Ambassador in Great Britain</i> Instructions to inform Foreign Office of U. S. withdrawal of certain proposals and of attitude on others.	348
1931		
Jan. 20 (1573)	<i>From the Ambassador in Great Britain</i> Foreign Office note (text printed) accepting in substance qualifications proposed by the United States and requesting U. S. reconsideration of two points.	350
Feb. 9 (662)	<i>To the Ambassador in Great Britain</i> Advice that U. S. Government agrees to the two points and that full powers for signing the treaty will be forwarded.	351
Oct. 1 (949)	<i>To the Ambassador in Great Britain</i> Advice of agreement to further British amendments and to suggested exchange of notes making treaty applicable to Palestine and to Trans-Jordan.	352
Dec. 22 (468)	<i>From the Ambassador in Great Britain (tel.)</i> Information that treaty was signed and notes exchanged December 22.	353
Dec. 22	<i>Extradition Treaty Between the United States of America and Great Britain and Exchanges of Notes</i> Texts of extradition treaty and exchanges of notes signed at London.	353
	(Note: Data on subsequent extension of the treaty provisions to various parts of the British Empire.)	361

PROPOSED REVISION, WITH RESPECT TO MUSCAT AND OMAN, OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND MUSCAT (OMAN) SIGNED SEPTEMBER 21, 1833

1930		
May 3 (182)	<i>From the British Ambassador</i> Request that United States waive its right under article 3 of treaty of 1833 with Muscat in order to allow an increase of flat tariff rates to 7½ percent and 15 percent on alcohol and cigarettes, in view of financial difficulties of the State of Muscat and Oman.	362
May 23	<i>To the British Ambassador</i> Non-objection in principle to a general increase in tariff rates, and proposal of conclusion of new treaty modifying article 3 of 1833 treaty and providing for unconditional most-favored-nation treatment in import and export duties and other matters.	365
June 11	<i>To the British Ambassador</i> Advice that Department would probably not have occasion to protest the suggested limited non-discriminatory increase in import duties, pending conclusion of a new treaty.	365

GREAT BRITAIN

PROPOSED REVISION, WITH RESPECT TO MUSCAT AND OMAN, OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND MUSCAT (OMAN)
SIGNED SEPTEMBER 21, 1833—Continued

Date and number	Subject	Page
1930 Aug. 18 (320)	<i>From the British Ambassador</i> Willingness to negotiate a new treaty on most-favored-nation lines and to receive U. S. draft.	366
Oct. 4	<i>To the British Ambassador</i> Transmittal of draft treaty (text printed).	366
1931 Sept. 9 (304)	<i>From the British Chargé</i> Information that Muscat State Council feels that negotiations on U. S. draft would entail delay while financial situation is urgent; suggestion that 1833 treaty be modified by exchange of notes allowing 10 percent duty with 25 percent maximum duty on liquor and tobacco; expectation of British to grant the same concession subject to U. S. and French concurrence.	368
Oct. 10	<i>To the British Chargé</i> Information that constitutional requirements preclude amendment of an existing treaty by exchange of notes; advice that modification of 1833 treaty would be considered only on most-favored-nation basis.	369

GREECE

EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREECE, SIGNED
MAY 6, 1931

1929 Nov. 27 (310)	<i>To the Minister in Greece</i> Comments on changes proposed by the Greek Government in U. S. draft treaty of extradition; suggestions for rewording of certain articles (texts printed).	371
1930 Feb. 24 (351)	<i>To the Minister in Greece</i> Citation to Revised Statutes in connection with Foreign Office inquiry as to the meaning of a phrase in the draft; further comments on changes proposed by Greek Government.	373
Oct. 10 (431)	<i>To the Minister in Greece</i> U. S. acceptance of majority of Greek modifications; willingness to accord Greece most-favored-nation treatment as to articles 9 and 11, and suggestion that such provision be effected by exchange of notes.	375
1931 Mar. 9 (472)	<i>To the Minister in Greece</i> Proposal of slight changes in language in notes to be exchanged; authorization to exchange notes, and full powers to sign treaty.	377
May 6	<i>Extradition Treaty Between the United States of America and Greece, Together With Exchange of Notes Concerning Most-Favored-Nation Treatment and Protocol of Exchange of Ratifications</i> Texts of treaty and exchange of notes, signed at Athens; protocol of exchange of ratifications, signed at Washington, November 1, 1932.	378

GREECE

EXEMPTION FROM ALLEGED MILITARY OBLIGATIONS ACCORDED BY GREECE TO
AMERICAN CITIZENS OF GREEK ORIGIN

Date and number	Subject	Page
1929 Nov. 26 (1158)	<i>From the Minister in Greece</i> Official information of extension to December 31, 1930, of the period exempting from military obligations American citizens of Greek origin and Greek citizens returning from United States.	385
1930 Oct. 30 (23)	<i>To the Chargé in Greece (tel.)</i> Instructions to express informally to Prime Minister Venizelos the U. S. Government's appreciation of the military exemption arrangement for 1930 and the hope for a similar arrangement for 1931.	386
Nov. 7 (1525)	<i>From the Chargé in Greece</i> Foreign Minister's favorable attitude toward the amnesty arrangement, and his promise to urge its continuation by the Council of Ministers.	387
1931 Jan. 28 (456)	<i>To the Minister in Greece</i> Department's hope that the amnesty arrangement may be extended pending the coming into force of the Protocol Relating to Military Obligations in Certain Cases of Double Nationality, which was signed at Geneva in 1930 by both U. S. and Greek representatives.	387
Feb. 11 (1623)	<i>From the Minister in Greece</i> Information that the Greek Government has been urged to put the principle of the Protocol into effect pending its ratification.	388
Apr. 3 (1682)	<i>From the Minister in Greece</i> Conversation with Foreign Minister following Hellenic Government's agreement in writing to extension of amnesty arrangement through 1931; Foreign Minister's assurance of cooperation but inability to negotiate a treaty at present.	389
Aug. 4 (1817)	<i>From the Chargé in Greece</i> Transmittal of a <i>note verbale</i> allowing military exemption for children of Greek citizens, domiciled in the United States, who return to Greece for educational purposes.	390
Aug. 28 (1840)	<i>From the Chargé in Greece</i> Information of an act making all Greeks who have resided abroad for 10 years continuously, liable to 4 months' military service upon return to Greece, or payment of a fee averaging \$52, a reduction of the amount formerly demanded.	390
Sept. 30 (30)	<i>To the Chargé in Greece (tel.)</i> Need for information as to Greek attitude for use in the publication "Notice to Bearers of Passports" for 1932; instructions to discuss matter with the Foreign Minister and to advise him of the appropriate publicity given by the Department to his Government's present liberal attitude.	391
Oct. 15 (42)	<i>From the Chargé in Greece (tel.)</i> Information that military exemption will not be granted to individuals but possibly to organized groups of excursionists; suggestion that the new pamphlets include the reduced term of service and payment.	391

GREECE

EXEMPTION FROM ALLEGED MILITARY OBLIGATIONS ACCORDED BY GREECE TO
AMERICAN CITIZENS OF GREEK ORIGIN—Continued

Date and number	Subject	Page
1931 Oct. 26 (1899)	<i>From the Chargé in Greece</i> Clarification, at Department's request, of despatch No. 1840, August 28, regarding military obligations of Greeks residing abroad. (Note: Department's statement to the press February 12, 1932 (text printed), concerning discontinuance of military amnesty and advising American citizens of Greek origin who contemplate visiting Greece, to consult Greek consular officers.)	392

GUATEMALA

RECOGNITION OF CONSTITUTIONAL GOVERNMENT IN GUATEMALA

1931 Jan. 2 (2)	<i>From the Minister in Guatemala (tel.)</i> Report that conditions are returning to normal, following President Chacon's resignation and assumption of Provisional Presidency by Reina Andrade; request for instructions.	393
Jan. 2 (1)	<i>To the Minister in Guatemala (tel.)</i> Instructions to report whether the resignations of Palma and Chacon and the elections of new Designates were voluntary or under compulsion.	393
Jan. 2 (3)	<i>From the Minister in Guatemala (tel.)</i> Information that Reina Andrade apparently will retain Orellana Cabinet, but that changes can probably be effected in case of two members who took part in recent events if Department desires and offers immediate recognition.	394
Jan. 2 (4)	<i>From the Minister in Guatemala (tel.)</i> Report of constitutionality of new government; recommendation of recognition after the two cabinet changes and the call for elections.	394
Jan. 2 (289)	<i>From the Minister in Nicaragua</i> Report of satisfaction with which Nicaraguan Government received news of Department's refusal to recognize Orellana government, as such action would have violated 1923 treaties.	394
Jan. 3 (5)	<i>From the Minister in Guatemala (tel.)</i> Report of German Minister's authorization to recognize Andrade, but opinion that he will await U. S. action.	396
Jan. 3 (2)	<i>From the Minister in Nicaragua (tel.)</i> Information of Guatemala's formal notification to Nicaraguan Government of Chacon's resignation and the appointment of Andrade; Foreign Minister's request for U. S. attitude on recognition.	396
Jan. 3	<i>To the American Missions in Costa Rica, El Salvador, Honduras, and Nicaragua (cir. tel.)</i> Department's disposition to extend recognition to Andrade government after its publication of the call for new elections; instructions to ascertain the attitude of the respective Governments, as it is desirable that U. S. action be harmonious with the signatories of the 1923 treaties.	396

GUATEMALA

RECOGNITION OF CONSTITUTIONAL GOVERNMENT IN GUATEMALA—Continued

Date and number	Subject	Page
1931 Jan. 3 (2)	<i>To the Minister in Guatemala (tel.)</i> Advice as to Department's disposition toward recognition if other Central American Governments agree; opinion that suggested Cabinet changes would be unwise as a <i>sine qua non</i> to recognition; instructions to cable regarding stability of Andrade government.	397
Jan. 3 (6)	<i>From the Minister in Guatemala (tel.)</i> Report that conditions are practically normal but that Cabinet changes would be unwise; that decree calling elections will be issued soon.	397
Jan. 4 (3)	<i>From the Minister in Nicaragua (tel.)</i> Disposition of Nicaraguan Government to recognize Andrade government.	398
Jan. 4 (3)	<i>From the Minister in El Salvador (tel.)</i> Extension of recognition to Reina Andrade by Salvadoran Government.	398
Jan. 5 (2)	<i>From the Minister in Honduras (tel.)</i> Desire of Government of Honduras to grant recognition simultaneously with United States.	398
Jan. 5 (7)	<i>From the Minister in Guatemala (tel.)</i> Issuance of decree calling elections for February 6, 7, and 8.	399
Jan. 6 (2)	<i>From the Minister in Costa Rica (tel.)</i> Report that President and Foreign Minister are conferring and will give a statement on recognition soon.	399
Jan. 6 (4)	<i>From the Minister in Costa Rica (tel.)</i> Disposition of Costa Rica to extend recognition conditional upon calling of elections.	399
Jan. 6 (3)	<i>To the Minister in Guatemala (tel.)</i> Instructions to extend recognition January 8, and to inform Central American colleagues of the action so that they may join if they desire.	400
Jan. 6	<i>To American Missions in Costa Rica, El Salvador, Honduras, and Nicaragua (cir. tel.)</i> Instructions to inform respective Governments of proposed recognition on January 8.	400
Jan. 7 (8)	<i>From the Minister in Guatemala (tel.)</i> Information that coalition of parties has launched Gen. Jorge Ubico for president and there is as yet no opposition candidate.	400
Jan. 7 (9)	<i>From the Minister in Guatemala (tel.)</i> Note to Foreign Office (text printed) extending recognition; request for approval.	401
Jan. 7 (5)	<i>To the Minister in Guatemala (tel.)</i> Approval of proposed note.	401
Jan. 17 (8)	<i>To the Minister in Guatemala (tel.)</i> Inquiry if Central American Governments have extended recognition.	401

GUATEMALA

RECOGNITION OF CONSTITUTIONAL GOVERNMENT IN GUATEMALA—Continued

Date and number	Subject	Page
1931 Jan. 17 (14)	<i>From the Minister in Guatemala (tel.)</i> Information of recognition by Costa Rica, Salvador, and Nicaragua simultaneous with United States, and of Honduran notification by telegram.	401
Feb. 14 (16)	<i>From the Minister in Guatemala (tel.)</i> Information that General Ubico took office as constitutional president February 14.	402

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931

1931 Jan. 14 (30)	<i>To the Minister in Haiti</i> Advice that plan for Haitianization of Treaty Services presented in Haitian memorandum of December 2, 1930, is not entirely acceptable; authorization to initiate formal discussions according to general outline of Department's attitude.	403
Jan. 24 (51)	<i>From the Minister in Haiti</i> Transmittal of communications (texts printed): (1) note from Haitian Government with a memorandum giving somewhat more radical proposals for Haitianization; (2) Minister's reply setting forth U. S. position on fulfillment of existing treaties pending working out of Haitianization program; (3) Minister's tentative plan for the Haitianization of Service Technique.	406
Feb. 7 (9)	<i>From the Minister in Haiti (tel.)</i> Recommendation that Public Works Service be almost completely Haitianized, and request that Department authorize working out of details.	414
Feb. 7 (59)	<i>From the Minister in Haiti</i> Further reply (text printed) to the Haitian proposals, with advice that U. S. Government desires to replace Americans in Treaty Services with Haitian personnel as soon as practicable in order that U. S. personnel may be withdrawn entirely not later than 1936.	415
Feb. 9 (7)	<i>To the Minister in Haiti (tel.)</i> Authorization to proceed with virtually complete and immediate Haitianization of Public Works Service.	419
Feb. 26 (73)	<i>From the Minister in Haiti</i> Report on progress of discussions, and opinion that Haitianization of Public Works Service should not be accelerated as contemplated, and that consideration of Financial Service should be postponed; information that public sentiment presents difficulties to discussion but that further U. S. concessions would merely bring more demands.	419
Mar. 11 (17)	<i>From the Minister in Haiti (tel.)</i> Recommendation of inclusion of a clause (text printed) proposed by Foreign Minister, or a similar provision for a special accord on financial control to be constituted after 1936.	425

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931 Mar. 14 (18)	<i>From the Minister in Haiti (tel.)</i> Suggestion of a paragraph (text printed) conceding the issuance of commissions to Haitian employees in the Customs Service.	426
Mar. 18 (14)	<i>To the Minister in Haiti (tel.)</i> Advice that Department is considering a revised convention to confirm and extend financial control throughout the life of present outstanding bonds and to provide for return to Haitian control of nonfinancial services excluding the Garde.	427
Mar. 20 (22)	<i>From the Minister in Haiti (tel.)</i> Opinion that the proposal of a new treaty for continuance of financial control would not be wise at this time as progress in the discussions is satisfactory and a change in general policy would do more harm than good.	428
Mar. 26 (18)	<i>To the Minister in Haiti (tel.)</i> Instructions to inform the Haitian Government that upon its approval of the proposed Convention (text printed), the Department will be ready to put into immediate effect a program of Haitianization (substance printed) of the nonfinancial services, with exception of the Garde.	431
Mar. 30 (25)	<i>From the Minister in Haiti (tel.)</i> Opinion that it would be difficult to justify a demand that a new convention be ratified before a plan of Haitianization is put into effect; recommendation that the Minister and Financial Adviser be instructed to proceed to Washington about April 12 for personal discussion with Department, and that an effort be made to conclude before that time an accord on Haitianization.	438
Mar. 31 (21)	<i>To the Minister in Haiti (tel.)</i> Authorization to proceed to Washington, but advice that Department cannot authorize any agreement such as quoted in telegrams Nos. 17 and 18, March 11 and 14; instructions to discuss fully with Haitian Government, without commitments, the U. S. point of view on all outstanding matters.	440
Apr. 4 (94)	<i>From the Minister in Haiti</i> Progress of discussions with Foreign Minister on Haitianization; transmittal of formulas, of note from Foreign Minister enclosing observations and counterproposals relative to the Garde, and of Minister's draft of agreement concerning the Garde (texts printed).	441
Apr. 22	<i>Memorandum by the Assistant Secretary of State</i> Outline of proposed Haitianization plan; draft of proposed Convention (text printed); memorandum by the Minister in Haiti (text printed) concerning supplementary Haitianization agreement regarding the financial services.	454
Apr. 23 (25)	<i>To the Minister in Haiti (tel.)</i> Non-objection to proposed paragraph for commissioning of customs employees.	461
May 5 (113)	<i>From the Minister in Haiti</i> Explanation of Department's point of view and proposals to the Foreign Minister, who felt that ratification could be obtained during the present session of Haitian Congress.	461

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF
THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931		
May 5 (114)	<i>From the Minister in Haiti</i> Transmittal of general outline of proposed financial convention (text printed) presented to the Foreign Minister and his observations for Department's comment; request for authorization to accept minor changes.	465
May 16 (31)	<i>To the Minister in Haiti (tel.)</i> Department's disinclination to agree to limiting number of American officials in the Financial Services to two; non-objection to other Haitian proposals, and authorization to accept minor changes.	468
May 18 (40)	<i>From the Minister in Haiti (tel.)</i> Explanation that recommendation was not to limit the number of Americans in the Customs Service but the number nominated by the President of the United States.	469
May 26 (44)	<i>From the Minister in Haiti (tel.)</i> Foreign Minister's threat of a Cabinet crisis over U. S. insistence on Colvin's appointment as Director General of Service Technique as a condition precedent to Haitianization. Opinion that internal political questions hold more interest than Haitianization and that conflict with United States for political purposes is possible.	469
May 29 (46)	<i>From the Minister in Haiti (tel.)</i> Information that Colvin's appointment has been rejected, but that if Colvin would resign, Haiti would be willing to pay him an indemnity; recommendation that Department decide at once, as an impasse on the question might cause serious difficulties.	471
June 1 (47)	<i>From the Minister in Haiti (tel.)</i> Recommendation that if all Americans are to be released from Service Technique by January 1, 1932, they be paid 6 months' salary as an indemnity.	473
June 1 (49)	<i>From the Minister in Haiti (tel.)</i> Recommendation that if Department accepts the proposal regarding Colvin, its acceptance be conditional upon explicit assurances of enforcement of treaty provisions governing the Garde, in view of Haitian attitude toward appointment of American officers and promotion of Haitian officers.	474
June 2 (34)	<i>To the Minister in Haiti (tel.)</i> Instructions to advise Foreign Minister that Department acquiesces in the proposal regarding Colvin; advice that Department is agreeing in order to facilitate Haitianization negotiations and desires to be informed if this result is not expected.	474
June 3 (52)	<i>From the Minister in Haiti (tel.)</i> Information that internal political situation may prevent prompt conclusion of Haitianization negotiations; recommendation that United States proceed with whatever appears advisable in each Service while continuing general negotiations.	475

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931 June 3 (36)	<i>To the Minister in Haiti (tel.)</i> Instructions to inform President Vincent that U. S. acquiescence in the Colvin compromise is conditional upon assurances that the Garde treaty provisions will be respected and that Haitianization discussions must be confined to limits of 1915 treaty.	476
June 3 (37)	<i>To the Minister in Haiti (tel.)</i> Authorization to work out a plan for indemnities to American personnel in connection with Haitianization of Service Technique.	478
June 4 (53)	<i>From the Minister in Haiti (tel.)</i> Information that a law giving members of Congress an expense allowance retroactive to November 10, 1930, has been passed disregarding President Vincent's promise of a balanced budget prior to enactment. Advice that Financial Adviser is withholding funds, upon Minister's instruction, and that this action may create serious situation in Congress; inquiry if Department approves action taken.	478
June 6 (39)	<i>To the Minister in Haiti (tel.)</i> Advice that Department prefers some agreement for Haitianization but will, if agreement fails, carry out withdrawal in its own manner.	479
June 6 (40)	<i>To the Minister in Haiti (tel.)</i> Approval of position outlined in Legation's telegram No. 53, June 4, and instructions to inform Haitian authorities of U. S. insistence on full observance of treaty commitments affecting Financial Service.	480
June 13 (41)	<i>To the Minister in Haiti (tel.)</i> Preference for employees in Customs Service to be appointed by Haitian President upon nomination by President of United States; instructions to make clear U. S. Government's accord as to the desirability of the withdrawal of Americans as soon as feasible.	480
June 18 (61)	<i>From the Minister in Haiti (tel.)</i> Information that Haitian Government will agree to general assurances provided the United States does not insist on the commissioning of Captain Aarons; recommendation that proposal be refused on principle.	481
June 18 (62)	<i>From the Minister in Haiti (tel.)</i> Recommendation that, in view of attitude of Government and public and the possibility of a definite break in negotiations over the Aarons case, United States have a plan of its own ready to be announced if negotiations break down.	482
June 19 (64)	<i>From the Minister in Haiti (tel.)</i> Authorization to Financial Adviser to refuse Finance Minister's order to pay the expense allowances to members of Congress; discussion with Foreign Minister of possible modification of 1918 agreement on condition that laws relating to financial affairs be submitted to the Financial Adviser.	483
June 20 (66)	<i>From the Minister in Haiti (tel.)</i> Report that Aarons was cleared of charges by Board of Investigation.	484

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931 June 22 (44)	<i>To the Minister in Haiti (tel.)</i> Authorization to conclude an agreement as suggested in telegram No. 64, June 19, provided that financial legislation and projects affecting Services headed by Americans be submitted to the respective heads of the Services before presentation to the Legislature.	484
June 22 (43)	<i>To the Minister in Haiti (tel.)</i> Opinion that Aarons case would not justify jeopardizing Haitianization program; instructions to acquiesce in the President's refusal to commission Aarons provided written assurances are received on certain points.	484
June 23 (68)	<i>From the Minister in Haiti (tel.)</i> Outline of Haitianization plan for public health work; inquiry as to Department's attitude and if Navy Department will cooperate as indicated in plan.	485
June 25 (69)	<i>From the Minister in Haiti (tel.)</i> Further explanation of Haitian proposal reported in telegram No. 61, June 18, of considerations in Aarons case, and of plan recommended in case of break in Haitianization negotiations.	486
July 3 (47)	<i>To the Minister in Haiti (tel.)</i> Retention of opinion, after reconsidering situation, that Aarons case does not warrant rupture of negotiations; instructions to draw up and submit in writing to Haitian Government the entire program for Haitianization, and to discuss it as a whole instead of piecemeal in order to avoid trouble over individual cases.	488
July 3 (48)	<i>To the Minister in Haiti (tel.)</i> Outline of conditions of Navy Department's acquiescence in public health program, and authorization to discuss plan with Haitian authorities as part of general Haitianization agreement.	490
July 4	<i>From the President of Haiti to President Hoover (tel.)</i> Expression of good will on U. S. independence day and appeal for more vigorous execution of the recommendations for Haitianization.	491
July 7 (75)	<i>From the Minister in Haiti (tel.)</i> Letter from President of Haiti to Commandant of the Garde (extract printed) stating disposition to reconsider Aarons case. Intention to present note to Haitian Government in compliance with Department's telegram No. 47 of July 3.	492
July 8 (168)	<i>From the Minister in Haiti</i> Memorandum embodying general plan of Haitianization (text printed) handed to the Foreign Minister, who objected to the form and the substance and especially to the U. S. attitude that 1915 treaty is still valid.	492
July 9	<i>From President Hoover to the President of Haiti (tel.)</i> Acknowledgment of President Vincent's telegram of July 4.	497

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AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931 July 9 (49)	<i>To the Minister in Haiti (tel.)</i> Message to be conveyed to President Vincent, if deemed advisable, that President Hoover appreciates his desire for settlement of problems between the two countries and considers that program outlined in Department's telegram No. 47, July 3, is in accord with recommendations of Forbes Commission and will expedite Haitianization.	497
July 10 (76)	<i>From the Minister in Haiti (tel.)</i> Outline of Haitian counterproject in reply to Legation's general Haitianization plan. Request for Department's views on a protocol of disoccupation and on the relinquishment of martial law rights.	497
July 10 (77)	<i>From the Minister in Haiti (tel.)</i> Report of President's agreement to sign Aarons' commission when Haitianization agreement is reached.	499
July 13 (51)	<i>To the Minister in Haiti (tel.)</i> Disapproval of any consideration of a protocol of disoccupation prior to execution of Haitianization agreement; willingness to withdraw martial law proclamation after conclusion of Haitianization agreement.	499
July 14 (78)	<i>From the Minister in Haiti (tel.)</i> Request for Department's views on unsettled points, including sanitary control at Port-au-Prince and Cape Haitien, indemnities of non-commissioned personnel, Haitian Co-director in Internal Revenue, and further discussion on military disoccupation.	500
July 15 (80)	<i>From the Minister in Haiti (tel.)</i> Request for Department's views on Financial Adviser's proposal that Haitianization of state lands administration be offered in place of a Haitian Co-director in Internal Revenue. Inquiry as to authorization to sign agreement without submitting final text to the Department.	500
July 17 (53)	<i>To the Minister in Haiti (tel.)</i> Disapproval of concessions in sanitary control at Port-au-Prince and Cape Haitien, and in Financial Service; conditional agreement to waive indemnities for non-commissioned personnel, to Haitianization of state lands administration, and if essential, to an accord on evacuation. Authorization to effect agreement without submitting final text to the Department if necessary.	501
July 24 (57)	<i>To the Minister in Haiti (tel.)</i> Authorization to waive indemnities for Public Works employees if desirable.	502
July 25 (86)	<i>From the Minister in Ha'ti (tel.)</i> Transmittal for Department's approval of formula (text printed) suggested as final concession to be made to Foreign Minister in view of his insistence on abrogation of 1918 accord regarding the visa of the Financial Adviser.	502
July 30 (59)	<i>To the Minister in Haiti (tel.)</i> Approval of tentative draft of Haitianization agreement; suggestion of two modifications, if obtainable.	503

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AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931—Continued

Date and number	Subject	Page
1931 Aug. 5 (94)	<i>From the Minister in Haiti (tel.)</i> Information that accord has been signed, that letters are being exchanged on indemnities and on service payments (text printed), and that martial law has been repealed by proclamation.	504
Aug. 6 (187)	<i>From the Minister in Haiti</i> Haitianization Agreement signed August 5 (text printed).	505
Aug. 10	<i>From the Haitian Minister</i> Expression of Haitian Government's gratitude to the Secretary and to President Hoover, its great pleasure over the happy conclusion of its <i>pourparlers</i> with the United States, and hope for success in the coming negotiations.	508
Aug. 11 (99)	<i>From the Chargé in Haiti (tel.)</i> Information that the President has signed Aarons' commission.	509
Aug. 17	<i>To the Haitian Minister</i> Acknowledgment of Haitian Minister's note, and expression of U. S. satisfaction over the successful outcome of the negotiations.	509

OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS PASSED WITHOUT PRIOR ACCORD OF THE FINANCIAL ADVISER

1931 July 17 (81)	<i>From the Minister in Haiti (tel.)</i> Information that Haitian Government has presented the budget to Congress without the Financial Adviser's accord and presumably with many objectionable features; recommendation of strong protest and of demand for withdrawal of the budget.	510
July 20 (54)	<i>To the Minister in Haiti (tel.)</i> Instructions to inform Haitian Government of U. S. concern over Haitian action in contravention of 1915 treaty and 1919 protocol, and to request formally the withdrawal of the budget from Congress.	512
July 20 (82)	<i>From the Minister in Haiti (tel.)</i> Haitian Government's assertion that it can withdraw the budget only by concluding the Haitianization agreement at once and using it as a pretext; Minister's willingness to accept such a solution provided a satisfactory agreement is signed promptly.	513
July 28 (87)	<i>From the Minister in Haiti (tel.)</i> Opinion of the Foreign Minister that budget withdrawal is impossible; his plan to obtain a grant of power authorizing the President to make changes in the budget after enactment. Opinion that the matter should be treated separately from Haitianization agreement.	513
July 29 (90)	<i>From the Minister in Haiti (tel.)</i> Receipt of a note from the Foreign Office defending Haitian budget action but not denying Financial Adviser's rights. Opinion that Haitian Government will not reach an accord with Financial Adviser until it has to.	514

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OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS PASSED
WITHOUT PRIOR ACCORD OF THE FINANCIAL ADVISER—Continued

Date and number	Subject	Page
1931 Aug. 4 (92)	<i>From the Minister in Haiti (tel.)</i> Information that Chamber of Deputies passed the budget with transitory article (text printed) authorizing the President to change and adjust it provided Haitianization accord is reached in whole or in part.	515
Aug. 7 (95)	<i>From the Minister in Haiti (tel.)</i> Information that measure for extraordinary Presidential powers has passed both Houses; assurances of Foreign Minister that provision is adequate to meet Financial Adviser's requirements.	515
Aug. 26 (101)	<i>From the Chargé in Haiti (tel.)</i> Information that President has promulgated two more laws providing extra expenditures without submitting them to Pixley, Deputy Financial Adviser, who had orally promised approval of one; assurance of Foreign Minister that Finance Minister will communicate immediately with Financial Adviser.	516
Sept. 8 (104)	<i>From the Chargé in Haiti (tel.)</i> Résumé of the law of ways and means and the law of expenditures covering the budget, as submitted to Pixley, who will make thorough study of them and confer with Minister of Finance.	517
Sept. 15 (107)	<i>From the Chargé in Haiti (tel.)</i> Foreign Minister's indication that Government is determined to promulgate the budgetary laws regardless of U. S. objections but that the President has promised assurances that provisions of the laws contrary to the treaty and the accord will be set aside. Request for instructions.	518
Sept. 19 (110)	<i>From the Chargé in Haiti (tel.)</i> Report of formal promulgation of budgetary laws without Financial Adviser's accord; advice from Foreign Minister that Government intends to give the assurances promised by the President.	518
Sept. 22 (111)	<i>From the Chargé in Haiti (tel.)</i> Information that Haitian Government will not issue extraordinary credit for indemnities to retiring treaty personnel before October 1; opinion that refusal is intended to force U. S. accord on financial laws and budget.	519
Sept. 23 (65)	<i>To the Chargé in Haiti (tel.)</i> Instructions, for discretionary use, to inform President Vincent that the Financial Adviser will be instructed to make payments after October 1 only to American Treaty Services and for essential expenses unless the budgetary laws are satisfactorily modified.	521
Sept. 24 (112)	<i>From the Chargé in Haiti (tel.)</i> Information that Government cannot pay indemnities September 30, that it proposes budget reduction if funds are furnished from the reserve; uncompromising Haitian attitude that if proposals are unacceptable, United States could suspend payments October 1; request for instructions on developments and on Department's telegram No. 65, September 23.	521

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OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS PASSED
WITHOUT PRIOR ACCORD OF THE FINANCIAL ADVISER—Continued

Date and number	Subject	Page
1931 Sept. 25 (66)	<i>To the Chargé in Haiti (tel.)</i> From De la Rue for Pixley: Inquiry if detailed budget has been officially submitted to Financial Adviser's office in accordance with August 5 agreement.	523
Sept. 25 (67)	<i>To the Chargé in Haiti (tel.)</i> Instructions to advise Haitian authorities that United States insists that August 5 agreement be carried out and if indemnities are not provided by September 30, the Financial Adviser will make the payments agreed to.	523
Sept. 25 (68)	<i>To the Chargé in Haiti (tel.)</i> Instructions to take action outlined in Department's telegram No. 65, September 23, as issue is not the technical budget but Haitian obligations under Haitianization Agreement of August 5.	524
Sept. 26 (114)	<i>From the Chargé in Haiti (tel.)</i> For De la Rue from Pixley: Information that budget has been submitted.	525
Sept. 26 (69)	<i>To the Chargé in Haiti (tel.)</i> Instructions from De la Rue to Pixley regarding indemnities, and information that Legation will authorize payment if Haitian Government has not provided for it by September 30. Instructions to Chargé regarding preparations.	525
Sept. 26 (115)	<i>From the Chargé in Haiti (tel.)</i> Communication of the sense of Department's telegrams Nos. 65 and 67 to President Vincent and the Foreign Minister, both of whom objected to U. S. requirements for balancing the budget and desired some action on Haitian propositions; opinion of the President that some arrangement could be made for indemnity payments.	525
Sept. 29 (116)	<i>From the Chargé in Haiti (tel.)</i> Information that, at Pixley's suggestion of budget reductions, Finance and Foreign Ministers were more conciliatory and promised some arrangement on indemnities.	526
Sept. 29 (72)	<i>To the Chargé in Haiti (tel.)</i> Instructions to inform the Haitian Government that, if no accord is reached by October 1, the Financial Adviser will be instructed to make payments for certain Treaty Services under the 1915 treaty and for essential Government expenses; instructions to take these emergency steps pending an accord on the budget; advice that Department deems it necessary that budgetary laws as modified and suitable revision of the preambles be promulgated in substitution for present legislation.	527
Sept. 30 (117)	<i>From the Chargé in Haiti (tel.)</i> Information of Cabinet's refusal to eliminate increases in budget figures and of its proposal of a general cut; U. S. insistence on elimination of all increases and on submittal of revised budgets for Haitianized Departments.	528
Oct. 2 (119)	<i>From the Chargé in Haiti (tel.)</i> Information that Pixley presented to the Government an emergency budget for October; that the Foreign Minister has been informed of views in Department's telegram No. 72, September 29; that he proposes publication of the budget with statement promising modifications.	528

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OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS PASSED
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Date and number	Subject	Page
1931 Oct. 2 (73)	<i>To the Chargé in Haiti (tel.)</i> Authorization, if no objection is perceived, to approve extraordinary credit for repair of National Legislative Chambers if adequate provision is made in the new budget; assumption that increase in salaries of Chamber of Deputies is under discussion.	529
Oct. 3 (75)	<i>To the Chargé in Haiti (tel.)</i> Advice that Department cannot recognize any budget legislation containing objectionable statements in the preambles; also that publication of the budget prior to an accord with Financial Adviser's office would be undesirable.	529
Oct. 3 (120)	<i>From the Chargé in Haiti (tel.)</i> Letter to Pixley from the Finance Minister (text printed) offering no objection to Pixley's emergency budget, pending computations under decision to balance the budget; information of impossibility of promulgating any budget laws with modifications but possibility of some satisfactory solution; recommendation that the Government be allowed to work on a <i>douzième</i> based on 32,000,000 gourdes budget.	529
Oct. 6 (76)	<i>To the Chargé in Haiti (tel.)</i> Instructions that Pixley should make payments only to Financial Service and Garde in absence of an accord except under Finance Minister's countersignature.	530
Oct. 7 (121)	<i>From the Chargé in Haiti (tel.)</i> Pixley's recommendations to Haitian officials for budget reduction; opinion that Government will agree when it realizes U. S. attitude on the emergency budget precluding allowances to Congress; Foreign Minister's advice that although Government would not dare publish anything on the modification of the finance laws, it would give its assurances in writing that objectionable parts of the laws would not be enforced.	531
Oct. 13 (78)	<i>To the Chargé in Haiti</i> General exposition of Department's views on budget discussions, with authorization for further budget adjustments provided Pixley's provisional <i>douzième</i> is not departed from; desire to have final arrangements in writing and letters concerning general budget legislation and the preambles.	532
Oct. 26 (126)	<i>From the Minister in Haiti (tel.)</i> Review of situation and recommendation that Minister be authorized to make best settlement possible without delay; request for Department's approval of emergency payments, if necessary.	533
Oct. 28 (81)	<i>To the Minister in Haiti (tel.)</i> Department's views on questions covered in Legation's telegram No. 126, October 26, and general approval of progress as a whole; authorization to work out formal statement on the preamble for adequately protecting U. S. rights; approval of emergency payments.	536

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OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS PASSED WITHOUT PRIOR ACCORD OF THE FINANCIAL ADVISER—Continued

Date and number	Subject	Page
1931 Oct. 29 (127)	<i>From the Minister in Haiti (tel.)</i> Information that Foreign Minister and Finance Minister appear to have accepted the continuation of payments to American Treaty Services and, as an informal general agreement on budget reduction has been reached, an exchange of notes covering objections to the preambles and finance laws will be discussed.	537
Nov. 7 (131)	<i>From the Minister in Haiti (tel.)</i> Report that satisfactory exchange of notes has been effected and that detailed budget of 32,000,000 gourdes is nearing completion.	538
Nov. 18 (261)	<i>From the Minister in Haiti</i> Transmittal of notes exchanged (texts printed) and report of satisfactory conclusion of financial discussions, with establishment for the time being of principle of Financial Adviser's accord prior to budget legislation.	538
Nov. 27 (138)	<i>From the Minister in Haiti (tel.)</i> Report of Financial Adviser's accord given to the budget.	545
Nov. 28 (90)	<i>To the Minister in Haiti (tel.)</i> Department's congratulations.	545

DESIRE OF THE GOVERNMENT OF THE UNITED STATES FOR AN EARLY WITHDRAWAL FROM HAITI OF THE FORCES OF OCCUPATION

1931 Apr. 28 (34)	<i>From the Minister in Haiti (tel.)</i> Insistence of Foreign Minister upon some statement of U. S. intentions regarding withdrawal of Marines.	545
Apr. 29 (27)	<i>To the Minister in Haiti (tel.)</i> Authorization to inform Foreign Minister that United States desires to withdraw occupation forces at earliest possible moment but that it does not consider fixing a definite date or program advisable at the moment.	546

HEJAZ AND NEJD

RECOGNITION BY THE UNITED STATES OF THE KINGDOM OF THE HEJAZ AND NEJD AND PROPOSAL FOR A COMMERCIAL AGREEMENT

1931 Feb. 10 (666)	<i>To the Ambassador in Great Britain</i> Review of Department's position on recognition of Hejaz and Nejd; instructions to inform Hejazi Minister in London of U. S. readiness to consider the question and interest in concluding a commercial treaty providing unconditional most-favored-nation treatment; desire for information on legislation in Hejaz and Nejd governing foreigners.	547
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HEJAZ AND NEJD

RECOGNITION BY THE UNITED STATES OF THE KINGDOM OF THE HEJAZ AND NEJD
AND PROPOSAL FOR A COMMERCIAL AGREEMENT—Continued

Date and number	Subject	Page
1931 Apr. 1	<i>Memorandum by the First Secretary of Embassy in Great Britain</i> Information that U. S. suggestions regarding recognition are acceptable and that when the Minister has received full instructions he will communicate with the American Ambassador.	550
Apr. 14 (1832)	<i>From the Ambassador in Great Britain</i> Transmittal of a note from the Minister of Hejaz and Nejd (text printed) stating his Government's thanks for U. S. consideration and its willingness to enter into a commercial treaty; information on laws governing treatment of foreigners.	550
May 1 (113)	<i>To the Ambassador in Great Britain (tel.)</i> Instructions to inform the Hejazi Minister that the United States extends full recognition to the Government of Hejaz and Nejd and its Dependencies and desires to enter into an exchange of notes pending negotiation of a commercial treaty.	551
May 4	<i>From the Minister of the Hejaz and Nejd in Great Britain to the American Ambassador in Great Britain</i> Advice that the Government of Hejaz and Nejd has been informed of U. S. recognition and is prepared to enter into the suggested exchange of notes.	552
Oct. 12 (953)	<i>To the Ambassador in Great Britain</i> Instructions for proceeding with the proposed exchange of notes.	552
Oct. 26 (421)	<i>From the Ambassador in Great Britain (tel.)</i> Information from Hejazi Minister that his Government will insist upon a clause naming Arabic as well as English as official text.	553
Oct. 27 (311)	<i>To the Ambassador in Great Britain (tel.)</i> Transmittal of clause regarding official text (text printed) which will be acceptable to Department. (Footnote: Signature of provisional agreement, November 7, 1933.)	554

HONDURAS

INSURRECTION IN HONDURAS

1931 Apr. 18 (58)	<i>From the Minister in Honduras (tel.)</i> Report of imminent uprisings and unrest on Northern Coast due to unemployment, and of danger to Americans; suggestion of President Colindres that courtesy visit of U. S. warship would be desirable, and Minister's concurrence.	555
Apr. 18 (59)	<i>From the Minister in Honduras (tel.)</i> Transmittal of communication from Ceiba (text printed) requesting U. S. warship for protection of Americans; recommendation of action.	555
Apr. 18 (60)	<i>From the Minister in Honduras (tel.)</i> Report of imminent trouble at Ceiba and of President Colindres' request for use of marine bombs from Nicaragua; inquiry as to decision on warship.	556

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INSURRECTION IN HONDURAS—Continued

Date and number	Subject	Page
1931		
Apr. 19 (23)	<i>To the Minister in Honduras (tel.)</i> Information that U. S. S. <i>Memphis</i> has been ordered to Ceiba.	556
Apr. 19 (24)	<i>To the Minister in Honduras (tel.)</i> Instructions to inform President Colindres that bombs are not available.	556
Apr. 19	<i>From the Vice Consul at Puerto Cortes (tel.)</i> Information of armed uprisings around San Pedro and of reported participation of General Ferrera.	556
Apr. 19 (61)	<i>From the Minister in Honduras (tel.)</i> Receipt of telegram from Tela (text printed) requesting Marines; recommendation that warships be sent to Tela and Truxillo as well as Ceiba.	557
Apr. 19 (25)	<i>To the Minister in Honduras (tel.)</i> Advice that three cruisers have been ordered to north coast.	557
Apr. 19 (63)	<i>From the Minister in Honduras (tel.)</i> Report of insurrectionary movements in Tela, Puerto Castilla, and Truxillo districts, apparently recruited from unemployed, communists, riffraff and criminals of Northern Honduras, and of instructions to Consuls for appropriate measures for American protection.	557
Apr. 20	<i>From the Vice Consul at Puerto Cortes (tel.)</i> Report of fighting in Department of Yoro led by secretary to General Ferrera; assurances from Commandante of San Pedro Sula of protection to foreign life and property.	558
Apr. 20 (29)	<i>From the Minister in Guatemala (tel.)</i> Information that General Zelaya and four companions on their way to join Honduran revolution have been arrested.	559
Undated	<i>Memorandum by the Chief of the Division of Current Information of Press Conference by the Secretary of State, Monday, April 20, 1931</i> Secretary's review of the situation in Honduras and elaboration on a press release statement (text printed) that U. S. forces will limit themselves to protection of American lives and property and not take part in warfare.	559
Apr. 21 (16)	<i>To the Minister in Guatemala (tel.)</i> Instructions to express U. S. gratification at Guatemalan observance of 1923 treaty and of good neighborliness in the arrest of Zelaya group.	561
Apr. 21 (65)	<i>From the Minister in Honduras (tel.)</i> Report of movement of rebels toward Quimistan-San Pedro Sula highway, possibly to join with General Ferrera; of beneficial effects of presence of U. S. warships in northern ports, and of Honduran gratitude for good offices of the American Legation at Guatemala in the arrest of Zelaya and his companions.	562
Apr. 22 (66)	<i>From the Minister in Honduras (tel.)</i> Information from United Fruit Co. of Honduran Government's efforts to use company's vessels for transport of troops, and company's willingness to make one ship available, with Department's sanction.	562

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INSURRECTION IN HONDURAS—Continued

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1931		
Apr. 22 (67)	<i>From the Minister in Honduras (tel.)</i> Telegram (text printed) from Boston office of United Fruit Co. authorizing use of one or two vessels for troop transportation on written order from the President or the Minister; request for instructions.	563
Apr. 22 (27)	<i>To the Minister in Honduras (tel.)</i> Non-objection to informal acquiescence to proposal of United Fruit Co. provided unnecessary restrictions on company property be lifted and adequate compensation for use of property is paid.	563
Apr. 22 (68)	<i>From the Minister in Honduras (tel.)</i> Report of comparative quiet, and expectation that insurrection will drag into weeks or months, as neither rebels nor Government troops show any disposition to take the offensive; movement of U. S. S. <i>Memphis</i> from Ceiba to Tela.	564
Apr. 23 (69)	<i>From the Minister in Honduras (tel.)</i> Information that Government has agreed to use United Fruit Co. equipment only when essential for immediate military use and on payment.	564
Apr. 23 (71)	<i>From the Minister in Honduras (tel.)</i> Report of continued calm and rebel withdrawal from San Pedro Sula area and opening of the railroad.	565
Apr. 24 (72)	<i>From the Minister in Honduras (tel.)</i> Retirement of rebels west and southwest, apparently followed by Government troops; murder of an American citizen on Lerida farm of United Fruit Co.; resumption of normal operations of fruit companies in most districts.	565
Apr. 27 (75)	<i>From the Minister in Honduras (tel.)</i> Desire of Honduran President that Major Geyer, U. S. Naval Attaché, go as observer in United Fruit Co. plane to reconnoitre rebel forces; request for instructions.	565
Apr. 27 (78)	<i>From the Minister in Honduras (tel.)</i> Telegram from Major Geyer at San Pedro Sula (text printed) reporting firing by bandits on outposts, and his intention to stand by for establishment of neutral zone if necessary.	566
Apr. 27 (30)	<i>To the Minister in Honduras (tel.)</i> Instructions that U. S. Naval Attaché should not take part in any military or political affairs; apprehension at use of American-owned airplane.	566
Apr. 28 (79)	<i>From the Minister in Honduras (tel.)</i> Compliance with Department's telegram No. 30; information that President is contemplating purchase of United Fruit Co. plane for observation purposes.	566
Apr. 28 (32)	<i>To the Minister in Honduras (tel.)</i> Approval of Major Geyer's action (as indicated in Legation's telegram No. 78, April 27), and desire to have him remain in San Pedro Sula for evacuation of Americans if necessary.	567

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INSURRECTION IN HONDURAS—Continued

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1931 Apr. 28 (80)	<i>From the Minister in Honduras (tel.)</i> Report of breaking of deadlock at San Pedro Sula with General Ferrera's withdrawal, and belief that two warships on the north coast are sufficient; imposition of news censorship by the President; Legation's emphasis on fact that the present disturbance is not a revolution.	567
May 2 (83)	<i>From the Minister in Honduras (tel.)</i> Report of Ferrera's massacre of Santa Rosa de Copan garrison and civilian officials; arrival of U. S. naval officers on courtesy call, and excellent impression made by their visit.	568
May 6 (88)	<i>From the Minister in Honduras (tel.)</i> Concern of Honduran President and press over reported declaration by U. S. Secretary of State of political nature of Honduran trouble and U. S. position of strict neutrality.	568
May 7 (37)	<i>To the Minister in Honduras (tel.)</i> Advice that memorandum of Secretary's press conference has been forwarded, and that President Colindres may be informed of Secretary's views and of his emphasis on fact that the question of recognition of belligerency was not involved.	568
Undated [Rec'd May 7]	<i>From the Manager in Honduras of the United Fruit Company to the United Fruit Company (tel.)</i> Report on the use of company planes by Government only on regular passenger route; suggestion that one plane be kept strictly for company use and for American Legation mail.	569
May 12	<i>To the Attorney for the United Fruit Company</i> Department's approval of United Fruit Co.'s proposed policy of refusing both parties the use of its vessels and equipment in revolutionary disturbances.	569
May 12 (91)	<i>From the Minister in Honduras (tel.)</i> Inquiry concerning Associated Press report published locally (text printed) in which Secretary allegedly referred to Honduran trouble as a genuine political revolution; comments of local press.	570
May 13 (40)	<i>To the Minister in Honduras (tel.)</i> Instructions to inform Honduran authorities that U. S. Government continues to give its moral support to constituted Government of Honduras; advice that Secretary's statement was to indicate the internal character of the trouble and U. S. nonparticipation except for protection of American and foreign interests.	571
May 14 (95)	<i>From the Minister in Honduras (tel.)</i> Desire of President Colindres upon being informed of Department's telegram No. 40, to make the information public.	572
May 15 (41)	<i>To the Minister in Honduras (tel.)</i> Non-objection to Honduran Government's publication of information in Department's telegram No. 40, May 13, provided text is examined by Minister.	572
May 17 (100)	<i>From the Minister in Honduras (tel.)</i> Expectation of attacks by Ferrera on Progreso and on Tela; request for warship and for Department's approval of Minister's measures for protection of Americans and foreigners.	572

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INSURRECTION IN HONDURAS—Continued

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1931		
May 17 (42)	<i>To the Minister in Honduras (tel.)</i> Approval of course outlined in Legation's telegram No. 100.	573
May 19 (102)	<i>From the Minister in Honduras (tel.)</i> Report of eastward movement of bandits without attacking Tela and of return of U. S. S. <i>Marblehead</i> from Tela to Puerto Cortes; concern of Government over situation as Ferrera forces are growing.	573
May 20 (105)	<i>From the Minister in Honduras (tel.)</i> Information that position outlined in Department's telegram No. 40, May 13, evoked favorable press comments and President Colindres' appreciation.	573
May 20 (106)	<i>From the Minister in Honduras (tel.)</i> Opinion that one warship on north coast is sufficient and another not necessary at present.	574
May 21 (107)	<i>From the Minister in Honduras (tel.)</i> Information from Honduran authorities that munitions destined for rebels have been shipped from Belize and that authorities desire interference by U. S. vessels; request for instructions.	574
May 23 (45)	<i>To the Minister in Honduras (tel.)</i> Improbability of illicit transport of munitions by a United Fruit Co. vessel; impossibility of use of U. S. warships for patrol, as their function in Honduran waters is the customary protection of American lives and property.	574
May 25 (235)	<i>From the Minister in Honduras</i> Information that the Honduran Government has been informed of U. S. attitude on function of U. S. warships; opinion that the vessel mentioned is not of United Fruit Company, but one of small vessels which engage in "gun running" from Belize to Honduras or Nicaragua; information on patrolling by U. S. warships of Bay of Fonseca in 1927 to prevent "gun running".	575
June 3 (113)	<i>From the Minister in Honduras (tel.)</i> Information that young American pilot has contracted services of himself and plane to Honduran Government for 15 flying days of military operations.	577
June 4 (114)	<i>From the Minister in Honduras (tel.)</i> Report of comparative inactivity of armed forces; rumors that Ferrera will join Sandino; financial embarrassment of Honduran Government.	577
June 5 (48)	<i>To the Minister in Honduras (tel.)</i> Inquiry concerning American pilot and information for him and Honduran Government that the intent of the U. S. neutrality laws is to discountenance enlistment of American citizens in foreign armed forces.	578
June 5 (115)	<i>From the Minister in Honduras (tel.)</i> Report of possible trouble from Ferrera near Puerto Castillo, of danger to United Fruit Co. property and of Government's orders for delivery of gasoline there for the bombing plane.	578

HONDURAS

INSURRECTION IN HONDURAS—Continued

Date and number	Subject	Page
1931 June 6 (49)	<i>To the Minister in Honduras (tel.)</i> Instructions that Honduran Government should be advised at Minister's discretion of U. S. objections to employment of American aviators and of U. S. expectations of protection to American lives and property; that American pilot should be warned against indiscriminate bombing.	579
June 10 (122)	<i>From the Minister in Honduras (tel.)</i> Information from American pilot of Government's plan for bombing attack on Ferrera's forces; communication of U. S. objections to President Colindres, who stated that the pilot would be instructed to carry no more bombs and inquired as to U. S. attitude toward purchase of the plane.	579
June 12 (50)	<i>To the Minister in Honduras (tel.)</i> Instructions to thank President Colindres for his considerate attitude and to advise him that United States has no control over sale of the plane; also to report further on Krupp bombs recently received by Honduran Government.	580
June 15 (127)	<i>From the Minister in Honduras (tel.)</i> Report of trip to north coast and arrangements with U. S. S. Richmond for protective measures.	580
June 17 (51)	<i>To the Minister in Honduras (tel.)</i> Advice that American citizens should present claims for losses to Honduran Government and that Legation should request Foreign Office to give them prompt consideration.	581
June 19 (128)	<i>From the Minister in Honduras (tel.)</i> Information of Ferrera's decisive defeat at Jaral.	581
June 19 (130)	<i>From the Minister in Honduras (tel.)</i> Report that Honduran Government has purchased American plane.	581
June 21 (133)	<i>From the Minister in Honduras (tel.)</i> Inquiry if U. S. Government would object to the American pilot's purchasing a plane and machine gun in the United States for Honduran Government and his flying the plane back.	581
June 23 (54)	<i>To the Minister in Honduras (tel.)</i> Non-objection to an American citizen's acting as purchasing agent for Honduran Government, and advice that application for the necessary export licenses will be considered when received.	582
June 27 (135)	<i>From the Minister in Honduras (tel.)</i> Report that Ferrera has been killed by Government troops.	582
July 9 (57)	<i>To the Minister in Honduras (tel.)</i> Request for views on Commander Special Service Squadron's recommendation of withdrawal of remaining warship from Nicaraguan and Honduran coasts.	582
July 10 (137)	<i>From the Minister in Honduras (tel.)</i> Opinion that naval vessels can be withdrawn and advice that Commander of Special Service Squadron was so advised on July 6.	583

HONDURAS

RESTRICTIONS ON THE EXPORT OF WAR MATERIAL TO HONDURAS

Date and number	Subject	Page
1931		
Jan. 22 (90)	<i>To the Minister in Honduras</i> Review of purchase of arms and munitions since 1925 by Honduran Government in view of its request for additional supplies. Instructions to inform the Government that U. S. Government does not feel free to continue such supplies in the absence of evidence that they will be retained under official control, and suggests establishment of a regular disciplined force to assure such control.	583
Jan. 30 (8)	<i>To the Minister in Honduras (tel.)</i> Instructions to ascertain what use the Honduran Government expects to make of cartridges recently requested.	585
Feb. 3 (28)	<i>From the Minister in Honduras (tel.)</i> Information that cartridges are for public sale and will probably reach El Salvador or Guatemala ultimately; suggestion that embargo be continued.	586
Feb. 14 (187)	<i>From the Minister in Honduras</i> Information that munitions imported into Honduras are being smuggled into El Salvador and Guatemala and that Honduran Government is aware of the situation but is granting licenses for public sale in order to reduce its indebtedness; opinion that American embargo is facilitating these conditions.	586
Mar. 20 (117)	<i>To the Minister in Honduras</i> Instructions to inform Honduran Government that pursuant to the President's proclamation of May 15, 1924, and in accordance with Limitation of Armaments Convention of 1923, the Department will not approve munitions exports to Honduras except for legitimate commercial or governmental purposes.	588
Mar. 27	<i>To Certain Firms Exporting Arms and Ammunition</i> Advice of Department's restrictions on arms export to Honduras.	589
Apr. 19 (62)	<i>From the Minister in Honduras (tel.)</i> Inquiry if Department will approve the Honduran Government's purchase in the United States of a bombing plane for use in insurrection.	590
Apr. 20 (26)	<i>To the Minister in Honduras (tel.)</i> Advice that Department will approve the export license for the plane.	590
Apr. 23 (70)	<i>From the Minister in Honduras (tel.)</i> Information that Honduran Government is low on ammunition and, in view of urgent need in the insurrection, desires to borrow from U. S. stocks in Nicaragua.	590
Apr. 24 (28)	<i>To the Minister in Honduras (tel.)</i> Advice that Department considers furnishing ammunition from Nicaragua inadvisable but is referring matter to the War Department.	591
Apr. 25 (73)	<i>From the Minister in Honduras (tel.)</i> Recommendation that export license for Honduran Government's order from Remington Arms Co. be approved.	591

HONDURAS

RESTRICTIONS ON THE EXPORT OF WAR MATERIAL TO HONDURAS—Continued

Date and number	Subject	Page
1931 Apr. 25 (29)	<i>To the Minister in Honduras (tel.)</i> Improbability of Honduran Government's receiving munitions from official U. S. supplies; inquiry concerning California Arms Co.'s communication with Honduran Legation on sale of munitions.	592
Apr. 27 (77)	<i>From the Minister in Honduras (tel.)</i> Information that Honduran Government has ordered arms from other American firms and will probably not deal with California Arms Co.	592
May 4 (36)	<i>To the Minister in Honduras (tel.)</i> Inquiry as to results of any representations made in compliance with Department's instruction No. 90, January 22.	592
May 5 (85)	<i>From the Minister in Honduras (tel.)</i> Reply to Department's No. 36, that discussions with Government officials concerning establishment of constabulary have brought little result and that matter will be taken up again after the insurrection when advantages may be more apparent.	592

HUNGARY

REFUSAL OF THE DEPARTMENT OF STATE TO ENDEAVOR TO SECURE FINANCIAL ASSISTANCE FOR HUNGARY

1931 Undated	<i>Memorandum by the Assistant Secretary of State of a Telephone Conversation With the Hungarian Chargé, July 16, 1931</i> Concern of the Chargé over suspension of arrangements with American bankers for financial support to Hungary, and his understanding that the Department could aid through the Federal Reserve Bank; Assistant Secretary's reply that the Department is unwilling and unable to control or participate in banking transactions of this nature.	593
Undated [Rec'd July 17]	<i>From the Ambassador in France (tel.)</i> Transmittal of a telegram from the Minister at Budapest (text printed) indicating Hungarian Prime Minister's concern over financial situation and his request that the Secretary intervene with Briand, as the French Government's refusal to permit French banks to carry out a recent agreement is holding up American and British credit and will precipitate Hungary's financial collapse.	594
July 24 (14)	<i>To the American Minister in Hungary (tel.)</i> Information of Hungarian Chargé's request for U. S. intervention with Italy, France, and Great Britain on the 5 million-pound loan and of U. S. refusal to approach either bankers or other governments on any specific loan; instructions to clarify U. S. position to Hungarian Government.	595
Dec. 22	<i>Memorandum by the Secretary of State</i> Conversation with the Hungarian Minister, who said that Hungary had declared a moratorium on the transfer of its foreign loans and submitted an <i>aide-mémoire</i> (printed <i>infra</i>) outlining financial program.	595
Dec. 22	<i>From the Hungarian Legation</i> Outline of Hungary's financial program for one year.	596

IRAQ

ASSENT BY THE UNITED STATES TO THE ANGLO-IRAQ JUDICIAL AGREEMENT OF
MARCH 4, 1931

Date and number	Subject	Page
1931 Apr. 22 [E 1920/ 38/93]	<p><i>From the British Secretary of State for Foreign Affairs to the American Ambassador in Great Britain</i></p> <p>British desire that the United States agree to substitute for the Agreement of March 25, 1924, the Judicial Agreement of March 4, 1931, which was approved by the Council of the League of Nations in a resolution of January 22 (text printed), and to the latter's application to U. S. nationals in Iraq in place of the existing regime.</p>	597
Apr. 25 (104)	<p><i>To the Ambassador in Great Britain (tel.)</i></p> <p>Advice that Department has unofficial information of League's approval and of the consent of necessary powers to the recent Anglo-Iraq Judicial Agreement but that consent of the United States has never been requested; instructions to call this to attention of the British Foreign Office.</p>	599
Apr. 27 (122)	<p><i>From the Ambassador in Great Britain (tel.)</i></p> <p>Information that British Foreign Office considered U. S. consent unnecessary, as the League resolution was adopted prior to effective date of Tripartite Convention of January 9, 1930.</p>	600
May 21 (1967)	<p><i>From the Ambassador in Great Britain</i></p> <p>Foreign Office note (text printed) inquiring if U. S. decision on the Anglo-Iraq Judicial Agreement could be hastened in order to shorten the period during which U. S. nationals in Iraq will be on a different legal basis from other nationals, and suggesting advantages of the new agreement.</p>	600
June 9 (810)	<p><i>To the Chargé in Great Britain</i></p> <p>Instructions to convey informally U. S. difference of views on ineffectiveness of Tripartite Agreement until the exchange of ratifications; also to advise the Foreign Office of U. S. consent to the substitution of the Judicial Agreement and to its application to U. S. nationals.</p>	602
July 3 (200)	<p><i>To the Chargé in Great Britain (tel.)</i></p> <p>Instructions to disregard first part of Department's instruction No. 810, June 9, as the Department feels that further discussion is unnecessary.</p>	603
July 9 (2096)	<p><i>From the Chargé in Great Britain</i></p> <p>Information that Department's instruction No. 200 has been complied with and that the matter may be considered closed; Foreign Office note (text printed) acknowledging U. S. consent to application of the judicial agreement and advising that ratifications were exchanged on May 24 and that agreement is in force.</p>	603

IRAQ

RIGHT OF AMERICAN INTERESTS TO EQUAL OPPORTUNITY TO BID FOR OIL CONCESSIONS IN IRAQ

Date and number	Subject	Page
1931 Apr. 22 (103)	<i>To the Ambassador in Great Britain (tel.)</i> Information concerning granting of oil concessions in Iraq; instructions to inform the British Foreign Office that, in view of the Tripartite Convention of January 9, 1930, the United States is confident of equal opportunity for American firms, and in the event of other developments would rely on the British Government to intervene for the protection of American treaty rights.	604
May 27 (273)	<i>From the Consul at Baghdad</i> Discussion concerning oil concessions with the Foreign Minister, who promised unofficially that Iraq would soon announce adherence to the open-door policy; information that one American firm has been notified of the Government's readiness to consider definite offers.	605
June 22 (8)	<i>From the Chargé in Iraq (tel.)</i> Press announcement of June 21 that Iraq Government is prepared to accept applications for oil concessions.	606
June 29 (9)	<i>From the Chargé in Iraq (tel.)</i> Foreign Minister's confirmation of information in telegram No. 8.	606
July 18 (2122)	<i>From the Chargé in Great Britain</i> Foreign Office note of July 17 (text printed), which gives interpretation of Tripartite Convention and Anglo-Iraq treaty of 1922 as not requiring concessions to be put up for public tender, and refers to Iraq press announcement of June 21 inviting offers on the concessions.	607
Nov. 27 (1011)	<i>To the Chargé in Great Britain</i> Instructions to make informal representations to the Foreign Office concerning interpretation of Tripartite Convention and Anglo-Iraq treaty in order to obviate the possibility of any future misunderstanding.	608
Dec. 22 (17)	<i>From the Chargé in Iraq (tel.)</i> Information that British Oil Development Co. was awarded concession.	610
Dec. 24 (2479)	<i>From the Ambassador in Great Britain</i> Foreign Office note (text printed) advising that British Government remains of the opinion expressed in its note of July 17 and considers further discussion of academic rather than practical importance, as U. S. nationals were given reasonable opportunities for competition.	610

IRISH FREE STATE

ARRANGEMENT BETWEEN THE UNITED STATES AND THE IRISH FREE STATE
REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES, EFFECTED BY EXCHANGE OF NOTES SIGNED SEPTEMBER 21 AND NOVEMBER 18, 1931

Date and number	Subject	Page
1931 Sept. 21 (380)	<i>From the American Chargé in the Irish Free State to the Minister for External Affairs of the Irish Free State</i> Acceptance of Irish Free State's proposal that reciprocal load-line agreement be concluded with the United States pending the coming into force of the International Load Line Convention signed July 5, 1930; specifications; suggestion that upon receipt of Irish Free State's note of concurrence, the agreement will enter into force.	612
Nov. 18	<i>From the Minister for External Affairs of the Irish Free State to the American Minister in the Irish Free State</i> Concurrence in U. S. terms and in immediate effectiveness of the agreement.	613

ITALY

TREATY BETWEEN THE UNITED STATES AND ITALY MODIFYING THE TERMS OF
ARTICLE II OF THE TREATY TO ADVANCE THE CAUSE OF GENERAL PEACE OF
MAY 5, 1914, SIGNED SEPTEMBER 23, 1931

1930 Sept. 30	<i>From the Italian Chargé</i> Suggestions regarding the wording of the draft treaty providing for alteration of the Treaty for Advancement of Peace, May 5, 1914, so as to make terms of office of the members of the International Commission of indefinite duration.	614
1931 Apr. 16	<i>To the Italian Ambassador</i> Information that Italian suggestions are in considerable part acceptable to the United States, but that the Secretary does not agree to either party's withdrawal of its consent to members designated by the two parties jointly; or to the fixing by each party of allowances for its respective appointees.	615
July 21	<i>From the Italian Embassy</i> Agreement to U. S. views on the fixing of allowances, and suggestion that the United States might accept a provision fixing a time limit for the replacement of the member designated in common and revoked by one party.	616
Aug. 12	<i>To the Italian Ambassador</i> Agreement in principle to Italian suggestion, with proposal of two alterations in the draft treaty.	617
Sept. 23	<i>Treaty Between the United States of America and Italy</i> Text of treaty signed at Washington.	618

ITALY

AGREEMENT BETWEEN THE UNITED STATES AND ITALY REGARDING RECIPROCAL RECOGNITION OF CERTIFICATES OF INSPECTION OF VESSELS ASSIGNED TO THE TRANSPORTATION OF PASSENGERS, EFFECTED BY EXCHANGE OF NOTES, SIGNED JUNE 1, 1931, AND AUGUST 5 AND 17, 1931

Date and number	Subject	Page
1931 June 1	<i>To the Italian Chargé</i> Willingness of the United States to accord recognition to unexpired Italian certificates of inspection for passenger vessels, provided reciprocal exemption is given U. S. vessels; suggestion that this note and Italian reply be evidence of agreement.	620
Aug. 5 (Uff. Em. 4608)	<i>From the Italian Ambassador</i> Information of the Italian Government's assurance of reciprocal recognition of U. S. certificates and of its desire that the agreement (to be made effective in Italy by decree) become effective on August 15.	621
Aug. 17	<i>To the Italian Ambassador</i> Information that United States accepts August 15 as effective date of the agreement and has made arrangements accordingly; request for copy of Italian decree.	621

ARRANGEMENT BETWEEN THE UNITED STATES AND ITALY REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES EFFECTED BY EXCHANGE OF NOTES SIGNED SEPTEMBER 8, 1931, AND JUNE 1, 1932

1931 Sept. 8 (F.O.693)	<i>From the American Chargé in Italy to the Italian Minister for Foreign Affairs</i> Notification of U. S. understanding regarding reciprocal recognition of load-line certificates pending the coming into force of the load-line convention, signed July 5, 1930; suggestion that upon receipt of a note expressing concurrence of the Italian Government, the agreement be considered in effect.	622
1932 June 1	<i>From the Italian Ministry of Foreign Affairs to the American Embassy in Italy</i> <i>Note verbale</i> giving Italian Government's agreement and desire that the State Department be informed.	623

ARRANGEMENT BETWEEN THE UNITED STATES AND ITALY REGARDING AIR NAVIGATION, EFFECTED BY EXCHANGE OF NOTES SIGNED OCTOBER 13 AND 14, 1931

1931 Oct. 13	<i>To the Italian Chargé</i> Transmittal of reciprocal arrangement (text printed), agreed upon in previous negotiations, for the admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates for aircraft and accessories imported as merchandise; suggestion that if the Italian Government concurs, the arrangement become effective October 31.	623
Oct. 14	<i>From the Italian Chargé</i> Confirmation of understanding as set forth, and of October 31 as effective date of arrangement.	628

ITALY

REPRESENTATIONS TO THE ITALIAN GOVERNMENT REGARDING UNJUSTIFIED
ARRESTS OF AMERICAN CITIZENS IN ITALY

Date and number	Subject	Page
1931		
July 25 (118)	<i>To the Ambassador in Italy (tel.)</i> Instructions to inform the Foreign Minister of U. S. concern over the arrest of American citizens; over their long incarceration without the knowledge of U. S. Consuls, and over the instances in which Consuls have been prevented from carrying out their duties specified in the Consular Convention of 1878; also to secure a dismissal of the case pending against Nickola Slavich if possible.	629
July 27 (138)	<i>From the Ambassador in Italy (tel.)</i> Information that situation was discussed with the Foreign Office, which gave certain assurances regarding trials, regulations, and permits for consular officers to visit prisoners, and intimated that Slavich case might be dropped, that a communication is being addressed to the Foreign Minister in the sense of Department's telegram No. 118.	630
July 29 (139)	<i>From the Ambassador in Italy (tel.)</i> Information from Naples that there were no other arrests among the passengers arriving with Slavich.	632
July 30	<i>Memorandum by Mr. Joseph C. Green of the Division of Western European Affairs</i> Notes on the cases of Nickola Slavich, James Tancredi, and Frank Rossi, American citizens arrested and detained in Italy.	632
July 31 (141)	<i>From the Ambassador in Italy (tel.)</i> Report of the release of Slavich, and suggestion that it would not now be advisable to send the note prepared in accordance with Department's instruction No. 118, July 25, as the situation can probably be clarified in conversation with the Foreign Minister.	633
July 31 (120)	<i>To the Ambassador in Italy (tel.)</i> Presumption that in the interest of clarity and accuracy and in Ambassador's discretion, a <i>note verbale</i> might be left with the Foreign Minister covering the points mentioned in the conversation; instructions to report on results of conversation.	634
Aug. 20	<i>Memorandum by the Under Secretary of State</i> Conversation with the Italian Ambassador, who was vigorously informed that arrest cases of American citizens were becoming too numerous; that the attitude of Italian authorities might result in press stories which would react against Italy.	634
Sept. 1 (164)	<i>From the Ambassador in Italy (tel.)</i> Information from the Foreign Minister that Consuls have no rights beyond the limited terms accorded a defense attorney, but that the matter is being discussed anew and errors and abuses would probably be reduced to a minimum in the future.	635
Sept. 4 (133)	<i>To the Ambassador in Italy (tel.)</i> Instructions to continue representations until the procedure suggested by the Foreign Minister is established, stressing that the United States will be satisfied only with recognition of the right of a Consul to see an American citizen alone within 24 hours after his detention.	636

ITALY

REPRESENTATIONS TO THE ITALIAN GOVERNMENT REGARDING UNJUSTIFIED
ARRESTS OF AMERICAN CITIZENS IN ITALY—Continued

Date and number	Subject	Page
1931 Sept. 10 (172)	<i>From the Chargé in Italy (tel.)</i> Compliance with instructions in Department's telegram No. 133; information that Ministries concerned have reviewed the procedure of detention and arrest of foreigners but no final report has been sent to Ministry of Foreign Affairs.	636

REPRESENTATIONS BY THE ITALIAN AMBASSADOR REGARDING NEWSPAPER
ATTACKS IN THE UNITED STATES AGAINST THE ITALIAN GOVERNMENT

1930 Dec. 18	<i>From the Italian Ambassador</i> Request that measures be taken to stop criminal propaganda such as contained in an article published in <i>Il Martello</i> , November 29 (text printed).	637
1931 Mar. 18	<i>To the Italian Ambassador</i> Letter from Governor Franklin D. Roosevelt of New York (excerpt printed) stating that the article in <i>Il Martello</i> would not be subject to such interpretation as would warrant legal action under New York State law. Information also that the Postmaster General is investigating the matter.	638
Apr. 24	<i>From the Postmaster General</i> Information that prosecution of the publishers of <i>Il Martello</i> does not appear to be warranted under U. S. Code.	639
June 11	<i>To the Italian Ambassador</i> Information from the Department of Justice that there does not appear to be any action which can be taken against <i>Il Martello</i> under U. S. laws.	639
June 16	<i>From the Italian Ambassador</i> Acknowledgment of Department's note of June 11 and citation to an anti-Mussolini statement of June 6 (text printed) published in <i>Il Martello</i> .	639
July 2	<i>To the Italian Ambassador</i> Acknowledgment of Italian note of June 16, and advice that under freedom of the press it is difficult to initiate judicial proceedings in such cases.	640

EXPRESSION OF REGRET BY THE AMERICAN GOVERNMENT FOR REMARKS OF
MAJOR GENERAL SMEDLEY BUTLER REGARDING THE PRIME MINISTER OF
ITALY

1931 Jan. 27	<i>To the Secretary of the Navy</i> Quotation of a telegram (text printed) received by the Italian Ambassador from Prime Minister Mussolini demanding public reparation for uncomplimentary remarks made by Major General Smedley Butler.	640
Jan. 29	<i>Press Release Issued by the Department of State</i> Announcement that a note (text printed) has been sent to the Italian Ambassador expressing regret for the unauthorized remarks of Major General Butler.	641

ITALY

EXPRESSION OF REGRET BY THE AMERICAN GOVERNMENT FOR REMARKS OF
MAJOR GENERAL SMEDLEY BUTLER REGARDING THE PRIME MINISTER OF
ITALY—Continued

Date and number	Subject	Page
1931 Jan. 30	<i>From the Italian Premier to the Italian Ambassador in the United States (tel.)</i> Instructions to communicate the Premier's satisfaction at U. S. attitude and to inform press of Italian acknowledgment. (Footnote: English text received by the Secretary on January 30.)	641
Feb. 1 (8)	<i>From the Ambassador in Italy (tel.)</i> Report that papers state that Italy is completely satisfied over handling of the Butler incident and considers it closed.	642
Feb. 2 (9)	<i>From the Ambassador in Italy (tel.)</i> Conversation with the Foreign Minister, who inquired as to Department's attitude toward a request by Mussolini for grace in the Butler incident.	642
Feb. 3 (17)	<i>To the Ambassador in Italy (tel.)</i> Advice that international aspects of Butler incident no longer exist and that Mussolini's request is inappropriate.	642

VISIT OF DINO GRANDI, ITALIAN MINISTER FOR FOREIGN AFFAIRS, TO THE UNITED
STATES, NOVEMBER 16-27, 1931

1931 Oct. 3 (631)	<i>From the Ambassador in France (tel.)</i> From the Ambassador to Italy: Information that Foreign Minister Grandi desires to visit the United States and would appreciate public invitation being made in certain terms (text printed); recommendation that invitation be extended.	643
Oct. 5 (476)	<i>To the Ambassador in France (tel.)</i> Authorization to advise Grandi that on definite assurance of his acceptance he will receive a written invitation; transmittal of suggested wording of the latter and of statement for the press (texts printed).	644
Oct. 10 (204)	<i>From the Chargé in Italy (tel.)</i> Grandi's acceptance of invitation (text printed).	645
Nov. 17	<i>Memorandum by the Under Secretary of State of a Conversation With the Italian Minister for Foreign Affairs</i> Discussion of world problems, in which Grandi set forth Italian attitude on disarmament, debts and reparations, the Polish Corridor, revision of treaties, the situation in Germany, and Russia's place in world trade.	645
Nov. 19	<i>Joint Statement by the Italian Minister for Foreign Affairs and the Secretary of State</i> Announcement of discussions of various world problems to the clarification of points of mutual interest and establishment of sympathetic understanding of these problems.	648
Dec. 10 (235)	<i>From the Chargé in Italy (tel.)</i> Transmittal of speech to be made by Grandi before the Senate emphasizing that the purpose of his visit to United States was to promote general welfare and mutual understanding and Italy's desire to cooperate in restoring confidence and prosperity to the world.	649

ITALY

VISIT OF DINO GRANDI, ITALIAN MINISTER FOR FOREIGN AFFAIRS, TO THE UNITED STATES, NOVEMBER 16-27, 1931—Continued

Date and number	Subject	Page
1931 Dec. 11 (161)	<i>To the Chargé in Italy (tel.)</i> Appreciation of Grandi's courtesy in advancing a copy of his speech and in his generous remarks.	650

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED NONRECOGNITION OF THE BARCLAY ADMINISTRATION

1931 Jan. 2 (2)	<i>To the Chargé in Liberia (tel.)</i> Information that Liberian Consul General called at the Department and was informed that, in view of conditions disclosed by the International Commission of Inquiry, the U. S. Government had no interest in partial reforms or in measures falling short of compliance with adequate enforcement provisions.	651
Jan. 2 (1)	<i>From the Chargé in Liberia (tel.)</i> Promise of Acting President Barclay to submit a declaration of Liberia's intentions in regard to acceptance in full of Commission's report.	651
Jan. 6	<i>Memorandum by the Chief of the Division of Western European Affairs of a Conversation Between the Secretary of State and the British Ambassador</i> Secretary's opinion that some sort of international endeavor such as suggested by the British Ambassador in December 1930 would seem satisfactory.	652
Jan. 6 (2)	<i>From the Chargé in Liberia (tel.)</i> Receipt of declaration (text printed) referred to in telegram No. 1, January 2; comment that it hardly seems to fulfill conditions imposed.	653
Jan. 6 (2)	<i>From the Consul at Geneva (tel.)</i> Views of Sottile, Liberian representative at Geneva, respecting the status of relations between United States and Liberia.	654
Jan. 10	<i>Memorandum by the Chief of the Division of Western European Affairs</i> Conversation with British Ambassador concerning his Government's hope that Liberia would request action by the League Council to carry out Commission's recommendations. Indication that United States would have no objection to such a request but could not urge it upon Liberia.	655
Jan. 12 (6)	<i>To the Chargé in Liberia (tel.)</i> U. S. inability to consider a proposal by Sottile that Liberia request U. S. financial assistance. Instructions regarding U. S. nonobjection to a Liberian request for advice and assistance from the League Council to carry out Commission's recommendations.	656
Jan. 14 (9)	<i>From the Consul at Geneva (tel.)</i> Liberian communication to League (text printed) setting forth acceptance in principle of the Commission's recommendations.	656

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED
NONRECOGNITION OF THE BARCLAY ADMINISTRATION—Continued

Date and number	Subject	Page
1931 Jan. 15	<i>Memorandum by the Chief of the Division of Western European Affairs of a Conversation With the British Ambassador, January 14, 1931</i> British Government's contemplated suggestion to Liberian Government that it ask the League for an international commission of control to take over the country; also that it request a loan from the League.	657
Jan. 16 (9)	<i>From the Chargé in Liberia (tel.)</i> Inquiry concerning instructions contained in Department's telegram No. 6, January 12.	659
Jan. 16 (20)	<i>From the Ambassador in France (tel.)</i> British Embassy's receipt of instructions from London to support any U. S. representations to French Government for cooperation in Liberian slavery situation.	659
Jan. 16 (11)	<i>To the Chargé in Liberia (tel.)</i> Substance of conversation between Assistant Secretary of State and Ambassadors of France, Germany, Italy, and Japan indicating U. S. policy of nonobjection to a Liberian request for international control.	659
Jan. 17 (12)	<i>To the Chargé in Liberia (tel.)</i> Reply to Chargé's inquiry in his telegram No. 9, January 16.	660
Jan. 20 (11)	<i>From the Consul at Geneva (tel.)</i> Substance of formal letter from Sottile to the League denying rumors of alleged Liberian reprisals against witnesses who had testified before the Commission.	660
Jan. 21 (11)	<i>From the Chargé in Liberia (tel.)</i> Representations to Acting President Barclay by the Chargé and his British and German colleagues regarding the partial and unsatisfactory nature of Liberia's program for compliance with Commission's recommendations.	661
Jan. 22 (12)	<i>From the Chargé in Liberia (tel.)</i> Expectation that Barclay will request League's aid but will not include a request for a control commission.	662
Jan. 22 (15)	<i>From the Consul at Geneva (tel.)</i> Report on League Council's consideration of the Liberian question at morning session (decisions being adjourned to a later date).	663
Jan. 23 (16)	<i>From the British Ambassador</i> Information of British Government's expression of displeasure to Liberian Government over the small measure of support accorded to Dr. Smith as Chief Medical Adviser to Liberia.	665
Jan. 23 (19)	<i>From the Consul at Geneva (tel.)</i> Significant portions of probable report by the <i>rapporteur</i> to the Council suggesting ratification by Liberia of the 1930 Convention on Forced Labor and designation of a small interim committee to study questions of administrative and financial assistance necessary to carry out reforms.	666

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED
NONRECOGNITION OF THE BARCLAY ADMINISTRATION—Continued

Date and number	Subject	Page
1931		
Jan. 23 (14)	<i>From the Chargé in Liberia (tel.)</i> Liberian identic memoranda (text printed) handed to U. S., British, and German representatives stating Liberia's decision to apply to League Council for advisers in various spheres of administration.	667
Jan. 24 (21)	<i>From the Consul at Geneva (tel.)</i> Council's adoption of report summarized in telegram No. 19, January 23.	668
Jan. 26 (16)	<i>To the Chargé in Liberia (tel.)</i> Notification of Council's appointment of the interim committee to study questions of administrative and financial assistance.	669
Jan. 31 (18)	<i>From the Minister in Switzerland (tel.)</i> Council's invitation to United States to participate in meetings of the interim committee (text printed).	669
Feb. 2 (16)	<i>To the Minister in Switzerland (tel.)</i> U. S. acceptance of invitation (text printed), and appointment of Samuel Reber, Jr., Chargé in Liberia, as representative on the committee.	671
Feb. 13 (22)	<i>From the Minister in Switzerland (tel.)</i> Receipt from League of notification (for Reber) of convocation of the Liberian committee at London, February 26.	671
Feb. 14 (31)	<i>From the Consul at Geneva (tel.)</i> Liberia's ratification of the 1930 Convention on Forced Labor.	672
Feb. 15 (22)	<i>From the Vice Consul at Monrovia (tel.)</i> Departure of Attorney General Grimes to collaborate with Sottile at Geneva on slavery matters.	672
Feb. 20 (24)	<i>To the Vice Consul at Monrovia (tel.)</i> Instructions for the Minister, upon his arrival in Monrovia, not to present his credentials at this time, and to maintain relations with Liberian administration on informal basis. (Footnote: Information that the Minister, Charles E. Mitchell, assumed charge of Legation on February 22.)	672
Feb. 24 (53)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Postponement of meeting of committee until February 27. Indications that League Secretariat wishes to send two experts to Liberia to make study and report to Liberian committee; unfavorable attitude of Reber toward this plan, and request for instructions.	673
Feb. 25	<i>Memorandum by the Assistant Secretary of State of a Conversation With the French Counselor of Embassy, February 24, 1931</i> French Government's desire that it be understood in League discussions that what was being done was at request of Liberia.	674
Feb. 25 (47)	<i>To the Ambassador in Great Britain (tel.)</i> For Reber: Desire not to make a decision, in advance of the committee meeting in London, either for or against sending further investigators to Liberia.	674

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED
NONRECOGNITION OF THE BARCLAY ADMINISTRATION—Continued

Date and number	Subject	Page
1931		
Feb. 27 (55)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Meeting of the committee, at which consideration was given to question of sending experts to Liberia to make detailed study; adjournment until March 2 for drafting of proposed instructions to experts.	675
Feb. 28 (56)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Substance of the draft instructions to experts, as determined by informal discussions.	676
Feb. 28 (57)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Liberian committee's inquiry, for transmittal to Finance Corporation, if loan funds can be made available to a health officer in Monrovia.	677
Feb. 28 (53)	<i>To the Ambassador in Great Britain (tel.)</i> For Reber: Transmittal of message to Finance Corporation; U. S. belief that Liberian Government should itself arrange for the requisite funds for a health officer in Monrovia.	678
Feb. 28 (54)	<i>To the Ambassador in Great Britain (tel.)</i> For Reber: Information that United States would raise no objection to the sending of further expert investigators to Liberia, although it had hoped the data available to the committee would be sufficient.	678
Mar. 2	<i>Memorandum by Mr. Ellis O. Briggs of the Division of Western European Affairs</i> Trans-Atlantic telephone conversation between Mr. Reber in London and Mr. Marriner in Washington regarding the proposed sending of further experts to Liberia.	679
Mar. 3 (59)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Liberian committee's acceptance in principle of the draft instructions to experts as outlined in telegram No. 56, February 28.	679
Mar. 4 (61)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Committee's approval of instructions to experts and resolutions as to immediate sanitary measures.	680
Mar. 11 (70)	<i>From the Ambassador in Great Britain (tel.)</i> From Reber: Expected arrival in Monrovia of Dr. Howells, British health officer, about March 12; receipt of further queries as to funds.	681
Mar. 19 (75)	<i>To the Ambassador in Great Britain (tel.)</i> Finance Corporation's assertion that no request for funds for sanitation has been received from Liberian Government.	681
Mar. 30 (54)	<i>From the Consul at Geneva (tel.)</i> Summary of information and viewpoint conveyed to the Consul by League officials; request for instructions on attitude to be assumed if again approached by them respecting Liberia.	681
Apr. 10 (35)	<i>To the Consul at Geneva (tel.)</i> Opinion that it would not be desirable for Consul to discuss Liberian matter with League officials; instructions as to reply to be made if again approached.	683

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED
NONRECOGNITION OF THE BARCLAY ADMINISTRATION—Continued

Date and number	Subject	# Page
1931		
May 2 (33)	<i>To the Minister in Liberia (tel.)</i> Instructions to telegraph summary of political situation following Liberian elections, with recommendations as to desirability of presenting credentials.	683
May 6 (36)	<i>From the Minister in Liberia (tel.)</i> Report that incomplete returns indicate election of Edwin Barclay to the Presidency; belief that presentation of credentials would be desirable.	683
May 8 (55)	<i>From the Chargé in Switzerland (tel.)</i> Intention of the League to put before the Council the report on the work so far accomplished by the Liberian Committee; League's desire to be informed in case United States wishes to arrange participation in Council meeting.	684
May 8 (52)	<i>To the Chargé in Switzerland (tel.)</i> Desire to be informed by League of any further meeting of the Liberian Committee sufficiently ahead of time if possible to enable an American representative to be present.	685
May 21 (72)	<i>From the Consul at Geneva (tel.)</i> Résumé of the League Council's consideration of report of the Liberian Committee.	685
May 26 (45)	<i>From the Minister in Liberia (tel.)</i> Election of Edwin Barclay as President of Liberia and James S. Smith as Vice President, inauguration to be January 4, 1932.	687
May 29 (41)	<i>To the Minister in Liberia (tel.)</i> Instructions to continue relations with the present Liberian administration on an informal basis.	687
June 8 (44)	<i>To the Minister in Liberia (tel.)</i> Instructions for guidance in relations with the experts soon to arrive.	687
July 14 (80)	<i>To the Minister in Switzerland (tel.)</i> Instructions to convey informally to Drummond (Secretary General of League) that U. S. Government is in sympathy with what it understands the experts are endeavoring to accomplish in the nature of reforms.	688
July 24 (59)	<i>From the Minister in Liberia (tel.)</i> Information that experts are leaving July 26, having completed investigation.	689
Aug. 14 (100)	<i>From the Consul at Geneva (tel.)</i> Enumeration of chief points contained in a communication from Sottile to Drummond indicating probable position of Liberian Government when matter comes before next meeting of Liberian Committee or Council.	690
Aug. 17 (106)	<i>From the Minister in Switzerland (tel.)</i> Improbability that experts' report can be transmitted to interested countries in time to permit the Liberian Committee to meet and submit recommendations to the forthcoming session of the Council.	691

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED
NONRECOGNITION OF THE BARCLAY ADMINISTRATION—Continued

Date and number	Subject	Page
1931		
Aug. 19 (92)	<i>To the Minister in Switzerland (tel.)</i> Concern over delay in consideration of experts' report; inquiry if fixing of date of Committee meeting is imminent.	692
Aug. 20 (108)	<i>From the Minister in Switzerland (tel.)</i> Information that United States will be consulted as to meeting date for Committee; that the hope is for a date toward end of September.	692
Oct. 3 (79)	<i>From the Minister in Liberia (tel.)</i> President Barclay's inquiry as to U. S. willingness to receive a special envoy from Liberia to ascertain terms upon which Liberia may obtain formal recognition from United States.	693
Oct. 6 (52)	<i>To the Minister in Liberia (tel.)</i> Belief that no useful purpose would be served by visit of a special envoy prior to next meeting of the Liberian Committee.	694
Oct. 16 (139)	<i>To the Chargé in Switzerland (tel.)</i> Communication from Reber to Under Secretary General of the League (text printed) expressing U. S. concurrence in proposal for meeting of Committee in January, prior to next session of the Council.	694
Oct. 31 (104)	<i>From the Minister in Liberia</i> Further indications of Liberian Government's desire for formal recognition by U. S. Government.	694
Nov. 24 (113)	<i>From the Minister in Liberia</i> Receipt of the experts' report.	695
Dec. 9 (86)	<i>From the Minister in Liberia (tel.)</i> Report of appeal from a council of native chieftains to the League (through U. S. and British Legations) for protection against the administration's alleged inhuman treatment.	696
Dec. 12 (167)	<i>To the Chargé in Switzerland (tel.)</i> Message for Drummond (text printed) indicating that American member of the Liberian Committee is prepared to participate in the Committee's meeting in January.	697
Dec. 17 (57)	<i>To the Minister in Liberia (tel.)</i> Receipt of information through Consul at Geneva of Liberian efforts to have meeting of Committee postponed until April 1932; Department's reply to Consul (text printed) giving opinion that postponement would be most unfortunate.	697
Dec. 18 (88)	<i>From the Minister in Liberia (tel.)</i> Information that new administration will take office on January 4.	698
Dec. 21 (58)	<i>To the Minister in Liberia (tel.)</i> Receipt of information from Consul at Geneva that League Secretariat still plans to hold meeting of Committee in January.	698
Dec. 21 (59)	<i>To the Minister in Liberia (tel.)</i> Instructions not to participate in inaugural ceremonies, in view of U. S. nonrecognition of the Barclay Administration.	699

MEXICO

AMERICAN ASSISTANCE FOLLOWING DESTRUCTION OF TOWNS IN CENTRAL AND SOUTHERN MEXICO BY EARTHQUAKE OF JANUARY 14, 1931

Date and number	Subject	Page
1931		
Jan. 15	<i>From the Consul General at Mexico City (tel.)</i> Report of earthquake over wide area; belief that no American citizens were hurt.	700
Jan. 19	<i>From the Acting National Director of Insular and Foreign Operations, American Red Cross</i> Allotment of \$5,000 for relief of earthquake sufferers, and request that Department transmit the money to the Mexican Red Cross through the American Ambassador.	700
Jan. 19 (24)	<i>From the Ambassador in Mexico (tel.)</i> Suggestion that Department may wish to send message of sympathy to Mexican Government, in view of the number of deaths (over 200).	700
Jan. 19 (21)	<i>To the Ambassador in Mexico (tel.)</i> Instructions for delivery of the \$5,000 from American Red Cross.	701
Jan. 20	<i>From President Hoover to the President of Mexico (tel.)</i> Message of sympathy to the Mexican people.	701
Jan. 21	<i>From the President of Mexico to President Hoover (tel.)</i> Appreciation for message of sympathy.	701
Feb. 21 (211)	<i>From the Ambassador in Mexico</i> Transmittal to the Foreign Office of two contributions raised by Consul Richard F. Boyce, of Nuevo Laredo, for the earthquake sufferers; receipt of note of appreciation from Mexican Government for Boyce's action.	702

REPRESENTATIONS AGAINST ACTION OF MILITARY PROSECUTOR IN SUMMONING AMERICAN CONSULAR OFFICER TO GIVE TESTIMONY WITHOUT AFFORDING HIM OPPORTUNITY TO CONSULT AMERICAN GOVERNMENT

1930		
Nov. 8 (114)	<i>From the Vice Consul at Guaymas</i> Receipt of an order to appear before the Military Prosecutor in connection with an investigation being made of alleged activities of General Pascual González during insurrection of 1929; account of appearance and testimony given.	702
Dec. 4 (7)	<i>To the Ambassador in Mexico</i> Instructions to bring to attention of the Foreign Office the Department's disagreement with the procedure followed by the Military Prosecutor in summoning the American consular officer to give testimony without allowing time for consulting his Government.	704
Dec. 22 (67)	<i>From the Ambassador in Mexico</i> Request for instructions as to exact representations to be made.	704
1931		
Jan. 27 (79)	<i>To the Ambassador in Mexico</i> Transmittal of exact form of representations to be made (text printed).	705

MEXICO

REPRESENTATIONS AGAINST ACTION OF MILITARY PROSECUTOR IN SUMMONING
AMERICAN CONSULAR OFFICER TO GIVE TESTIMONY WITHOUT AFFORDING
HIM OPPORTUNITY TO CONSULT AMERICAN GOVERNMENT—Continued

Date and number	Subject	Page
1931 Apr. 30 (389)	<i>From the Ambassador in Mexico</i> Foreign Office reply to U. S. representations (text printed), expressing view, with reference to the Prosecutor's order to Vice Consul to testify in this case, that compliance with such a request is optional.	706
SHOOTING OF MANUEL GARCÍA GÓMEZ AND EMILIO CORTÉZ RUBIO, MEXICAN CITIZENS, AT ARDMORE, OKLAHOMA, BY DEPUTY SHERIFFS		
1931 June 8 (02373)	<i>From the Mexican Chargé</i> Report of the fatal shooting of two Mexican students by a traffic policeman at Ardmore, Oklahoma; request for Department's influence with appropriate authorities toward an early investigation to determine responsibilities in the case.	708
June 8	<i>To the Governor of Oklahoma (tel.)</i> Request that, in view of possible international complications, a minute investigation be made and results telegraphed to the Department.	708
June 8	<i>From the Governor of Oklahoma (tel.)</i> Information that complete investigation has been ordered, and that the bodies will be prepared for shipment to Mexico at State's expense.	709
June 8 (164)	<i>To the Ambassador in Mexico (tel.)</i> Message from President Hoover for transmittal to President of Mexico (text printed) expressing regret over the killing of the two students.	709
June 8 (184)	<i>From the Ambassador in Mexico (tel.)</i> Visit to the President and Foreign Minister, transmitting President Hoover's telegram and expressing regrets of the Department and the Ambassador.	709
June 8	<i>From the Governor of Oklahoma</i> Letter sent to the Mexican Consul at Oklahoma City (text printed), expressing regret over the occurrence.	709
June 9	<i>From the Governor of Oklahoma (tel.)</i> Details of initiation of the investigation and of arrangements for Colonel Clowe to accompany the bodies to Mexico City.	711
June 9 (186)	<i>From the Ambassador in Mexico (tel.)</i> Message from President Ortiz Rubio (text printed) expressing appreciation for President Hoover's message.	711
June 9	<i>To the Mexican Chargé</i> Expression of regret over deplorable incident, and assurance that results of investigation will be communicated as soon as possible.	711
June 10 (188)	<i>From the Ambassador in Mexico (tel.)</i> Advice from Foreign Office, in reply to oral inquiry, that it would be advisable for Colonel Clowe to accompany the bodies only to the border, in view of possibility of hostile demonstration against United States upon arrival of bodies in Morelia.	712

MEXICO

SHOOTING OF MANUEL GARCÍA GÓMEZ AND EMILIO CORTÉS RUBIO, MEXICAN CITIZENS, AT ARDMORE, OKLAHOMA, BY DEPUTY SHERIFFS—Continued

Date and number	Subject	Page
1931		
June 10	<i>From the Governor of Oklahoma (tel.)</i> Report of detailed arrangements to alleviate the strained relations between the two countries.	712
June 11 (188)	<i>From the Ambassador in Mexico (tel.)</i> Report that the press has treated the killings with forbearance and moderation, although the occurrence has caused considerable ill feeling against the United States.	713
June 13 (12)	<i>From the Consul at Nuevo Laredo</i> Detailed account of the transport of the bodies across the border, with no demonstrations either at Laredo, Texas, or Nuevo Laredo, Mexico.	713
June 15	<i>To the Governor of Oklahoma</i> Appreciation for the Governor's prompt action in arranging for investigation.	715
June 18 (02502)	<i>From the Mexican Chargé</i> Gratitude of the relatives of the two students for courtesies extended by President Hoover, the Department, and the Governor of Oklahoma.	715
June 23 (213)	<i>From the Ambassador in Mexico (tel.)</i> Visit from Salvador Cortés Rubio (eyewitness to the tragedy) and his father concerning the former's returning to Oklahoma to testify at the trial of the deputy sheriffs and the expenses of the trip.	716
June 24	<i>To the Mexican Chargé</i> Reply, to Mexican request for continuation of the investigation, that Oklahoma authorities are proceeding with all due dispatch required by law.	716
June 25 (183)	<i>To the Ambassador in Mexico (tel.)</i> Information from Governor of Oklahoma that expenses of Salvador Cortés Rubio (as a witness at the trial) would be fully taken care of.	717
June 30 (219)	<i>From the Ambassador in Mexico (tel.)</i> Foreign Minister's statement to the press (text printed) indicating that Mexican Government is awaiting an investigation by U. S. Federal authorities, following acquittal by the jury in Ardmore of the deputy sheriff on the charge of murdering Emilio Cortés Rubio.	717
Aug. 8	<i>To the Mexican Chargé</i> Résumé of all facts in case, gathered from study of stenographic reports of the trial of Deputy Sheriff Guess and other documentation; advice that trial of Deputy Sheriffs Guess and Crosby will take place in early fall.	718
Nov. 20 (04374)	<i>From the Mexican Ambassador</i> Mexican Government's representations based on U. S. responsibility in the case, and alleged negligence thus far in securing punishment of the police officers involved. (Footnote: Information that the second trial was in progress at this time; that on November 22 the jury acquitted the defendants.)	723

MEXICO

SHOOTING OF MANUEL GARCÍA GÓMEZ AND EMILIO CORTÉZ RUBIO, MEXICAN CITIZENS, AT ARDMORE, OKLAHOMA, BY DEPUTY SHERIFFS—Continued

Date and number	Subject	Page
1931 Nov. 30	<i>To the Mexican Ambassador</i> Acknowledgment of Ambassador's note of November 20. (Note: U. S. provision of \$30,000, by Act of Congress February 25, 1933, for the families of Gómez and Rubio (\$15,000 each), "as an act of grace . . .")	725

REPRESENTATIONS BY THE GOVERNMENT OF MEXICO AGAINST THE ARREST AND SENTENCE OF MEXICAN VICE CONSUL AT CHICAGO FOR CONTEMPT OF COURT

1931 July 7	<i>To the Governor of Illinois (tel.)</i> Request that investigation be made of reported arrest of Mexican Consul at Chicago and that steps be taken to effect his release.	726
July 7	<i>From the Governor of Illinois (tel.)</i> Advice that an immediate investigation is being made.	727
July 8	<i>From the Mexican Ambassador</i> Protest against the action of Judge Thomas Green in arrest and sentence of Vice Consul Domínguez.	727
July 9	<i>From the Governor of Illinois (tel.)</i> Statement issued by Judge Green (text printed) that he has entered an order expunging the order of July 7 which held Domínguez in contempt of court.	728
July 10	<i>To the Mexican Ambassador</i> Advice that the action against Domínguez is definitely terminated.	729

SUIT IN THE SUPREME COURT OF THE STATE OF NEW YORK INVOLVING THE INTERESTS OF THE MEXICAN GOVERNMENT

1931 Apr. 16	<i>From the Mexican Ambassador</i> Position of the Mexican Government, in connection with action brought in Supreme Court of New York against Thomas W. Lamont and others and the United Mexican States, that Mexico as a sovereign country does not recognize the jurisdiction of any foreign court in affairs concerning the nation.	729
Apr. 27	<i>To the Governor of New York</i> Request that appropriate action be taken to effect dismissal of the suit against the Mexican Government.	730
Apr. 27	<i>To the Mexican Ambassador</i> Advice concerning Department's communication to the Governor of New York.	730
May 15	<i>From the Acting Governor of New York</i> Communication from the Attorney General of the State of New York (text printed) pointing out the court's right to adjudicate as to property within its jurisdiction and as to the parties before it, without action being binding on the Mexican Government but with certain results as to the fund or property involved.	731

MEXICO

SUIT IN THE SUPREME COURT OF THE STATE OF NEW YORK INVOLVING THE INTERESTS OF THE MEXICAN GOVERNMENT—Continued

Date and number	Subject	Page
1931		
June 26 (02628)	<i>From the Mexican Ambassador</i> Understanding that the defendants have appealed the decision of Justice Valente with respect to funds involved in the suit, and request that at the time appeal is heard the court be informed (1) that Government of Mexico declines to appear in the suit, and (2) that the funds involved are the property of the Government of Mexico and therefore not subject to seizure.	732
June 29	<i>To the Attorney General</i> Desire that the appropriate United States attorney be instructed to appear before the Appellate Division of the court and present the position of the Mexican Government as indicated in Mexican Ambassador's note of June 26.	733
June 29	<i>To the Mexican Ambassador</i> Advice of Department's request to the Attorney General.	735
July 1	<i>From the Attorney General</i> Compliance with Department's request of June 29.	736
July 15	<i>From the Attorney General</i> Decision of the Appellate Division (text printed) reversing the order of the Lower Court.	736

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF DECREES AND TAXES TO AMERICAN CITIZENS IN THE FRENCH ZONE

1930		
Jan. 17	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Protest against application of a Vizirial Decree dated July 6, 1929, which would prohibit, as from January 23, 1930, the importation or sale of imported canned foods into the French Zone unless name of country of origin is stamped on the metal containers. Reminder also that such measures cannot legally be enforced on American nationals until assent of U. S. Government is secured.	737
Feb. 21	<i>From the Diplomatic Agent and Consul General at Tangier</i> Information that enforcement of decree of July 6, 1929, has been postponed for 6 months.	739
Mar. 5	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Suggestion that a formal request be made for U. S. Government's assent to each and all of legislative measures to which U. S. adhesion is desired.	739
Apr. 29 (594)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions to maintain for the present the position taken with regard to application of decrees to American <i>ressortissants</i> .	740
May 8 (596)	<i>To the Diplomatic Agent and Consul General at Tangier</i> U. S. consent, with reservations, to the application to American nationals of a dahir or <i>patente</i> tax, dated December 12, 1929.	741

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF
DECREES AND TAXES TO AMERICAN CITIZENS IN THE FRENCH ZONE—Continued

Date and number	Subject	Page
1930 Dec. 10 (569)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Observations on discriminations involved in certain dahirs decreeing new and increased consumption taxes on petroleum products, frozen meats, and edible oils; recommendations as to representations to be made.	742
Dec. 12 (574)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Opinion concerning a decree dated June 24, 1930, purporting to eliminate objectionable requirement of the decree of July 6, 1929, relative to importation of canned foods.	744
1931 Jan. 28 (587)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Note from the Consul at Casablanca (text printed) pointing out discriminatory features of a dahir in the matter of taxation on petroleum products.	745
Mar. 5 (625)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Department's position that objection to dahir dated December 28, 1930, should be based on the protective feature of the tax on frozen meat.	746
Oct. 26 (656)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Request from French Resident General for application to American nationals of dahirs concerning requisition for military purposes of motor vehicles, animals, and animal-drawn vehicles. Suggestion that Department not give its assent, but indicate its willingness to consider temporary compliance in an exceptional situation.	747
Dec. 8 (668)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Instructions to address note to French Resident General in accordance with suggestion in despatch No. 656, October 26.	749

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED
STATES OF THE SPANISH ZONE IN MOROCCO

1931 Jan. 21 (268)	<i>From the Ambassador in Spain</i> <i>Aide-mémoire</i> left at the Foreign Office (text printed) stating U. S. willingness to submit claim of Dris-El-Quettani to legal determination in a competent court; memorandum (text printed) of interview with Foreign Office official.	750
Oct. 22 89/14	<i>From the Spanish Chargé</i> Spanish Government's request for U. S. consent to the application to American nationals in Spanish Zone of certain new urban tax levy regulations.	752
Nov. 28	<i>To the Spanish Chargé</i> Advice that Department is unable to give consideration to Spanish Government's request pending U. S. recognition of the Spanish Zone in Morocco; that such recognition is contingent upon settlement of American claims in the Spanish Zone. (Footnote: No further developments until 1934.)	753

MOROCCO

REPRESENTATIONS REGARDING AMERICAN RIGHTS WITH RESPECT TO CONCESSION
BY THE TANGIER ADMINISTRATION IN MOROCCO

Date and number	Subject	Page
1931 Jan. 7 (628)	<i>To the Ambassador in Great Britain</i> Outline of U. S. position with regard to the electric light concession in Tangier, for informal and confidential communication to the Foreign Office.	753
Feb. 5 (1635)	<i>From the Ambassador in Great Britain</i> Informal note from the Foreign Office (text printed) stating that British Government would be glad to get U. S. support in safeguarding the principle involved, and suggesting possible U. S. notification to Shereefian Government of agreement to the concession as an exception, instead of a protest against its grant without adjudication.	755
Mar. 12 (708)	<i>To the Ambassador in Great Britain</i> Department's willingness, in view of practical considerations involved, to accept grant of the concession as an exception; suggestion of possible procedure for notifying the Shereefian Government.	756
Mar. 30 (W3334/ 24/28)	<i>From the Head of the League of Nations and Western Department of the British Foreign Office to the American First Secretary of Embassy in Great Britain</i> Motion adopted by the Committee of Control (text printed) indicating its position respecting the electricity concession.	757
Apr. 2 (599)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Efforts of Committee of Control to induce French Resident General to request U. S. assent to an exceptional derogation of the principle of public adjudication, in respect of the concession in question.	758
Apr. 30 (635)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Authorization to assent to exceptional derogation if the Protectorate authorities request it.	758
July 13	<i>From the American Diplomatic Agent and Consul General at Tangier to the French Resident General in Morocco</i> Acknowledgment of Resident General's notes expressing the hope that U. S. Government will withdraw its opposition in the premises; promise to recommend favorable action, upon receipt of request in the customary form. (Footnote: Notification, July 29, of U. S. assent in accordance with instruction No. 635, April 30.)	759

ATTEMPT BY THE TANGIER MIXED TRIBUNAL TO ASSUME JURISDICTION OVER
ALIEN EMPLOYEES OF THE AMERICAN DIPLOMATIC AGENCY

1930 Oct. 8 (551)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Résumé of incident of two employees of the Diplomatic Agency (British subjects) being cited to appear before the Tangier Mixed Tribunal; notification to the Tangier Administration, based on U. S. position taken in the Scott case (1872), that the employees are under jurisdiction of U. S. Consular Court. Letter to British Consul General at Tangier (text printed) summarizing the situation. Information that Tangier Administration appears disposed to question position taken by United States in the Scott case, and request for instructions.	759
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MOROCCO

ATTEMPT BY THE TANGIER MIXED TRIBUNAL TO ASSUME JURISDICTION OVER
ALIEN EMPLOYEES OF THE AMERICAN DIPLOMATIC AGENCY—Continued

Date and number	Subject	Page
1931 June 6 (641)	<i>To the Diplomatic Agent and Consul General at Tangier</i> Approval of action taken; statement that Department's position on jurisdiction over alien employees of U. S. Diplomatic Agency is set forth in its note of April 5, 1872, to the British Minister (text printed).	766
Oct. 2 (652)	<i>From the Diplomatic Agent and Consul General at Tangier</i> Exchange of unofficial communications with the British Consul in Charge (texts printed) concerning the British position; comments on possible eventual policy of the French authorities in French Zone.	768

NETHERLANDS

ARRANGEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS REGARDING
RECIPROCAL FREE ENTRY PRIVILEGES FOR CONSULAR OFFICERS

1930 Mar. 25 (40)	<i>To the Minister in the Netherlands</i> Instructions to communicate with the Foreign Office with a view to arranging for reciprocal free entry privileges for consular officers.	771
June 23 (205)	<i>From the Minister in the Netherlands</i> Note addressed to the Foreign Minister, April 7 (text printed), in accordance with Department's instructions, and reply dated June 17 (text printed) indicating Netherlands acceptance of U. S. proposal with understanding that gold and silver articles imported by Dutch consular officers will be exempt from excise tax.	772
Aug. 20	<i>To the Netherlands Chargé</i> Advice that no excise tax is assessed on gold and silver articles imported for personal or family use; that Department will proceed with arrangements for the free importation privileges in question.	774
Aug. 20 (87)	<i>To the Minister in the Netherlands</i> Instructions to advise Foreign Office of U. S. intentions to proceed with arrangements as indicated in Department's note to the Netherlands Chargé.	774
Sept. 23 (325)	<i>From the Chargé in the Netherlands</i> Note of September 19 (text printed) extending free importation privileges on a reciprocal basis, with assumption that exemption from excise taxes to Dutch consular officers would be granted.	775
1931 Mar. 19 (151)	<i>To the Chargé in the Netherlands</i> Treasury Department's position that exemption from excise taxes cannot be included in the free entry privileges, in the absence of appropriate treaty provisions. Instructions to convey this to Netherlands authorities, together with the understanding that as a matter of practice, however, excise taxes are not levied on goods imported free of duty by foreign consular officers.	777

NETHERLANDS

ARRANGEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS REGARDING
RECIPROCAL FREE ENTRY PRIVILEGES FOR CONSULAR OFFICERS—Continued

Date and number	Subject	Page
1931 May 19 (1645)	<i>From the Netherlands Legation.</i> Inquiry as to the possibility of concluding a reciprocal arrangement for exemption of consular officers from the excise taxes in question.	778
June 30	<i>To the Netherlands Legation</i> Department's willingness to take up the matter with the Treasury Department should it develop that consuls of the Netherlands are required to pay excise taxes.	778

NICARAGUA

AMERICAN ASSISTANCE FOLLOWING THE DESTRUCTION OF MANAGUA BY THE
EARTHQUAKE OF MARCH 31, 1931

1931 Mar. 31 (24)	<i>To the Chargé in Nicaragua (tel.)</i> Request for report on earthquake announced in the press.	780
Undated [Rec'd Mar. 31] (67)	<i>From the Minister in Panama (tel.)</i> Radio report of Managua's destruction by earthquake. Information of U. S. naval vessels nearby.	780
Mar. 31	<i>From President Hoover to the President of Nicaragua (tel.)</i> Expression of sympathy to the President and people of Nicaragua.	780
Mar. 31	<i>To the President of Nicaragua (tel.)</i> Expression of sympathy.	781
Mar. 31	<i>To the Nicaraguan Minister for Foreign Affairs (tel.)</i> Expression of sympathy.	781
Undated [Rec'd Mar. 31]	<i>From the Chargé in Nicaragua (tel.)</i> Information that Legation personnel is safe, but Legation badly damaged; request for American Red Cross assistance. (Footnote: Absence of the Minister and his wife in Guatemala City on March 31; their return to Managua on following morning.)	781
Mar. 31 (25)	<i>To the Chargé in Nicaragua (tel.)</i> For the Minister: Meeting of representatives of Red Cross, State, War, and Navy Departments to initiate American relief measures; decision that Minister should take charge of coordinating measures pending arrival in Managua of Ernest J. Swift, of the Red Cross; instructions to draw a preliminary grant of \$10,000 by Red Cross.	781
Mar. 31	<i>From the President of Nicaragua (tel.)</i> Gratitude for expressions of condolence.	782
Undated [Rec'd Mar. 31]	<i>From the Chargé in Nicaragua (tel.)</i> Report on excellent relief work of Brigade Commander; no reported casualties among U. S. civilians.	782
Undated [Rec'd Apr. 1]	<i>From the Chargé in Nicaragua (tel.)</i> Advice that \$10,000 will not begin to give adequate relief.	783

NICARAGUA

AMERICAN ASSISTANCE FOLLOWING THE DESTRUCTION OF MANAGUA BY THE
EARTHQUAKE OF MARCH 31, 1931—Continued

Date and number	Subject	Page
1931 Undated [Rec'd Apr. 1]	<i>From the Chargé in Nicaragua (tel.)</i> Report that Legation is in flames and all archives lost.	783
Undated [Rec'd Apr. 1]	<i>From the Chargé in Nicaragua (tel.)</i> Names of three casualties among military personnel.	783
Undated [Rec'd Apr. 2]	<i>From the Minister in Nicaragua (tel.)</i> Report on various phases of the emergency situation, including water problem, sanitary work, and evacuation of wounded to other cities.	783
Apr. 1 (27)	<i>To the Minister in Nicaragua (tel.)</i> Information that Mr. Swift will make recommendations with respect to requirements for relief funds beyond the \$10,000 already advanced by Red Cross.	784
Apr. 1 (56)	<i>From the Minister in Honduras (tel.)</i> Advice that Naval Attaché Geyer has been sent to Managua to assist relief work.	784
Undated [Rec'd Apr. 1]	<i>From the Minister in Nicaragua (tel.)</i> Report on coordination of relief activities pending arrival of Mr. Swift.	785
Apr. 1	<i>From the President of the Pan American Airways, Inc. (tel.)</i> Offer of all available aircraft to assist in relief work.	785
Apr. 1	<i>To the President of the Pan American Airways, Inc. (tel.)</i> Appreciation of company's fine cooperation.	786
Apr. 1	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Second meeting of representatives of Red Cross, State, War and Navy Departments at which reports were made of relief measures already taken.	786
Apr. 1	<i>From the President of Nicaragua to President Hoover</i> Gratitude for expressions of sympathy.	787
Apr. 2	<i>From the Minister in Nicaragua (tel.)</i> Report of fires still burning, lack of water and high winds making control difficult; further evacuation of wounded; feeding of refugees; arrangements for vaccination against disease. Praise for work of Marines and Guardia.	788
Apr. 2 (36)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Marines due to leave Managua on April 3 will be retained in Nicaragua for the present.	788
Apr. 2 (42)	<i>To the Minister in Nicaragua (tel.)</i> Information that International General Electric Co. is sending F. J. Gianotti, its representative at Panama, to Managua to tender his expert services in rehabilitation of light and power facilities.	789
Apr. 3	<i>From the Minister in Nicaragua (tel.)</i> President Moncada's expression of gratitude to the Red Cross for its expression of sympathy.	789

NICARAGUA

AMERICAN ASSISTANCE FOLLOWING THE DESTRUCTION OF MANAGUA BY THE
EARTHQUAKE OF MARCH 31, 1931—Continued

Date and number	Subject	Page
1931		
Apr. 3	<i>From the Minister in Nicaragua (tel.)</i> Arrival of Mr. Swift; appointment of central and local relief committees; comments on general situation.	789
Apr. 4	<i>From the Minister in Nicaragua (tel.)</i> Assertion that reports of bandit activity connected with the catastrophe are totally unfounded.	790
Apr. 4	<i>From the Minister in Nicaragua (tel.)</i> Expression of gratitude from the city of Granada for assistance of American forces in the disaster.	791
Apr. 4	<i>From the Minister in Nicaragua (tel.)</i> Information that airplanes of the Pan American Airways have rendered great service in evacuating American families to Corinto for embarkation.	791
Apr. 4	<i>From the Minister in Nicaragua (tel.)</i> Continued exodus from Managua; reports of favorable progress in various phases of relief, and turning of attention toward problem of restoring normal conditions.	791
Apr. 5	<i>From the Minister in Nicaragua (tel.)</i> Outline of relief organization, including specific responsibilities and activities of the various committees, the Marines, the Guardia, and other groups.	792
Apr. 5	<i>From the Minister in Nicaragua (tel.)</i> Appreciation for action of Commanding General, Canal Zone, in issuing Army subsistence stores without charge to Navy transport for Nicaraguan relief, as supplies were urgently needed without delay.	794
Undated [Rec'd Apr. 6]	<i>From the Minister in Nicaragua (tel.)</i> Commendation from Major Mitchell, commanding aircraft forces of Marine Brigade, for cooperation of Pan American Airways planes, mentioning specially the splendid work of certain individuals.	794
Undated [Rec'd Apr. 6]	<i>From the Minister in Nicaragua (tel.)</i> Report of work of the committee in charge of sanitation of Managua.	795
Apr. 6	<i>From the Minister in Nicaragua (tel.)</i> Progress in restoring water system, organizing food distribution, providing shelter before the rainy season, and fire control.	795
Apr. 6	<i>From the Nicaraguan Minister</i> Expression of gratitude to the United States, including President Hoover, Departments of State, War, and Navy, and American Red Cross.	796
Apr. 7	<i>To the President of the Pan American Airways, Inc.</i> Transmittal of texts of the telegrams of April 4 and 6 from the Minister in Nicaragua concerning the great assistance rendered by Pan American Airways; expression also of Department's appreciation.	796

NICARAGUA

AMERICAN ASSISTANCE FOLLOWING THE DESTRUCTION OF MANAGUA BY THE
EARTHQUAKE OF MARCH 31, 1931—Continued

Date and number	Subject	Page
1931 Undated [Rec'd Apr. 7]	<i>From the Minister in Nicaragua (tel.)</i> Information that relief measures continue satisfactorily and that efforts of Central Relief Committee are being concentrated on restoring normal living and commercial conditions.	796
Apr. 10 (1)	<i>From the Minister in Nicaragua (tel.)</i> Advice that President Moncada and certain Government offices will remain in Managua, while remaining offices will be established temporarily in Masaya.	797
Apr. 10 (2)	<i>From the Minister in Nicaragua (tel.)</i> Debt of gratitude owed to Will Rogers by entire community for his visit, which brought cheer and hope to everyone.	797
Apr. 10 (3)	<i>From the Minister in Nicaragua (tel.)</i> For the Red Cross from Swift: Belief that \$100,000 is a reasonable contribution for the Red Cross, in view of abnormal difficulties of the situation, particularly the urgent need for providing employment and shelter.	798
Apr. 10 (4)	<i>From the Minister in Nicaragua (tel.)</i> Hope that Department will support and stimulate efforts to obtain financial assistance for Central Relief Committee and Government of Nicaragua, because of urgent need for employment and reconstruction.	798
Apr. 11 (69)	<i>To the Minister in Nicaragua (tel.)</i> Message for Swift from McClintock of the American Red Cross (text printed) authorizing expenditure of \$100,000 as requested.	799
Apr. 14 (10)	<i>From the Minister in Nicaragua (tel.)</i> Telegram sent to U. S. Legations in Central America (text printed) declaring that reports concerning many persons having been killed for looting after the earthquake are grossly exaggerated.	799
Apr. 15 (16)	<i>From the Minister in Nicaragua (tel.)</i> Message for McClintock expressing appreciation for the relief work done by Swift.	800
Apr. 15 (21)	<i>From the Minister in Nicaragua (tel.)</i> Expression of admiration for wonderful work performed by U. S. military organizations in Nicaragua and by the Guardia Nacional, with special mention of various individuals.	800
May 13 (160)	<i>From the British Ambassador</i> Appreciation of British Government for assistance of U. S. Marines in protecting lives and property of British subjects.	801
June 18 (404)	<i>From the Minister in Nicaragua</i> Communication to President Moncada, June 11 (text printed), concerning work of Central Relief Committee of the American Red Cross and its plans for the near future; Moncada's reply, June 18 (text printed), setting forth his gratitude for relief work being done by American Red Cross, and containing message of appreciation to Government of the United States.	802

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA

Date and number	Subject	Page
1931 Apr. 13	<i>From the Vice Consul at Bluefields (tel.)</i> Flare-up of bandit activities at Logtown, 60 miles from Puerto Cabezas; preparations of Guardia to protect Puerto Cabezas, and expected arrival of two U. S. naval vessels at that port.	805
Apr. 14 (14)	<i>From the Minister in Nicaragua (tel.)</i> Information that Foreign Minister reports a tender of good offices from the Presidents of Guatemala and El Salvador in the restoration of order in Nicaragua, provided U. S. Government is in accord.	805
Apr. 14 (76)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Commander of the Asheville has been instructed to land forces at Puerto Cabezas to protect Americans until a Guardia detachment can take over the situation.	806
Apr. 16 (80)	<i>To the Minister in Nicaragua (tel.)</i> Inquiry as to whether any plans are contemplated for transporting reinforcements from Managua to the east coast, as bandits appear to be making their way eastward.	807
Apr. 16 (81)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to advise American citizens that U. S. Government cannot undertake general protection of Americans throughout Nicaragua with American forces, and to recommend that they withdraw from the country or at least to the coast towns.	808
Apr. 17	<i>From the Vice Consul at Bluefields (tel.)</i> Message from Puerto Cabezas (text printed) that all Americans are evacuating by first available transportation.	808
Apr. 17 (26)	<i>From the Minister in Nicaragua (tel.)</i> Message from Guardia officer at Puerto Cabezas (text printed) requesting instructions as to action in case of evacuation of Americans and departure of naval vessels.	809
Apr. 17 (27)	<i>From the Minister in Nicaragua (tel.)</i> Data on distribution of the Guardia for opposing banditry; success of Guardia patrols in stopping advance on Puerto Cabezas; cooperation of Marine air service with the patrols; report that reenlistment of trained men recently discharged was the only speedy way of obtaining reinforcements for the Guardia.	810
Apr. 18	<i>To the Vice Consul at Bluefields (tel.)</i> Advice that naval vessels now on duty at east coast ports will remain until the present difficulty is over.	812
Apr. 18 (85)	<i>To the Minister in Nicaragua (tel.)</i> U. S. desire that the Guardia take over situation on the east coast as soon as possible so the American vessels may be withdrawn.	812
Apr. 18	<i>From the Vice Consul at Bluefields (tel.)</i> Information that a group of Guardia are being sent from Bluefields to El Gallo in view of rumors of threatened bandit attack.	813

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1931 Apr. 19	<i>From the Minister in Nicaragua (tel.)</i> Indications that the situation on the east coast is complicated by labor unrest and subversive propaganda involving unusual danger for foreigners.	813
Apr. 20 (89)	<i>To the Minister in Nicaragua (tel.)</i> Understanding from the Navy that further planes for transportation can soon be made available for the Guardia.	814
Apr. 20 (90)	<i>To the Minister in Nicaragua (tel.)</i> Statement issued to the press, April 18 (text printed), regarding the problem of bandit activities in Nicaragua emphasizing points of difference between the present situation and that of 1926, with particular reference to the Guardia.	814
Apr. 20 (91)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Minister may inform his British colleague that U. S. naval vessels on duty on the east coast will remain until present difficulty is over.	816
Apr. 21 (93)	<i>To the Minister in Nicaragua (tel.)</i> Department's preference not to express approval or disapproval of plan referred to in Minister's telegram No. 14, April 14.	816
Apr. 21 (34)	<i>From the Minister in Nicaragua (tel.)</i> Telegram from General Matthews, Jefe Director of Guardia, to the Guardia Commander at Bluefields (text printed) instructing that he request U. S. forces to reembark as soon as Guardia is able to control the situation.	816
Apr. 21 (36)	<i>From the Minister in Nicaragua (tel.)</i> Report that 18 enlisted Guardia were transported by marine airplane to Puerto Cabezas, April 21.	817
Apr. 28	<i>From the Vice Consul at Bluefields (tel.)</i> Belief of Guardia Commander of eastern area that most of bandits have left the area; assertion that conditions on the coast are rapidly returning to normal due to presence of naval vessels.	817
Apr. 29 (53)	<i>From the Minister in Nicaragua (tel.)</i> Information that most of Marines in northern area have been withdrawn to Managua; General Matthews' increasing confidence in ability of the Guardia to handle situation.	818
May 15 (119)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to inform the Committee of the Foreign Colony of Matagalpa, in view of protest from them against withdrawal of U. S. Marines from that region, of the U. S. Government's views concerning competency of the Guardia to protect foreign lives and property.	818
May 15 (378)	<i>From the Minister in Nicaragua</i> Report of various clashes occurring between April 23 and May 10 between Guardia patrols and small groups of bandits.	819
June 2 (391)	<i>From the Minister in Nicaragua</i> Further clashes between Guardia patrols and bandits, May 10-May 25.	820

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT
ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1931		
June 22 (408)	<i>From the Minister in Nicaragua</i> Report on an encounter on June 9 between a Guardia patrol and a group of 50 bandits.	821
June 24 (412)	<i>From the Minister in Nicaragua</i> Two further encounters between Guardia patrols and bandits, June 14 and 15.	821
July 16 (139)	<i>From the Minister in Nicaragua (tel.)</i> Rumors of considerable bandit movement toward the east coast.	822
July 20 (140)	<i>From the Minister in Nicaragua (tel.)</i> Report of bandit attack, July 17, on a Guardia patrol reconnoitering from Cape Gracias up the Coco River.	822
Undated [Rec'd July 20]	<i>From the Consul at Bluefields (tel.)</i> Telegram to Legation at Managua (text printed) describing situation at Bluefields and Puerto Cabezas.	822
July 20 (431)	<i>From the Minister in Nicaragua</i> Encounter, July 9, between a Guardia patrol and small group of bandits near Telpaneca.	823
Aug. 3 (146)	<i>From the Minister in Nicaragua (tel.)</i> Information that Mr. Scott, Manager of the Bragmans Bluff Lumber Co. at Puerto Cabezas, desires airplanes stationed there to cooperate with the Guardia; that practicability of the plan is being considered.	823
Oct. 29 (191)	<i>From the Chargé in Nicaragua (tel.)</i> Telegram to Commander of Special Service Squadron (text printed) recommending that he send a warship to Puerto Cabezas, as it will reassure the population and be of assistance to the Guardia.	824
Nov. 2 (193)	<i>From the Chargé in Nicaragua (tel.)</i> Belief that a war vessel should remain continuously at Puerto Cabezas until the contemplated permanent air patrol on the east coast is established.	824
Nov. 23 (202)	<i>From the Chargé in Nicaragua (tel.)</i> Increased activity of bandits in Leon and Chinandega; President Moncada's alarm and desire to organize a volunteer force of Nicaraguans outside the Guardia to put down the bandits.	825
Nov. 24 (203)	<i>From the Chargé in Nicaragua (tel.)</i> Possibility that armed guards will have to be placed on passenger trains and bridges between Managua and Corinto; inquiry if Department would object to use of Marines for this purpose.	826
Nov. 25 (202)	<i>To the Chargé in Nicaragua (tel.)</i> Message for President Moncada (text printed) expressing confidence that Guardia can handle situation, and opinion as to inadvisability of creating any outside force.	826
Nov. 25 (203)	<i>To the Chargé in Nicaragua (tel.)</i> Authorization for placing of the armed guards on passenger trains and bridges as indicated in Chargé's telegram No. 203, November 24, if the situation requires it.	827

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ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1931 Nov. 25 (204)	<i>From the Chargé in Nicaragua (tel.)</i> Guardia's belief that bandits have withdrawn to the north away from the railroad; observation that bandit situation appears very grave.	827
Nov. 27 (206)	<i>From the Chargé in Nicaragua (tel.)</i> Declaration of martial law in Leon and Chinandega. Moncada's allocation of additional funds to order of Guardia for maintenance of 200 auxiliaries to operate under Guardia command.	828
Nov. 27 (83)	<i>To the Chargé in Honduras (tel.)</i> Instructions to point out to President of Honduras the insistent reports that arms have been reaching Nicaraguan bandits from Honduran territory. Inquiry if Major Fassett has visited the frontier where acts are alleged to have taken place.	829
Nov. 28 (209)	<i>From the Chargé in Nicaragua (tel.)</i> Report of two clashes between Guardia patrols and bandit groups in Chinandega.	829
Nov. 28 (207)	<i>To the Chargé in Nicaragua (tel.)</i> Gratification over Moncada's allocation of funds for maintenance of auxiliaries.	830
Dec. 1 (182)	<i>From the Chargé in Honduras (tel.)</i> Foreign Minister's opinion that Honduran Government should do all in its power to prevent aid to bandits from Honduras, but intimation that little could be done in present state of impecuniousness and political uncertainty. Plans of Major Fassett to visit the Danli region December 3.	830
Dec. 1 (211)	<i>From the Chargé in Nicaragua (tel.)</i> Clash between Guardia patrol and bandits at El Cuadro, November 29; capture and looting of town of Rota by bandits, November 30.	831
Dec. 2 (85)	<i>To the Chargé in Honduras (tel.)</i> Approval of Major Fassett's visit to Danli region. (Note: Report from the Chargé, December 10, that the bandits were believed to have "definitely withdrawn into their accustomed areas in northern Nicaragua".)	831

ASSISTANCE OF THE UNITED STATES IN STRENGTHENING THE GUARDIA NACIONAL PREPARATORY TO THE WITHDRAWAL OF MARINES FROM NICARAGUA

1931 Jan. 5 (5)	<i>From the Minister in Nicaragua (tel.)</i> President Moncada's proposal of a military force of 500 to serve as a temporary auxiliary to the Guardia for combatting recently intensified bandit activities; also a road construction program in the bandit territory if a loan can be arranged through the National Bank.	832
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NICARAGUA

ASSISTANCE OF THE UNITED STATES IN STRENGTHENING THE GUARDIA NACIONAL
PREPARATORY TO THE WITHDRAWAL OF MARINES FROM NICARAGUA—CON.

Date and number	Subject	Page
1931		
Jan. 8 (6)	<i>From the Minister in Nicaragua (tel.)</i> Conference with Marine and Guardia Commanders and Lt.-Col. Matthews, who will succeed to command of the Guardia, at which unanimous opinion as to acceptability of Moncada's proposal was expressed.	833
Jan. 9 (5)	<i>To the Minister in Nicaragua (tel.)</i> Concurrence in Moncada's suggestions; emphasis on fact that the new military force must be completely subject to exclusive control of the Jefe Director of the Guardia.	834
Jan. 10 (11)	<i>From the Minister in Nicaragua (tel.)</i> General McDougal's estimate of cost and proposed organization of the auxiliary force.	835
Jan. 14 (12)	<i>From the Minister in Nicaragua (tel.)</i> Moncada's dissatisfaction with estimates; his counterproposal for a small temporary force. Existence in the press and elsewhere of propaganda for creation of a so-called national army independent of Guardia—an idea considered as unsound by the military commanders.	835
Jan. 21 (18)	<i>From the Minister in Nicaragua (tel.)</i> Information from National Bank that million-dollar loan would be granted by International Acceptance Bank with certain stipulations as to expenditures.	839
Jan. 22	<i>To the Secretary of the Navy</i> Request that Guardia Commander be instructed to give special attention to training up of Nicaraguan officers so as to leave no obstacle to complete withdrawal of Marines from Nicaragua after 1932 elections.	839
Jan. 28	<i>To the Secretary of the Navy</i> Secretary's assertion (in reply to an inquiry from Secretary of the Navy) that he has no suggestions to make regarding proposed order to Marine officer in charge of Guardia.	840
Feb. 5	<i>Memorandum by the Secretary of State</i> Statement of policy in Nicaragua, setting forth basis on which U. S. Government is willing to continue, for temporary periods specified, to maintain Marine forces in Nicaragua and Marine officers in the Guardia. (Footnote: Memorandum subsequently initialed by President Moncada.)	841
Feb. 14 (16)	<i>To the Minister in Nicaragua (tel.)</i> Statement issued to the press, February 13 (text printed), summarizing the plan developed at conferences in Washington for increase in Guardia, withdrawal of majority of Marines by June, and road construction in bandit provinces.	844
Feb. 24	<i>From the Secretary of the Navy</i> Advice that Commander of Second Brigade will be instructed to withdraw into Managua his outlying forces, other than aviation, as rapidly as feasible, preparatory to withdrawing them from Nicaragua in accordance with present plan.	845

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ASSISTANCE OF THE UNITED STATES IN STRENGTHENING THE GUARDIA NACIONAL
PREPARATORY TO THE WITHDRAWAL OF MARINES FROM NICARAGUA—Con.

Date and number	Subject	Page
1931 Mar. 12 (360)	<i>From the Minister in Nicaragua</i> Account of progress being made by Marine and Guardia Commanders in carrying out plan for reducing Marine forces, and of effective cooperation of Nicaraguan Government.	846
Mar. 17 (363)	<i>From the Minister in Nicaragua</i> Report that project for withdrawal of Marines has aroused mixed feelings among Nicaraguans. Declaration by President Moncada (text printed) issued soon after the announcement of the intended withdrawal.	848
Apr. 27 (47)	<i>From the Minister in Nicaragua (tel.)</i> Difficulties encountered by General Matthews in obtaining funds for current maintenance of Guardia; opinion that the million-dollar loan or some substitute is imperative.	850
Apr. 28 (103)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to convey to President Moncada information obtained from International Acceptance Bank that funds for Guardia are available as arranged in February, and U. S. insistence that money be paid promptly to General Matthews for the Guardia.	852
Apr. 29 (54)	<i>From the Minister in Nicaragua (tel.)</i> Report of representations made to Moncada, as instructed, emphasizing positive attitude of U. S. Government concerning future maintenance of the Guardia.	853
Apr. 30 (56)	<i>From the Minister in Nicaragua (tel.)</i> Information that General Matthews has received \$65,000 for Guardia pay for April and maintenance for half of May.	854
June 4	<i>To the Secretary of the Navy</i> Expression of opinion, in reply to inquiry, that Marine aviation forces in Nicaragua should continue to operate with the Guardia as they have been operating before the Marines were concentrated at Managua.	855
Aug. 3 (456)	<i>From the Minister in Nicaragua</i> Data on amounts of money furnished to General Matthews by Nicaraguan Government for the Guardia since June; also amounts allotted from the million-dollar loan in the period March 27–July 15.	857
Sept. 12	<i>From the Chief of the Division of Latin American Affairs to the Assistant Secretary of State</i> Information that total number of U. S. Marine and naval forces in Nicaragua as of September 1 was 1,005.	858

INSISTENCE OF THE DEPARTMENT OF STATE THAT SO LONG AS THE GUARDIA NACIONAL IS DIRECTED BY AMERICAN OFFICERS IT SHOULD NOT TRY NICARAGUAN CIVILIANS

1929 Dec. 27 (614)	<i>To the Chargé in Nicaragua</i> Advice that Department cannot approve trial of Nicaraguan civilians by members of the Guardia so long as the Guardia is directed by American officers. Instructions to suggest to President Moncada the apparent need for improvement of the Nicaraguan judiciary system.	859
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NICARAGUA

INSISTENCE OF THE DEPARTMENT OF STATE THAT SO LONG AS THE GUARDIA NACIONAL IS DIRECTED BY AMERICAN OFFICERS IT SHOULD NOT TRY NICARAGUAN CIVILIANS—Continued

Date and number	Subject	Page
1930		
Jan. 7 (3)	<i>From the Chargé in Nicaragua (tel.)</i> Inquiry as to whether Department does not consider banditry a military offense.	860
Jan. 10 (2)	<i>To the Chargé in Nicaragua (tel.)</i> Department's understanding of a military offense as an offense committed by a member of military forces in violation of military regulations.	860
Jan. 15 (8)	<i>From the Chargé in Nicaragua (tel.)</i> Opinion of Marine and Guardia Commanders in favor of courts martial by members of the Guardia in cases involving organized armed resistance (banditry) in areas where martial law has been declared by the Government.	860
Jan. 15 (9)	<i>From the Chargé in Nicaragua (tel.)</i> Information that a Guardia court martial will try Sergeant Larios for mutiny, sedition, etc.	861
Jan. 16 (4)	<i>To the Chargé in Nicaragua (tel.)</i> Department's reiteration of policy of unwillingness to have American officers exercise judicial functions with respect to Nicaraguan civilians. Inquiry whether there is any obstacle to Government's establishment of civil courts adequate to deal with situation.	862
Jan. 17 (5)	<i>To the Chargé in Nicaragua (tel.)</i> Department's willingness for American officers to sit on the court in the case of Sergeant Larios, as it is a case of discipline of a member of the Guardia.	862
Jan. 21 (1290)	<i>From the Chargé in Nicaragua</i> President Moncada's concurrence in Department's views as to inefficiency of the courts; agreement of Marine and Guardia Commanders as to advantages of Department's idea, but doubts as to possibility of success. Memorandum by General McDougal, January 18 (text printed), stressing urgent necessity to dispose in some way of bandits now in custody of the Guardia.	863
Jan. 29 (10)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to indicate to President Moncada the Department's feeling that death sentence should not be carried out if, as rumored, such sentence has been passed, on Sergeant Larios.	866
Feb. 18 (1328)	<i>From the Chargé in Nicaragua</i> Memorandum prepared for Moncada (text printed) for presentation to Supreme Court, embodying substance of Department's telegram No. 4, January 16. Private opinion of President of Supreme Court that solution of problem would be a total reform of the Constitution.	866
Mar. 11 (638)	<i>To the Chargé in Nicaragua</i> Instructions to make no suggestion or comment on the matter of revision of the Constitution except under specific instructions from the Department.	869
1931		
Sept. 17 (175)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to endeavor to see that death sentences if imposed are not carried out in the case of two bandits tried by Guardia court martial, reported from Bluefields.	869

NICARAGUA

INSISTENCE OF THE DEPARTMENT OF STATE THAT SO LONG AS THE GUARDIA NACIONAL IS DIRECTED BY AMERICAN OFFICERS IT SHOULD NOT TRY NICARAGUAN CIVILIANS—Continued

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Sept. 22 (179)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to state to appropriate authorities the Department's position, in view of reports from Bluefields on courts martial before the Guardia.	870
Sept. 24 (511)	<i>From the Chargé in Nicaragua</i> Opinion that further representations at this time might result in the subject's being merged with various projected constitutional reforms.	871
Oct. 12 (245)	<i>To the Chargé in Nicaragua</i> Advice that, in view of the assurances from the Acting Jefe Director, the Department concurs in opinion that any present representations will be unnecessary.	872

APPOINTMENT OF MAJOR CHARLES F. B. PRICE, U. S. M. C., TO OBSERVE MUNICIPAL ELECTIONS IN NICARAGUA

1931 Mar. 7 (135)	<i>To the Minister in Nicaragua</i> Instructions as to arrangements to be made in connection with the desired designation of Major Price as alternate to the Chairman of the National Board of Elections, so that he may assume the duties of Captain Alfred W. Johnson in the latter's forthcoming absence.	873
May 11 (115)	<i>To the Minister in Nicaragua (tel.)</i> Inquiry as to whether President Moncada has designated Major Price as <i>suplente</i> to Chairman of National Board of Elections.	874
May 12 (74)	<i>From the Minister in Nicaragua (tel.)</i> Assertion that it is embarrassing to propose the contemplated arrangement because of the salary which Nicaraguan Government will be expected to pay Major Price.	875
May 26 (87)	<i>From the Minister in Nicaragua (tel.)</i> Advice that reply to telegram No. 74, May 12, is being awaited before taking up with Moncada the designation of Major Price.	875
May 27 (125)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to comply with Department's instruction No. 135, March 7, insofar as Major Price's appointment as Vice Chairman of National Board of Elections is concerned. Decision to defray expenses incurred by Major Price on his mission in Nicaragua.	875

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APPOINTMENT OF MAJOR CHARLES F. B. PRICE, U. S. M. C., TO OBSERVE
MUNICIPAL ELECTIONS IN NICARAGUA—Continued

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May 29 (91)	<i>From the Minister in Nicaragua (tel.)</i> Opinion of Supreme Court members that Department's proposed plan would be illegal for certain specified reasons; no opposition to general purpose of the plan, however. Minister's suggestion of a possible procedure.	876
June 3 (129)	<i>To the Minister in Nicaragua (tel.)</i> Inquiry as to whether National Board normally functions in connection with municipal elections and has jurisdiction over them.	878
June 5 (98)	<i>From the Minister in Nicaragua (tel.)</i> Advice that National Board does normally function in connection with municipal elections, with explanation of extent of functioning and laws involved.	878
June 11 (135)	<i>To the Minister in Nicaragua (tel.)</i> Impracticability of proceeding further at present with proposed appointment of Major Price to the National Board; instructions to inform appropriate authorities of this, and to express U. S. opinion that Major Price should be present in Nicaragua prior to and during municipal elections of 1931 to observe and report on them (expenses to be defrayed by United States).	879
June 12 (105)	<i>From the Minister in Nicaragua (tel.)</i> Inquiry if Nicaraguan Government may be informed that Captain Johnson will resign the position of President of the National Board.	880
June 15 (139)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Nicaraguan Government may be informed, in a separate communication, of Department's willingness to request Captain Johnson to resign so that a Nicaraguan may be appointed in his stead; also of Department's desire for assurances that the required measures will be taken in time to arrange for an American to supervise the 1932 elections.	881
June 20 (405)	<i>From the Minister in Nicaragua</i> Transmittal of correspondence addressed to Moncada in accordance with Department's several instructions, and Moncada's replies, including letter of June 18 (text printed) accepting U. S. proposal to have Major Price observe elections of 1931 and expressing opinion that Captain Johnson's resignation is desirable; Minister's acknowledgment of this letter (text printed) correcting certain inaccuracies.	881
July 14 (203)	<i>To the Minister in Nicaragua</i> Transmittal of Captain Johnson's letters tendering his resignation to U. S. Secretary of State and to the Nicaraguan President, the latter to be delivered to Moncada.	887
July 22 (434)	<i>From the Minister in Nicaragua</i> Delivery of Johnson's resignation to Moncada, who in turn delivered it to Supreme Court; latter's acceptance, July 21, and appointment of Dr. Aguado as President of National Board of Elections.	887

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REFUSAL OF A CONSUL TO RECOGNIZE JURISDICTION OF A NORWEGIAN COURT
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July 15 (45)	<i>To the Minister in Norway</i> Approval of action of the Chargé and the Consul, based on treaty stipulations with respect to inviolability of consular archives.	889

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REVOLUTION IN PANAMA

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Jan. 2 (98)	<i>From the Minister in Panama (tel.)</i> Resignation of President Arosemena and assumption of the government by Harmodio Arias as Prime Minister, following conferences held by Supreme Court with representatives of various groups.	890
Jan. 2 (1)	<i>To the Minister in Panama (tel.)</i> Approval of action in not calling out troops unless necessary for protection of American lives. Instructions to make arrangements with proper authorities so that no political activities can be carried on from Canal Zone.	891
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Jan. 3 (2)	<i>To the Minister in Panama (tel.)</i> Department's willingness to leave to Minister's discretion the granting of the right of transit in question to the <i>de facto</i> authorities for purposes of pacification.	892
Jan. 3 (15)	<i>From the Minister in Panama (tel.)</i> Desire for instructions on question of recognition by the Panama Canal authorities of signatures of authorities of present Panama government.	892
Jan. 3 (4)	<i>To the Minister in Panama (tel.)</i> Advice that there is no objection to recognition of signatures of the <i>de facto</i> authorities if it is made clear that this does not mean recognition of authorities as the <i>de facto</i> government.	892

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Jan. 5 (6)	<i>To the Minister in Panama (tel.)</i> Instructions to make no reply at present; advice that the delay in regard to recognition arises from question of whether new regime will have sufficient stability to remain in office.	894
Jan. 6 (307)	<i>From the Minister in Panama</i> Detailed report of the revolutionary disturbances on January 2 and subsequent developments; summary of present situation and of problems confronting the new government.	894
Jan. 9 (28)	<i>From the Minister in Panama (tel.)</i> Recognition of the new government, either by establishment or continuation of diplomatic relations, by Spain, Italy, Peru, Ecuador, and Chile.	902
Jan. 10 (29)	<i>From the Minister in Panama (tel.)</i> Support of new administration by majority of people in Panama City and probably in Colon; probability that people in interior will take little interest in the change in government.	902
Jan. 14 (32)	<i>From the Minister in Panama (tel.)</i> Continuation of diplomatic relations by Costa Rica, Germany, Colombia, and Mexico; expected arrival of Alfaro, January 15, to take office January 16.	903
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Jan. 19 (37)	<i>From the Minister in Panama (tel.)</i> Inquiry if Department's telegram No. 12, January 15, is to be considered authorization to acknowledge receipt of note quoted in Minister's No. 19, January 4.	904
Jan. 19 (15)	<i>To the Minister in Panama (tel.)</i> Reply to telegram No. 37 in the affirmative.	904

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Apr. 10 (128)	<i>To the Ambassador in Peru</i> Assertion that Department is unfavorable toward any idea of mediation in Peruvian affairs (especially in concert with European powers) or of joint action with League of Nations or the Vatican.	918
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July 2 (282)	<i>From the Ambassador in Peru (tel.)</i> Disorders incident to arrival of Sanchez Cerro, several persons being killed and several wounded.	922
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POLAND

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UNITED STATES AND POLAND, SIGNED JUNE 15, 1931

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July 2 (49)	<i>From the Minister in Poland (tel.)</i> Verbal proposal made by Polish officials (text printed) with reference to indirect trade; intimations that acceptance of the proposal would remove principal obstacle to continuing negotiations for the commercial treaty.	926
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Sept. 15 (61)	<i>From the Minister in Poland (tel.)</i> Presentation of U. S. position in accordance with instructions; opinion that time has arrived to press for a decision; and consequent intention to present a strong note within 2 weeks.	930
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Oct. 21 (71)	<i>From the Minister in Poland (tel.)</i> Polish concern over unfavorable balance of trade, and discussions regarding a possible temporary arrangement until certain aspects can be studied further.	932
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Oct. 31 (75)	<i>From the Minister in Poland (tel.)</i> Report that formal action in accordance with Department's telegram No. 63, October 20, has been taken.	934
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1931 June 15	<i>Treaty Between the United States of America and Poland</i> Text of commercial treaty signed at Washington.	938
June 15	<i>To the Polish Ambassador</i> Text of notes exchanged as provided for in tenth paragraph of article VI of the treaty (the exchange of notes comprising an agreement concerning proof of the origin of imported merchandise). (Footnote: Identic note from the Polish Ambassador.)	955

INDEMNITY BY THE POLISH GOVERNMENT FOR MISTREATMENT OF AN AMERICAN CITIZEN BY POLISH SOLDIERS

1931 Jan. 9 (135)	<i>From the American Ambassador in Poland to the Polish Minister for Foreign Affairs</i> Summary of facts in case of Mr. Justyn Fedoryszyn, an American citizen, who was beaten by uniformed soldiers of the Polish Army, October 9, 1930. Request that adequate compensation be paid to Mr. Fedoryszyn and that the persons responsible be punished.	957
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May 11 (52)	<i>From the Ambassador in Poland (tel.)</i> Note from the Foreign Minister (text printed) expressing Polish Government's regret over the incident, and stating that the lieutenant responsible has been sentenced to 3 months and 2 weeks in a fortress.	960
June 18	<i>To the Polish Ambassador</i> U. S. opinion that the sum of 10,000 zlotys proposed by the Polish Government as indemnification is not adequate; request that \$4,000 be paid to Mr. Fedoryszyn.	961
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PORTUGAL

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Apr. 9 (8)	<i>To the Minister in Portugal (tel.)</i> Belief that it would be unwise for U. S. Government to aid in mediation as suggested.	964
Apr. 10	<i>From the Consul at Funchal (tel.)</i> Expression of regret if plan has caused Department embarrassment, and willingness to make full apologies if desired.	965
Apr. 11	<i>To the Consul at Funchal (tel.)</i> Advice that no embarrassment has been caused and no apology is necessary.	965

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS

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July 7 (21)	<i>From the Chargé in Portugal (tel.)</i> Decree of July 1 which extends national treatment in respect of maritime and port dues to foreign merchant vessels but creates new tonnage dues which are discriminatory.	966
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Oct. 9 (35)	<i>From the Minister in Portugal (tel.)</i> Opinion that success of representations will depend on degree of pressure the British are prepared to exercise.	970

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Oct. 20 (484)	<i>From the Minister in Portugal</i> Delivery to the Foreign Minister of note in the sense of Department's instructions; Foreign Minister's hope that United States and other Powers will be forbearing in view of present economic crisis.	971
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CITIZENSHIP STATUS OF AMERICAN NATIONALS EXERCISING POLITICAL RIGHTS IN RUSSIA

1931 Feb. 4 (7469)	<i>From the Minister in Latvia</i> Inquiry as to citizenship status of certain Americans who, in recent elections held at the Stalingrad Tractor Works, were elected members of "a Soviet."	975
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ISSUANCE OF NON-IMMIGRATION VISAS FOR ENTRY INTO THE UNITED STATES OF PERSONS COMING FROM RUSSIA

1931 July 18	<i>To the Consul General at Berlin</i> Instructions as to procedure to be followed in obtaining non-immigration visas for particular aliens who are found to be inadmissible under provisions of law, but whose entry would be to the advantage of the public or economic interests of United States. (Similar instructions to Riga, London, and Paris.)	977
July 18 (Diplo. 2024)	<i>To Diplomatic and Consular Officers</i> Instructions entitled "Changes in Consular Regulations and Notes No. 73" regarding refusal of visas to aliens who are excluded from United States by law.	978
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RECOGNITION BY THE UNITED STATES OF THE PROVISIONAL GOVERNMENT OF
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Apr. 16 (22)	<i>From the Ambassador in Spain (tel.)</i> Information that a document in which the King has defined his position makes it clear that he has not "abdicated."	986
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Apr. 17 (24)	<i>From the Ambassador in Spain (tel.)</i> Opinion that Provisional President Zamora is very confident that his government is strong enough to handle any situation.	988
Apr. 18 (180)	<i>From the Ambassador in France (tel.)</i> Information that French Government has recognized the Spanish Republic.	988
Apr. 18 (50)	<i>From the Ambassador in Germany (tel.)</i> Advice that German Government is not disposed to rush recognition of Spanish provisional government.	989
Apr. 18 (25)	<i>From the Ambassador in Spain (tel.)</i> Note from the Foreign Minister (text printed) requesting U. S. recognition of the new regime.	990
Apr. 18 (113)	<i>From the Ambassador in Great Britain (tel.)</i> British Government's intention to extend recognition as soon as replies to its cables have been received from Dominions.	991

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Apr. 18 (26)	<i>From the Ambassador in Spain (tel.)</i> Recognition of provisional government by France, Czechoslovakia, Mexico, Uruguay, and Chile. Comment that on the surface provisional government appears stable but not enough time has elapsed as yet to make a fair evaluation.	992
Apr. 19 (11)	<i>To the Ambassador in Spain (tel.)</i> Request for opinion and comments on certain questions relative to stability of new regime and desirability of immediate recognition.	993
Apr. 20 (27)	<i>From the Ambassador in Spain (tel.)</i> Replies to Department's questions with recommendation for immediate recognition.	993
Apr. 21 (12)	<i>To the Ambassador in Spain (tel.)</i> Instructions to deliver a note to the Foreign Minister as soon as British colleague has taken action according U. S. recognition to the Provisional Government of Spain.	994
Apr. 22 (28)	<i>From the Ambassador in Spain (tel.)</i> Action taken by British colleague at 12:30; appointment with Foreign Minister at 4:30 for delivery of note authorized by Department.	995
Apr. 22 (30)	<i>From the Ambassador in Spain (tel.)</i> Advice that Department's instructions in telegram No. 12, April 21, have been carried out.	995

EFFORTS TO REMOVE SPANISH TARIFF DISCRIMINATIONS HANDICAPPING AMERICAN TRADE

1931 Nov. 10 (92)	<i>From the Ambassador in Spain (tel.)</i> Decision of Spanish Government that reduction in rates on certain commodities accorded France by the new Franco-Spanish commercial agreement (effective November 10), are not to be applied to United States. Intention to see Foreign Minister in an effort to modify the Spanish stand.	995
Nov. 11 (93)	<i>From the Ambassador in Spain (tel.)</i> Conversation with Foreign Minister to urge reconsideration of Spanish decision; Ambassador's request, upon seeing Spanish Government's determination to bargain, for a suspension of decision to give Department time to consider reports and possibly make proposals.	996
Nov. 13 (94)	<i>From the Ambassador in Spain (tel.)</i> Information that Spanish Government cannot allow the postponement requested; comment that in case Department decides that no concessions can be made, it may be ready to resort to retaliatory measures.	997

SPAIN

EFFORTS TO REMOVE SPANISH TARIFF DISCRIMINATIONS HANDICAPPING AMERICAN
TRADE—Continued

Date and number	Subject	Page
1931 Nov. 13	<i>Memorandum by the Under Secretary of State</i> Receipt of memorandum from Spanish Chargé concerning attitude of his Government toward the commercial <i>modus vivendi</i> with United States in relation to the new agreement with France.	997
Nov. 13 (95)	<i>From the Ambassador in Spain (tel.)</i> Memorandum received from Foreign Office (text printed) outlining Spanish position as to the <i>modus vivendi</i> .	998
Nov. 14 (63)	<i>To the Ambassador in Spain (tel.)</i> Request for opinion as to the validity of the Spanish contention that their action does not contravene the <i>modus vivendi</i> .	999
Nov. 17 (98)	<i>From the Ambassador in Spain (tel.)</i> Opinion that the Spanish argument is technically sound. Suggestion of line of argument which might be followed effectively by United States.	1000
Nov. 17 (527)	<i>From the Chargé in Spain</i> Memorandum of Spanish "trade grievances" (text printed) received from Ministry of State.	1001
Dec. 31 (229)	<i>To the Ambassador in Spain</i> U. S. memorandum (text printed) in reply to the Ministry of State's memorandum of "trade grievances."	1002

NEGOTIATIONS BETWEEN THE UNITED STATES AND SPAIN FOR THE SETTLEMENT
OF RECIPROCAL CLAIMS

1931 Apr. 13	<i>Press Release Issued by the Department of State</i> Announcement of conclusion with Government of Spain of an agreement for the informal consideration by representatives of both countries of all outstanding diplomatic claims between the two Governments. (Note: Information as to interruption in the informal discussions, and that no diplomatic action toward settlement of the claims has been taken since September 1931.)	1007
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SWEDEN

REFUSAL OF THE SWEDISH STATE RAILWAYS TO PAY DEXTER AND CARPENTER,
INC., JUDGMENT GRANTED BY A UNITED STATES COURT

1931 May 13 (54)	<i>To the Minister in Sweden</i> Instructions to communicate to Foreign Office U. S. Government's expectations that the claims of Dexter and Carpenter, Inc., against the Swedish Government (for losses due to its failure to pay a court judgment rendered against the Swedish State Railways in favor of the corporation) will be adjusted by the payment of the amount of the judgment with interest.	1009
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SWEDEN

REFUSAL OF THE SWEDISH STATE RAILWAYS TO PAY DEXTER AND CARPENTER, INC., JUDGMENT GRANTED BY A UNITED STATES COURT—Continued

Date and number	Subject	Page
1931 July 23 (305)	<i>From the Minister in Sweden</i> Communication from the Foreign Minister, July 18 (text printed), stating that Swedish Government cannot see its way clear to inviting the Swedish State Railways to pay the court judgment.	1014
Sept. 16 (21)	<i>To the Minister in Sweden (tel.)</i> Instructions to inform Foreign Office that Department will be greatly disappointed if some settlement is not arrived at during the visit to Sweden of Mr. Haight, of the firm of attorneys for Dexter and Carpenter.	1016
Sept. 17 (346)	<i>From the Minister in Sweden</i> Information that Mr. Haight arrived September 15, without an appointment with Swedish attorneys or with anyone at Foreign Office; that he made a short visit to Legation, outlining the case and leaving certain data; that he left for United States the same day. Minister's opinion that he should have a conference with Department (at his forthcoming visit in Washington) and with Mr. Haight before making further representations to the Swedish Government.	1017

SWITZERLAND

TREATY OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SWITZERLAND, SIGNED FEBRUARY 16, 1931

1930 June 21	<i>To the Swiss Minister</i> Information that Department's recent draft of the proposed arbitration and conciliation treaty is believed to embody provisions which will satisfactorily meet the questions raised by the Swiss Government; that, in juridical disputes United States prefers to leave the two Governments free to a choice between arbitration and conciliation.	1019
Nov. 13	<i>To the Swiss Minister</i> Further U. S. agreement to verbal changes suggested by the Swiss Government.	1020
Dec. 8	<i>From the Swiss Minister</i> Transmittal of French text of draft which has been forwarded to Swiss Government for approval.	1021
1931 Feb. 2	<i>From the Swiss Minister</i> Information of receipt from Swiss Government of full powers for signing of treaty and of its concurrence in leaving a choice to contracting parties in juridical disputes with the understanding that in other conflicts recourse to the Conciliation Commission would be obligatory.	1021
Feb. 16	<i>Treaty Between the United States of America and Switzerland</i> Text of arbitration and conciliation treaty signed at Washington.	1022
Feb. 24	<i>To the Swiss Minister</i> Concurrence in Swiss Government's interpretation of the treaty as set forth in the Swiss Minister's note of February 2.	1025

SWITZERLAND

RIGHT OF CONSULS TO RECEIVE FUNDS FROM ESTATES FOR TRANSMISSION TO
NON-RESIDENT NATIONALS

Date and number	Subject	Page
1931 Jan. 15 (1239)	<i>To the Minister in Switzerland</i> Explanation that the Department interprets the most-favored-nation clause of U. S.-Swiss convention of 1850 as reciprocal in application, and questions if Swiss law gives American consular officers an unqualified right to receive funds from estates for transmission to non-resident nationals as provided by the U. S.-German treaty of 1923. Instructions to obtain a categorical answer from Swiss authorities as to whether the same rights granted under the U. S.-German treaty would be granted U. S. consular officers.	1026
Feb. 5 (1880)	<i>From the Minister in Switzerland</i> Information that Department's instruction No. 1239 has not been complied with pending Minister's submission for Department's consideration of certain points on the unconditional application of the clause and an excerpt from Swiss Federal Council's letter of January 5, 1852, to U. S. Special Agent (text printed).	1028
Feb. 17 (1895)	<i>From the Minister in Switzerland</i> Invitation of Department's attention to a pertinent passage from Samuel B. Crandall's <i>Treaties—Their Making and Enforcement</i> .	1030
May 9 (1398)	<i>To the Minister in Switzerland</i> Citation of incidents showing Department's long-established policy of applying the clause in matters of consular rights upon reciprocity. Instructions to inform Swiss authorities of views expressed in Department's instruction No. 1239 and if Swiss assurance of reciprocity is forthcoming the Department will not insist on a definite agreement as to a general interpretation of the most-favored-nation clause.	1031
Oct. 6 (2270)	<i>From the Chargé in Switzerland</i> Compliance with Department's instruction No. 1398 and receipt of Federal Political Department's reply indicating that Swiss law does not prevent consular activities as provided in U. S.-German treaty of 1923.	1036

TURKEY

TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND
TURKEY, SIGNED OCTOBER 28, 1931

1931 May 12 (1268)	<i>From the Ambassador in Turkey</i> Discussion with the Foreign Minister of a statement proposed at the time of the interruption of the negotiations and to be made in the form of a letter from the U. S. Ambassador and initialed at the time of the signature of the treaty of residence and establishment; information that Foreign Minister will suggest minor changes on his return from Geneva.	1037
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TURKEY

TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND
TURKEY, SIGNED OCTOBER 28, 1931—Continued

Date and number	Subject	Page
1931		
July 10 (24)	<i>From the Ambassador in Turkey (tel.)</i> Transmittal of the letter with modifications proposed by the Foreign Minister (text printed); information regarding means proposed by the Foreign Minister for giving immediate effect in the form of a <i>modus vivendi</i> to the treaty provisions pending ratification. Inquiry if Department would authorize signature of the treaty within 6 or 8 weeks.	1038
July 27 (28)	<i>To the Ambassador in Turkey (tel.)</i> Advice that Department is prepared to accept Turkish proposals concerning text of the letter but desires that signature be put off until mid-October or late September at earliest; impossibility of concluding <i>modus vivendi</i> in view of necessity of Senate's ratification before putting the treaty into force.	1040
Aug. 28 (34)	<i>From the Ambassador in Turkey (tel.)</i> Information that the treaty, with the preamble preferred by the Department, was initialed August 27.	1041
Oct. 28 (9)	<i>From the Ambassador in Turkey (tel.)</i> Notification of treaty's signature with no alterations and no procès-verbal.	1041
Oct. 28	<i>Treaty Between the United States of America and the Turkish Republic</i> Text signed at Ankara.	1042
Oct. 30 (1362)	<i>From the Ambassador in Turkey</i> Transmittal of letter to the Minister of Foreign Affairs, as approved by the Department, and of the Minister's acknowledgment (texts printed).	1043

UNION OF SOUTH AFRICA

ARRANGEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOUTH AFRICA
REGARDING RECIPROCAL RECOGNITION OF CERTIFICATES OF AIRWORTHINESS
FOR IMPORTED AIRCRAFT, EFFECTED BY EXCHANGE OF NOTES, SIGNED OCTOBER
12 AND DECEMBER 1, 1931

1931		
Oct. 12 (68)	<i>From the American Minister in the Union of South Africa to the Minister for External Affairs of the Union of South Africa</i> Transmittal of the arrangement (text printed) agreed to in the negotiations between the United States and the Union of South Africa providing for reciprocal acceptance of certificates of airworthiness for aircraft; information that upon receipt of note confirming understanding of the arrangement as set forth, it will be considered in effect.	1045
Dec. 1 (P. M. 66/80)	<i>From the Minister of External Affairs of the Union of South Africa to the American Minister in the Union of South Africa</i> Confirmation of understanding of the arrangement.	1046

URUGUAY

POLICY OF THE DEPARTMENT OF STATE OF NON-INTERFERENCE WITH USE BY
FOREIGN BORROWERS OF LOANS OBTAINED IN THE UNITED STATES

Date and number	Subject	Page
1931 Sept. 30 (47)	<p><i>To the Minister in Uruguay</i></p> <p>Reply to Legation's telegram concerning International Telephone and Telegraph Corporation's difficulties in obtaining a contract from Uruguayan Government, and to Legation's suggestion that any funds obtained in the United States should not be paid on contracts awarded to other than American firms. Advice that Department continues its policy of non-interference in the usage of funds obtained in the United States by foreign borrowers.</p>	1048

YUGOSLAVIA

THE PROTECTION OF NATURALIZED AMERICAN CITIZENS WHO RETURN TO
THEIR NATIVE COUNTRY AND ARE IMPRESSED INTO MILITARY SERVICE

1931 Jan. 19 (976)	<p><i>From the Minister in Yugoslavia</i></p> <p>Information that Yugoslav Government considers Peter Nikolich, naturalized American citizen, as a Yugoslav subject and not eligible for release from the Army until the completion of required military service; that this position is based on Yugoslav law for the organization of the Army and Navy (excerpt printed).</p>	1050
Sept. 4 (315)	<p><i>To the Minister in Yugoslavia</i></p> <p>Instructions to enter a protest as a matter of principle with the Yugoslav Government against induction into military service of naturalized American citizens; also to take up the question of concluding a naturalization treaty between the United States and Yugoslavia.</p>	1054
1932 Jan. 30 (1252)	<p><i>From the Minister in Yugoslavia</i></p> <p>Yugoslav disinclination to enter into a naturalization treaty; possibility, however, of an informal understanding whereby naturalized Americans of Yugoslav origin will be free from molestation on visits to Yugoslavia.</p>	1057

COLOMBIA

LEGISLATION IN COLOMBIA AFFECTING AMERICAN PETROLEUM INTERESTS¹

821.6363/848a

The Assistant Secretary of State (White) to Mr. George Rublee²

WASHINGTON, May 23, 1930.

DEAR MR. RUBLEE: AS Mr. Cotton³ will be away this afternoon he asked me to write to you confirming the appointment with Doctor Enrique Olaya, Colombian Minister and President Elect of Colombia, for dinner on Tuesday evening, May 27, at 7:30 p. m., at the Savoy Plaza Hotel in New York City.

Doctor Olaya is very anxious to settle equitably the so-called Barco Concession⁴ and also the matter of petroleum legislation in Colombia, and to this end he is anxious to get competent and disinterested advice, especially from someone who is in the confidence of the Department. We have consequently suggested you and he is enthusiastic about the suggestion. It will probably require your going to Bogotá for perhaps three months when this question comes up next in the Colombian Congress.

What Doctor Olaya wants, of course, is unbiased advice so that the legislation will be fair to the companies but will take care of the interest of the country, and he wants somebody who would act somewhat more or less as a buffer between the oil companies and the Colombian Government; somebody who, the companies will know, if he tells them that they are too exacting in their demands or asking something which the country obviously can not give them, that his opinion will be respected by the Department, and that they will have to accept his decision because they will not get support from the Department over his head. Doctor Olaya is very anxious to conclude an agreement with you, I think, on this basis. He stated that the Government does not have much funds for this but I am sure they will be able to make a reasonable arrangement with you.

With kindest regards and best wishes,

Yours very sincerely,

FRANCIS WHITE

¹ For previous correspondence concerning protection of interests of American oil companies in Colombia, see *Foreign Relations*, 1928, vol. II, pp. 588 ff.

² Washington lawyer, member of firm of Covington, Burling & Rublee.

³ Joseph P. Cotton, Under Secretary of State.

⁴ See pp. 18 ff.

821.6363/899 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, September 19, 1930—5 p. m.

[Received 8 p. m.]

116. President Olaya handed me confidentially the petroleum bill as drawn up by the Minister of Industries and the Congressional Committee. He asked me for my observations. He does not want to present it to Congress without the approval of this Legation.

CAFFERY

821.6363/901 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, September 22, 1930—5 p. m.

[Received 10:26 p. m.]

117. I think that the petroleum bill on the whole is very good. It is much better than Law 120 of 1919. Urueta examined it and recommended changes which the President accepted.

It will please some of our companies more than others. Therefore, I think it would be unwise for me to make the observations requested. (My 116, September 19, 5 p. m.) This morning I was requested by President Olaya, through Urueta, to telegraph urgently to the Department of State asking George Rublee to come here at once. If agreeable, will Rublee telegraph terms of contract and authorization for the American Commercial Attaché here to sign the contract for him? (The purpose of this is to avert later difficulties with the comptroller.)

The petroleum bill as now written will be presented to Congress before Mr. Rublee's arrival in order to avoid the charge that an American lawyer wrote it. President Olaya wants him to arrive in Bogotá as soon as possible while the bill is under consideration especially in connection with the contentious title question, and also for the Barco matter.

CAFFERY

821.6363/911

The Minister in Colombia (Caffery) to the Secretary of State

No. 1655

BOGOTÁ, September 23, 1930.

[Received October 8.]

SIR: Referring to my telegram No. 116 of September 19, in which I spoke of the new oil bill, I have the honor to transmit herewith copies

of the bill which was handed to me on September 19 by President Olaya Herrera, together with a copy of the memorandum of comments thereon prepared for Dr. Olaya Herrera by Dr. Carlos E. Urueta.⁵

I am not forwarding translations of these documents for the reason that the comments contained in Dr. Urueta's memorandum are to be included in a revised oil bill which Dr. Urueta is now preparing at the request of Dr. Olaya: Dr. Olaya told Dr. Urueta yesterday that he preferred having him do it; he (Olaya) did not feel competent to do so.

As soon as Dr. Olaya handed Urueta the bill, he (Urueta) came to see me and said that he would hand in no comments which failed to meet with my approval. He has let me know today that he is working on the revised edition of the bill, but will not hand it in to Olaya until I approve. As set out in my telegram No. 117 of September 22, I do not deem it wise to give Olaya direct any observations on the bill . . .

The representatives of the American oil companies will all be very much disappointed when they find out that they are not to have an opportunity of expressing themselves on the bill before it is presented to Congress; but both Olaya and Urueta now feel that this would be very unwise, in view of the fact that charges have been made alleging that American oil interests have had too much influence in the framing of the bill: and Olaya and Urueta fear that, were the public to hear that American concerns had been consulted, the result would be prejudicial for the chances of the bill's passing; and incidentally, they do not rely on the discretion of some of the oil representatives here.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/901 : Telegram

The Acting Secretary of State to the Minister in Colombia (Caffery)

[Extract]

WASHINGTON, September 26, 1930—6 p. m.

50. Your 117, September 22, 5 p. m. George Rublee prepared to sail on first available steamer for Buenaventura, which is *Santa Teresa* sailing October 14, on basis following contract which Commercial Attaché is authorized to sign on his behalf:

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COTTON

⁵ Neither printed.

821.6363/925

The Minister in Colombia (Caffery) to the Secretary of State

No. 1724

BOGOTÁ, October 4, 1930.

[Received October 15.]

SIR: Referring to my recent reports concerning the new oil bill, and with special reference to my despatch No. 1695 of September 27,^{5a} in which I reported that Dr. Olaya was considering calling Mr. Haskell of the Texas Oil Company to come to see him, I have the honor to report that Dr. Olaya summoned Mr. Haskell on the 2nd instant, and, in the presence of the Ministers of Government and Industries, had a two hour and a half conference with him; a conference which was followed by another two and a half hour conference yesterday and is to be succeeded by another similar one on Monday next. During a part of the first conference, Dr. Luis Felipe Latorre, attorney of the Unión Colombiana de Petróleos, was present. Although Dr. Olaya has not yet shown Haskell the bill, he has asked his opinion on all the main points involved, and especially on titles, royalties, taxes and pipe-lines; Haskell assures me that he has given them his views in full; he seems satisfied that he has made considerable progress.

(Along the lines of his revised policy of talking to American oil men on the bill, Olaya is seeing Mr. Dodson of the Andian National Corporation today at 12:30: Mr. Dodson, however, knows nothing of what Dr. Urueta and Mr. Metzger⁶ have already done about the bill.)

Respectfully yours,

JEFFERSON CAFFERY

821.6363/929

The Minister in Colombia (Caffery) to the Secretary of State

No. 1740

BOGOTÁ, October 8, 1930.

[Received October 22.]

SIR: Referring to my previous reports concerning the progress of the oil bill, and with special references in that connection to my despatch No. 1724 of October 4, in which I spoke of visits of Mr. Haskell of the Texas Oil Company at the Presidential Palace, I have the honor to report that Mr. Haskell continued his discussions with President Olaya and the Ministers of Government and Industries on Monday last and is to see them again today. He believes that he is continuing to make progress.

As set out in the last paragraph of my despatch No. 1724 of October 4, Dr. Olaya saw Mr. Dodson of the Andian National Corporation on

^{5a} Not printed.⁶ H. A. Metzger, representative of the Tropical Oil Company.

October 4; but, in the absence of any opinion on the subject from the President of his company, Mr. Dodson felt unable to make any statements on the oil bill.

Although Judge Feuille of the Standard Oil Company of California has not seen Dr. Olaya for some time, he is continually in touch with the situation through his lawyer, Dr. Carreño, who is kept more or less informed by the Minister of Government.

As reported before, Mr. Folsom of the South American Gulf Oil Company does not care to take any part in the negotiations over the new oil bill, as he feels that he should concentrate all his efforts on the Barco matter.

Mr. McCulloch of the Sinclair Oil Company has not yet seen Dr. Olaya; but will be called by him in a few days to the Palace.

All these representatives come frequently to the Legation and are apparently frankly endeavoring to let me know what they hear about the prospects of the bill. None of them know, however, what the others are doing: each one comes in the greatest secrecy.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/930

The Minister in Colombia (Caffery) to the Secretary of State

No. 1743

BOGOTÁ, October 9, 1930.

[Received October 22.]

SIR: Referring to my recent reports concerning Dr. Olaya Herrera's interviews with American oil representatives, and with special reference to my despatch No. 1740 of October 8, concerning a visit of Mr. R. I. Dodson of the Andian National Corporation, I have the honor to report that on Tuesday Mr. Dodson and Mr. Metzger of the Tropical had a two-hour interview with the President, when, as Mr. Metzger expressed it, he had "delivered a two-hour lecture on oil to Doctors Olaya, Carlos E. Restrepo, Chaux and Luis Felipe Latorre"; he had been permitted to present his full views on a new oil bill.

Both Metzger and Dodson were highly pleased with the interview and felt that they had made a good impression. They were especially pleased with the attitude of the Minister of Government (Mr. Haskell had made a similar comment): Dr. Restrepo, during the discussions, upon several occasions took issue with Dr. Chaux in a sense favorable to the American oil companies.

However, Dr. Olaya Herrera did not show them the oil bill (Dodson does not know, of course, of the part that Metzger has had in drafting amendments to the bill; Dr. Olaya knows it, but acted as if he didn't; the Ministers of Government and Industries know nothing of it, apparently).

Mr. Metzger took occasion to state to me how pleased he was also with the attitude of Luis Felipe Latorre. (Having in mind my despatch No. 1724 of October 4, 1930, I asked Mr. Metzger whether Latorre were not attorney for the Unión Colombiana de Petróleos. Mr. Metzger said that he didn't think he was; that he might have handled legal matters for them upon various occasions, but he was not their regular attorney; that, in any event, even if he were, he did not believe he would allow that to influence him in a sense prejudicial to the American oil interests.)

Respectfully yours,

JEFFERSON CAFFERY

821.6363/914 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, October 11, 1930—noon.

[Received 8:09 p. m.]

126. Department's 56, October 10, 2 p. m.⁷ Washington United Press despatch regarding Rublee received here morning of October 9th. Government was interpellated thereon in Congress and Olaya announced appointment yesterday.

CAFFERY

821.6363/916 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, October 13, 1930—3 p. m.

[Received 10:06 p. m.]

128. My telegram No. 126 October 11, noon. In reply Saturday to bitter attack of Silvio Villegas against Government's entering into Rublee contract, Minister for Foreign Affairs delivered extensive and able reply setting out Government's new petroleum policy and policy of friendship with the United States; Minister of Industries also ably defended contract. Their speeches very well received in Congress and incident was declared closed by President of House.

We have probably unique opportunity during this Congress for securing a variety of much desired legislation of far-reaching effects on American interests.

However, owing to peculiar conditions now prevailing here, I respectfully declare that I have immediate need now and for the next 2 months of suitable secretary as contact man in Dickson's place and will be much handicapped without him (Olaya says confidentially he will probably prolong Congress until middle December).

CAFFERY

⁷ Not printed.

821.6363/948

The Minister in Colombia (Caffery) to the Secretary of State

No. 1845

BOGOTÁ, October 31, 1930.

[Received November 12.]

SIR: Referring to previous reports concerning the arrival of Mr. George Rublee, I have the honor to report that Mr. Rublee arrived in Bogotá on Monday last^a and has ever since been busily engaged in studying the petroleum project prepared by the Congressional Petroleum Committee, as well as amendments thereto suggested by Dr. Carlos A. Urueta.

He has gone over the project article by article (this, of course, is a secret here) with Mr. Metzger of the Tropical Oil Company, and has also discussed it with Dr. Carlos A. Urueta, and today, in my presence, had a discussion on the subject with President Olaya.

His impression is that, in general, the project is a good one and he is in accord with Urueta's suggested changes. President Olaya told us today that he was having difficulty with the Minister of Industries on the matter of the system of the parallel reserves which had been proposed by the Congressional committee; Dr. Chaux was being very insistent that, due to the geography of the petroleum structures of Colombia, it was essential for the Nation to maintain the alternate parallel reserve system suggested by the committee. He (Olaya) said that he had told Dr. Latorre to prepare a memorandum on the subject for Mr. Rublee, and he wanted him to go into the matter carefully, as he himself believed that the checker-board system was preferable; but he was finding that opposition thereto was very general here and he might have some difficulty in getting it through Congress. I suggested that Mr. Rublee, after studying the matter carefully, give his opinion in this form: that it depended upon what Colombia wanted: if they regarded the matter of reserves as most important, then the system of parallel reserves was in order; if they wanted exploitation, some other system would be better. I added that perhaps, if the parallel concessions were made broad enough, some sort of a compromise might be reached. Dr. Olaya said that he was in entire accord with both of those suggestions and hoped Mr. Rublee would work along those lines.

Dr. Olaya referred again to the matter of a possible advance on the Tropical royalties, and I again told him that, while I thought the Company might well be willing eventually to do as he wishes, I knew that they would take no action at all in the desired direction until the matter of their suit before the Supreme Court were disposed of. . . .

^a October 27.

Dr. Olaya told Mr. Rublee also that, as soon as possible, he wanted him to go into the whole Barco matter; he was very anxious to have that case also disposed of during the present Congress. He had told Dr. Latorre to prepare a memorandum for him on the subject.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/952

The Minister in Colombia (Caffery) to the Secretary of State

No. 1863

BOGOTÁ, November 6, 1930.

[Received November 19.]

SIR: Referring to previous reports concerning the work being done here by Mr. George Rublee, and with special reference in that connection to my despatch No. 1845 of October 31, I have the honor to report that Mr. Rublee has made an excellent impression here: the Colombians he has met find him "simpatico".

He has been continuing his studies of the oil bill: he has had a number of informal conversations with Mr. Metzger of the Tropical Oil Company, as well as almost daily conferences with Dr. Latorre, the consulting attorney of the Office of the Secretary General of the Presidency; also, he sees President Olaya daily at four o'clock. Metzger and Latorre have prepared for him, at his request, a number of memoranda on various articles of the bill.

Yesterday he received visits from the representatives of all the American oil companies interested in the bill; requested them to state their objections to the bill; and asked them to furnish him with memoranda on all matters in that connection they considered important.

He now believes that there are only two matters left which may cause difficulty: the first is that of the system of parallel zones (my despatch No. 1845 of October 31) and the other is the matter of compulsory production (see Article 20 of enclosures No. 1 and No. 2^o to my despatch No. 1655 of September 23). He wants me to insist with President Olaya on the importance of amending the bill in regard to those two questions. I suggested to him last night that he should put his opinion on the articles concerned, in writing, setting out, as I had suggested before (my despatch No. 1845 of October 31: in regard to the zone system) that it was for the Colombian Government to decide what they wanted: if they wanted development, the parallel zone system was not in order; if they wanted

^o See footnote 5, p. 3.

reservations, it was. I said, when he had done that, I could take up those questions with President Olaya.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/964

The Minister in Colombia (Caffery) to the Secretary of State

No. 1883

BOGOTÁ, November 11, 1930.

[Received November 26.]

SIR: Referring to my recent reports concerning the work of Mr. Rublee, and with special reference in that connection to my despatch No. 1863 of November 6, I have the honor to report that Mr. Rublee has been continuing his conversations with Doctors Latorre and Chaux. Differences on the oil bill are now definitely boiled down to the matter of the zones and the matter of restricting production, and Chaux has asked Rublee for written opinions on those two matters; Rublee, in turn, has asked Mr. Metzger to prepare him pertinent memoranda, which Metzger is now engaged in getting together.

In that connection, Mr. Metzger told me yesterday that he does not regard these two differences as vital; that it is all a question of degree; that, as a matter of fact, the oil companies could work in Colombia under the zone system, but that, unquestionably, some other system of reserves would be preferable. The same is true of the matter of restricting production: he believes that a formula can be found satisfying both parties. We are all agreed (Mr. Metzger, Rublee and I) that the Government is entitled to have an article put in the bill protecting them against sudden and precipitous loss of revenue through the companies suddenly suspending operations. At the same time, the companies should not be compelled to operate at full speed when the market does not justify it. Mr. Rublee finds Dr. Latorre very reasonable and conciliatory on this, and I believe that we may well find a satisfactory formula during the next few days.

As to the matter of reserves, in reply to a pertinent question from Mr. Rublee, I have suggested that he endeavor to insist on Montalvo's proposed reserve system (as inserted in his last year's bill), as that is apparently acceptable to all the companies (with the idea that if worse come to worse, we may be constrained to accept the parallel zone system, however). Mr. Rublee intends doing this.

Mr. Rublee is satisfied with the draft articles on the title question as now agreed to by Latorre; they provide that, in the case of disputed titles, all claimants shall submit their titles to the Supreme Court, where the matter shall be disposed of in summary procedure. He said that Haskell had given him a long memorandum on the title question

and had thereafter asked him his opinion thereof; he had replied that he did not agree with Haskell's position, observing that, as he remembered it, when the United States took over Florida in 1819, all claimants to private property were compelled to exhibit their titles; that he could not advise the Colombian Government to accept the principle that a mere two-year possession put the possessor in a privileged position as far as the Government's claim to the land in question was concerned. He felt that all claimants should have the same right to exhibit their proofs.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/981 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, December 13, 1930—7 p. m.

[Received 9 : 40 p. m.]

141. Today the President informed me that the petroleum bill, as recommended by Rublee and approved by me, had received the unanimous approval of the Council of Ministers and the Interparliamentary Petroleum Commission and would be sent to Congress next week.

CAFFERY

821.6363/999

The Minister in Colombia (Caffery) to the Secretary of State

No. 2059

BOGOTÁ, January 2, 1931.

[Received January 15.]

SIR: Referring to my recent reports having to do with the work of Mr. Rublee here, and with special reference to my despatch No. 2051 of December 31, 1930,¹⁰ in which I said that President Olaya had told him that he hoped to have his latest recommendations accepted by the Interparliamentary Petroleum Commission and introduced by them in both houses of Congress as amendments to the bill, I have the honor to report that Dr. Olaya sent me word yesterday that all the members of the Interparliamentary Petroleum Commission had agreed to include in the bill Mr. Rublee's additional recommendations (as set out in his memorandum transmitted with my despatch No. 2042 of December 27, 1930).¹⁰

Respectfully yours,

JEFFERSON CAFFERY

¹⁰ Not printed.

821.6363/1019

The Minister in Colombia (Caffery) to the Secretary of State

No. 2115

BOGOTÁ, January 14, 1931.

[Received January 28.]

SIR: Referring to my recent reports having to do with the oil bill, and especially to those despatches having to do with recently developed opposition to that project, I have the honor to report that President Olaya continues to assure me that he fully appreciates that it is essential for the renewing of the prosperity of this country to have a satisfactory oil law on the statute books, and . . . that he is using every effort to persuade members of the two houses of Congress to appreciate the situation also.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1012 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, January 28, 1931—11 a. m.

[Received 2:55 p. m.]

10. My 7, January 26, 4 p. m.¹¹ The petroleum bill as approved by Rublee . . . was passed by the Senate in the third debate on January 26 and introduced and passed in the first debate in the House on January 27.

CAFFERY

821.6363/1048

The Minister in Colombia (Caffery) to the Secretary of State

No. 2183

BOGOTÁ, January 31, 1931.

[Received February 14.]

SIR: Referring to my despatch No. 2175 of January 29,¹¹ transmitting a copy of the protest signed by representatives of the Texas Oil Company, the South American Gulf Oil Company, and of the Sinclair Exploration Company, in connection with the oil bill, I have the honor to confirm the statement in my despatch No. 2175 that Mr. Rublee was not bringing this memorandum to the attention of President Olaya Herrera, because he did not consider the objections embodied therein, in general, as either well-founded or serious. Also,

¹¹ Not printed.

as the record now shows, some of the statements made therein are clearly misleading; and some are inaccurate.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1049

The Minister in Colombia (Caffery) to the Secretary of State

No. 2184

BOGOTÁ, January 31, 1931.

[Received February 14.]

SIR: Referring to my despatches No. 2060 of January 2, and No. 2150 of January 23,¹⁴ transmitting copies of some observations on the oil bill made by Mr. Samuel Haskell, local representative of the Texas Oil Company, to my despatch No. 2159 of January 26,¹⁵ transmitting some observations on the oil bill made by Judge Feuille, legal representative of the Standard Oil Company of California, and to my despatch No. 2182 of today's date,¹⁵ transmitting a memorandum on the oil bill prepared by Mr. William T. Wallace, Vice President of the Gulf Companies, I have the honor to report that, as the oil bill in its present state will show, a number of changes recommended by these three representatives were made in the oil bill while it was before the Senate. These changes were made owing to their being recommended by Mr. Rublee. The recommendations of Mr. Haskell, Judge Feuille and Mr. Wallace to which no reference was made in the Senate were recommendations which were not approved by Mr. Rublee.

I have been interested to note that Mr. Haskell's is the only one of the three memoranda which lays much stress on the articles having to do with titles on private property (as they now stand written in the bill); and this, in spite of the fact that both the South American Gulf Oil Company and the Standard Oil Company of California are interested in operations on privately owned lands.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1064

The Minister in Colombia (Caffery) to the Secretary of State

No. 2226

BOGOTÁ, February 12, 1931.

[Received February 25.]

SIR: Referring to my recent reports concerning the progress of the oil bill in the Colombian Congress, I have the honor to report that I

Neither printed.
or printed.

have felt constrained, during the past two months, tactfully and personally to keep before Dr. Olaya the importance of his securing adequate oil legislation at this time, as well as the expediency of his coming to an agreement with the interested American oil concerns in relation to the Barco dispute. I apprehend that, had I not been regularly doing this, Dr. Olaya might have let both matters drop for the present, as, although he continues to have tremendous good will for the United States and our interests, he seems more and more inclined to let matters drift when there is no impelling reason for him to do otherwise. He dislikes fighting and it has been clear for a long time that, even with the amazing change throughout Colombia in sentiment in our regard, those two projects could never be put through Congress unless an effective driving force of the Executive Power were put behind them.

The oil bill is meeting with considerable opposition in the House of Deputies now, and unless the President takes a firm stand in the premises, it will be altered out of all recognition by that body; therefore, I am endeavoring tactfully to have him see the importance of assembling his forces, with a view to having the House pass the bill in its present form.

Dr. Olaya's principal power lies in the fact that the mass of the people do rely on him to bring back economic prosperity to the country, and, although it is plainer every day that the politicians in general will oppose him if they dare, he (at any rate, up to now) by threatening to appeal over their heads to the Nation, can still accomplish wonders. . . .

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1059 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

Bogotá, February 20, 1931—3 p. m.

[Received 5:25 p. m.]

18. My telegram number 12, February 11, 6 p. m.¹⁶ Olaya sent a message to the House Wednesday urging deputies to expedite consideration of the oil bill. Up to last night House had approved 19 articles.

CAFFERY

¹⁶ Not printed.

821.6363/1060 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 25, 1931—6 p. m.

[Received 9:40 p. m.]

22. My 18, February 20, 3 p. m. Petroleum bill approved February 23 by large majority of the House. It was sent to committee for putting in due form and should receive vote today in second debate.

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CAFFERY

821.6363/1067 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 26, 1931—10 a. m.

[Received 1:30 p. m.]

23. My 16, February 14, 11 a. m.¹⁸ Upon the request of President Olaya, Rublee has decided to remain in Colombia until March 26 in order to assist in drawing up regulating decrees under the new petroleum law.

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CAFFERY

821.6363/1068 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 26, 1931—5 p. m.

[Received 7:45 p. m.]

25. My 22, February 25, 6 p. m. The final minor changes we wanted were made yesterday by the House on motion of the Minister of Industries and the bill passed in second debate.

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CAFFERY

821.6363/1071 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 27, 1931—11 a. m.

[Received 3:10 p. m.]

26. My 25, February 26, 5 p. m. The petroleum bill passed by House yesterday in third debate. It returns today to the Senate,

¹⁸ Not printed.

which will consider the House's modifications which were made because they were recommended by Rublee.

CAFFERY

821.6363/1072 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, March 4, 1931—6 p. m.

[Received 8:54 p. m.]

30. My 26, February 27, 11 a. m. President today signed the petroleum bill as approved by Rublee . . . Both of us consider it to be a good, practical, workable law.

CAFFERY

821.6363/1100

The Minister in Colombia (Caffery) to the Secretary of State

No. 2316

BOGOTÁ, March 5, 1931.

[Received March 18.]

SIR: Referring to my despatch No. 2226 of February 13 [12], in which I stated that I had felt constrained during the previous two months tactfully and personally to keep before Dr. Olaya the importance of his securing adequate oil legislation at this time, as well as the expediency of his coming to an agreement with the interested American oil concerns in relation to the Barco dispute, I have the honor to report that President Olaya, a short time after my despatch No. 2226 was written, changed his whole attitude in so far as he had been letting matters drift; and recovered practically all of his former activity and determination.

As I have remarked before, he is inclined to let matters drift, but when necessary can display both strength of character and force. In effect, he did so in the present instances. He made it clear that he meant to have an adequate oil law on the statute books and meant to come to an agreement with the interested American oil concerns in the matter of the Barco controversy. When the politicians of Congress saw that he really meant what he said, they rapidly fell into line; and whereas the oil bill had been pitifully dragging along day by day, once Olaya's position became clear, the remainder (that is, the larger part of the bill) was passed article by article without counting the votes by simply banging on the desks in a manner usual in such cases in the Colombian Congress.

In other words, Olaya seems to have recovered all of his old form. I have only praise for his courage and very friendly attitude.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1072

The Secretary of State to the Minister in Colombia (Caffery)

No. 221

WASHINGTON, March 9, 1931.

SIR: The Department refers to your telegram No. 30 of March 4, and previous correspondence concerning petroleum legislation pending in Colombia, and desires to inform you that it has noted with great satisfaction the diligence, tact and discretion which have characterized your informal efforts to assist in bringing about the solution of the delicate and intricate questions involved. The Department is pleased to commend you for your part in the successful termination of a matter of such importance to American interests.

Very truly yours,

For the Secretary of State:
FRANCIS WHITE

821.6363/1111

The Minister in Colombia (Caffery) to the Secretary of State

No. 2376

BOGOTÁ, March 24, 1931.

[Received April 3.]

SIR: Referring to my previous reports concerning the work here of Mr. George Rublee in connection with oil matters (File No. 801.A Rublee), I have the honor to report that, as set out in my telegram No. 28 of February 28,¹⁹ Mr. Rublee expects to leave Bogotá on the 26th instant to return to the United States.

I desire to take the occasion to say that Mr. Rublee's stay here has been an unqualified success; in fact, without him, I should not have been able to secure as satisfactory an oil bill as the one which was recently approved by Congress; nor would I have been able to bring about the signing of as satisfactory a contract as is the Barco contract signed on March 5. His unusual intelligence and tact have won for him here the very general esteem and admiration of all classes; and it is worthy to note that the President of the Republic, the Minister of Industries, the Consulting Attorney of the Office of the Secretary General of the Republic, Dr. Latorre, and Dr. Carlos A. Urueta (especially), all seem genuinely sorry to see him go.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1117

The Minister in Colombia (Caffery) to the Secretary of State

No. 2381

BOGOTÁ, March 26, 1931.

[Received April 15.]

SIR: Referring to my despatch No. 2376 of March 24 (File No. 801.A Rublee), in which I spoke of the excellent work which had

¹⁹ Not printed.

been done here by Mr. Rublee, I have the honor to report that President Olaya took the occasion yesterday to ask me to express to the Department of State his appreciation of what Mr. Rublee had done. He said that Mr. Rublee had been "more than satisfactory;" the Government was delighted with what he had done, both in connection with the oil law and in connection with the signing of the Barco contract.

Respectfully yours,

JEFFERSON CAFFERY

821.6363/1140 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, June 10, 1931—3 p. m.

[Received 5:35 p. m.]

78. President Olaya tells me he forwarded by air mail Friday²⁰ copy of draft of proposed oil bill regulations to Rublee for any comment he may care to make before they are issued.

CAFFERY

821.6363/1148 : Telegram

The Minister in Colombia (Caffery) to the Acting Secretary of State

BOGOTÁ, July 24, 1931—11 a. m.

[Received 5:13 p. m.]

100. Regulating decree under the oil law will probably be published in *Diario Oficial* today. The date for receiving proposals formerly fixed August 1st will be extended to September 1st; October 15 remaining fixed for the other proposals.

[Paraphrase.] If the regulating decree is published in the form President Olaya said he was accepting yesterday, it will be highly satisfactory. The extension to September 1st was made at the suggestion of Mr. Metzger. [End paraphrase.]

CAFFERY

821.6363/1151 : Telegram

The Minister in Colombia (Caffery) to the Acting Secretary of State

[Paraphrase]

BOGOTÁ, July 29, 1931—2 p. m.

[Received 5:09 p. m.]

102. My 100, July 24, 11 a. m. President Olaya and Minister of Industries have signed petroleum regulating decree. The decree,

²⁰ June 5.

however, has not yet been published in the *Diario*. It is highly satisfactory. Please inform Mr. Rublee.

CAFFERY

821.6363/1152 : Telegram

The Minister in Colombia (Caffery) to the Acting Secretary of State

[Paraphrase]

Bogotá, July 30, 1931—5 p. m.

[Received 7:10 p. m.]

103. My 102, July 29, 2 p. m. Petroleum regulating decree was published yesterday. It is highly satisfactory. Please inform Mr. Rublee.

CAFFERY

SETTLEMENT OF THE BARCO PETROLEUM CONTROVERSY ²¹

821.6363 Barco/424

The Minister in Colombia (Caffery) to the Secretary of State

No. 2105

Bogotá, January 13, 1931.

[Received January 28.]

SIR: Referring to my previous reports concerning the desire of President Olaya to have Mr. Rublee ²² start studying the Barco matter as soon as practicable, I have the honor to report that President Olaya handed to Mr. Rublee on Saturday last a number of papers having to do with the Barco matter, and requested him to begin his study of the question at once.

Respectfully yours,

JEFFERSON CAFFERY

821.6363 Barco/421

The Minister in Colombia (Caffery) to the Secretary of State

No. 2117

Bogotá, January 15, 1931.

[Received January 28.]

SIR: Referring to my recent reports concerning the Barco concession, and especially to my despatch No. 2105 of January 13, in which I reported that Mr. Rublee was engaged in studying the whole matter, I have the honor to report that Mr. Rublee began, the day before yesterday, informal conferences with Mr. Clarence S. T. Folsom, local representative of the South American Gulf Oil Company, in an at-

²¹ For previous correspondence concerning the Barco petroleum concession, see *Foreign Relations*, 1928, vol. II, pp. 603 ff.

²² George Rublee, Petroleum Adviser to the Colombian Government. See pp. 1 ff.

tempt to find a formula for a contract for developing the Barco Concession, satisfactory both to the Colombian authorities and to the South American Gulf Oil Company.

Mr. Rublee began yesterday also conferences with Mr. Roscoe B. Gaither, the local representative of the American Maracaibo Company, in regard to the claims of that company in connection with the Barco matter.

Respectfully yours,

JEFFERSON CAFFERY

821.6363 Barco/417 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, January 16, 1931—6 p. m.

[Received 8 p. m.]

5. Last Monday, January 12, Rublee took up the Barco case. He finds royalty matter to be the principal difficulty. Gulf offers 5½ percent at port while Government wants 6 percent, which would be zone royalty, Minister of Industries says, under the new petroleum bill. Chaux states that Congress would never approve a lower royalty.

Rublee is still studying the matter. President's agents are tactfully sounding out Congressmen today to find out how far the Government can go. He realizes that the high cost of pipe-line construction has a direct bearing on royalty in this case.

CAFFERY

821.6363 Barco/420 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, January 26, 1931—6 p. m.

[Received 9 p. m.]

9. My 5, January 16, 6 p. m. Over a week ago Folsom telegraphed to his principals setting forth the situation and stating that the Government of Colombia believed with the royalty question settled an agreement on the rest of the proposed contract could be easily reached. President Olaya is anxious to expedite negotiations because he does not want to hold Congress in session later than February.

Rublee hopes that the Department can intimate to the Gulf the desirability of a quick decision.

The Minister of Industries still insists that Congress will never agree to a lower royalty than 6 percent.

CAFFERY

821.6363 Barco/427 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, January 29, 1931—2 p. m.

[Received 5:32 p. m.]

11. My 5, January 16, 6 p. m. and 9, January 26, 6 p. m. Mr. Rublee feels that if the Gulf is really interested in proceeding with the Barco proposition it must act promptly. Rublee will remain in Colombia for only one month longer. Even if the royalty matter is agreed upon now, much remains to be done. Also, if the contract is not arranged during this Congress, it will probably never be arranged.

President Olaya is extremely reluctant to put lower royalty than 6 percent up to Congress, and other members of the Government insist that 6 percent is absolutely the lowest figure Congress would approve.

CAFFERY

821.6363 Barco/428 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, January 30, 1931—5 p. m.

5. The purport of your 9, January 26, 6 p. m., was conveyed to the Gulf as well as the question of the minority interests.

Gulf said that Folsom had telegraphed that the Government of Colombia would definitely accept the solution of all points if the company would accept the 6 percent royalty at tidewater, that the company accepts this and will immediately engage in further negotiations with the minority interests in an endeavor to reach a definite settlement.

STIMSON

821.6363 Barco/445 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, February 17, 1931—7 p. m.

[Received February 18—12:53 a. m.]

17. My telegram No. 11, January 29, 2 p. m. Rublee handed me to-day following memorandum of which I respectfully suggest substance be transmitted immediately to Gulf Company:

"President Olaya told Rublee today that he wished to submit five modifications of the Barco contract for the consideration of the Gulf Company. He said that absolutely no further modifications would be suggested. The President stated he did not insist upon the acceptance of the five modifications in question and would sign the contract in the

form agreed upon in case the Gulf Company should refuse to accept them. In his judgment however it would be in the interest of both parties to incorporate them in the contract since this would enable the Minister of Industries to defend the contract more aggressively before the Congress and substantially improve the chance of securing its approval. There are only two of the proposed modifications which the President regarded as really important, namely,

(a) One which requires the maintenance of the agreed minimum production provided that the wells have the necessary productive capacity and that the petroleum can be produced without loss.

(b) One which fixes a definite term at the close of which exploitation must begin or the contract terminated.

Of these two the President considers the latter as much the more important. He said that the Congress is obsessed with the idea that the oil companies seek concessions in Colombia not for the purpose of production but for the purpose of creating reserves. The President said that he did not share the view but that it was an influential factor in the situation which must be reckoned with. He thought that unless the contract specifies some definite term when exploitation must commence there is serious danger that the opposition in Congress may succeed in preventing the approval of the contract. The President said that the term might be a long one. Rublee suggested a term of 10 years. The President thought this acceptable. Rublee has communicated the five modifications proposed by the President to Folsom who is cabling them to Wallace²³ today".

In my opinion the acceptance of these modifications by the Gulf would have beneficial effect upon treatment of the contract by the Congress, and especially the suggestion as to definite term when exploitation must commence.

[Paraphrase.] I think it would be well to indicate to Gulf that their conception of the situation in regard to the Barco controversy is apparently erroneous. Gulf seems to think that the Colombian authorities are really very anxious to enter into a contract with them; that it is simply a matter of negotiations between them and the Government of Colombia. As the Department is aware, the facts are very different. The Colombian authorities are proceeding with the negotiations principally because they think the Department desires them to do so. In fact, the Government of Colombia might be inclined to drop the whole matter did not the present administration feel under certain definite obligations to the Department and to this Legation. Otherwise the administration might possibly welcome negotiations with well-known British companies which have expressed interest in the territory. As the Department is also aware, the possibility of the Supreme Court deciding in favor of Gulf in their suit is so extremely remote that it is not worth discussing. In the

²³ William T. Wallace, Vice President of the South American Gulf Oil Company.

meantime both Rublee and I are doing our best to obtain the best possible terms for the Gulf. [End paraphrase.]

CAFFERY

821.6363 Barco/447 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, February 18, 1931—6 p. m.

8. Your 17, February 17, 7 p. m. Gulf says it has already agreed to point (a) in Rublee's memorandum. Gulf feels that it cannot agree to point (b) because in any wildcatting venture such as this it is impossible to predict whether oil will be found and therefore whether exploitation can commence on any arbitrary date. It might be possible to have the property in exploitation in 6 years and it might be impossible to do it in 10 years. Mr. Wallace stated that the Minister of Industry had asked for an 8-year term. The company also stated that the construction of the pipe line and other features were being linked with this condition. They received Folsom's cable at noon today, are studying the same, and will send him an answer this afternoon.

STIMSON

821.6363 Barco/450 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, February 25, 1931—5 p. m.

[Received 10 p. m.]

21. My 17, February 17, 7 p. m. Yesterday the President sent for me. (This morning he repeated the same conversation to Rublee.) He stated that he appealed to me for aid in the Barco matter. Both he and his Minister of Industries had agreed to sign the contract (as set forth in Rublee's memorandum). Since then, however, the President has been forcibly reminded that powerful political factors here were in a position definitely to prevent the contract's approval by Congress unless certain additional changes were made. The President by no means put these forward as demands, but on the contrary he hoped that Gulf would again help him with the contract in order to get it in shape to get it through Congress. He realizes that this will try Gulf's patience but it is only the risk of failure in Congress that induces him to make the request.

(1) The President is convinced that it will be useless to present the contract to Congress without the addition of a clause to article 10 stipulating that in the event that a dispute shall arise as to the amount of the royalty payments, the company shall pay to the Government the amount the company admit is due, and the Government will sue in the courts any balance it claims as due.

(2) Also, the President would like very much to have a clause included fixing a 10-year term at the end of which exploitation must commence or the contract be given up. The President is of the opinion that it would be difficult to get the bill through Congress without this clause, but he is willing to present the bill to Congress without it.

I respectfully make the suggestion that the Department use its good offices with the Gulf to induce it to accept at least the first change desired by President Olaya.

I was assured by the President that the Government would raise no more questions. He added that he wanted to sign the contract and send it to Congress on March 1, next, because he much desired to close Congress.

CAFFERY

821.6363 Barco/456

The Assistant Chief of the Division of Latin American Affairs (Matthews) to the Assistant Secretary of State (White)

[WASHINGTON,] February 26, 1931.

With reference to Mr. Caffery's telegram No. 21, February 25, 5 p. m., concerning the Barco matter, and especially to the first point raised therein by Olaya, the following explanation may be of interest to you:

As you will recall, an agreement was finally reached in December, 1928, between Montalvo and the Tropical Oil Company settling their two years dispute concerning royalty payments (the interpretation with respect to refined products to be given clause 5 of the Tropical's contract).^{23a} This agreement provided that the Tropical should pay the Government immediately what it considered to be royalty payments due, and that the question of additional amounts claimed by the Government, based on its interpretation of clause 5, should be left to the Supreme Court by means of a suit brought by the Government. Public opinion in Colombia would probably regard that settlement as in the nature of a precedent, and since its provisions are substantially what Olaya is asking as an addition to clause 10 of the proposed Barco contract, I share his opinion that the omission of such additional clause would lay the contract open to attacks in Congress.

^{23a} See telegram No. 189, December 16, 1928, from the Minister in Colombia, *Foreign Relations*, 1928, vol. II, p. 603.

While the Gulf seem to me to have been quite conciliatory and reasonable in their present negotiations, I feel on the other hand that Olaya is sincere in wanting the changes primarily, if not entirely, in order to obtain congressional approval. I wonder if the Gulf fully realize: (1) that this is in effect their last chance to get back the Barco; (2) that Olaya is pressing for a settlement chiefly because he feels "under certain definite obligations to the Department"; and (3) that the Gulf's chances of a favorable Supreme Court decision are "extremely remote".

H. FREEMAN MATTHEWS

821.6363 Barco/454 : Telegram

The President of Colombia (Olaya) to the Colombian Legation ²⁴

[Translation]

BOGOTÁ, February 26, 1931.

Please give my cordial compliments to Mr. White and deliver to him the following message:

As you are aware, my greatest desire is to eliminate all the difficulties which may formerly have existed in the development of commercial, industrial and other ties between Colombia and the United States. Among the difficulties referred to are those relative to the so-called Barco concession, and in order to close a definitive adjustment there are lacking only certain points, which are, properly speaking, explanatory statements of conditions, for the purpose of preventing, later on, any risk of future disputes and possible difficulties. I believe that on this point the interest of the Company, that of the Colombian Government and that of the United States coincide or ought to coincide so that the new contract may be a clear and unambiguous document and an effective guarantee of cordial relations and harmony between the company and the Government. Minister Caffery, whose valuable aid I highly appreciate, shares with me this opinion and for that reason he has offered to recommend by cable the adoption in the contract of certain stipulations which Caffery will detail to the Department and which I sincerely believe serve principally to eliminate from the contract ambiguities which later might be the source of difficulties and disputes. If the points referred to in Mr. Caffery's cable are accepted by the Gulf, the contract would be signed immediately and we would proceed to present it at once to Congress, supporting it before that body very vigorously in order to bring about its prompt approval. It would be deeply regrettable if because of in-

²⁴ Copy handed to Assistant Secretary White on February 26 by the Colombian Chargé.

complete understanding of the situation we should endanger a negotiation which we have succeeded in bringing almost to an end after overcoming a great many obstacles. I hope that this time the co-operation by friends in the Department will not be lacking for the success of an effort advantageous in every sense and which will contribute also to widening the field in which we can develop further the friendship between our two countries.

PRESIDENT OLAYA

821.6363 Barco/452 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, February 27, 1931—2 p. m.

10. Your 21, February 25, 5 p. m. It is our understanding that the company will accept the first modification suggested by President Olaya with regard to any disputes in royalty payments, provided the Government of Colombia agree that if it intends to file suit in any given case it will do so within 90 days thereafter, so that the books of the company will not be held open indefinitely and so that the company can know what liabilities it may have to meet.

With respect to the second point, it is the feeling of the company that it cannot agree to a fixed term at the end of which exploitation must begin because no one can predict what petroleum resources may exist there and how soon it will be possible to commence exploitation. Probably the company will make a counterproposal to the effect that if in a given time the minimum production stipulated has not been reached, it will put more drilling rigs into operation.

The Department, of course, does not undertake to pass upon the contract as a whole; nevertheless, it hopes that these offers of the company will make it possible for the two parties to reach a satisfactory agreement at any early date.

STIMSON

821.6363 Barco/455 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, March 4, 1931—6 p. m.

[Received 8:37 p. m.]

29. Department's telegram No. 10, February 27, 2 p. m. Barco contract signed today.

CAFFERY

821.6363 Barco/470

The Secretary of State to the Minister in Colombia (Caffery)

No. 223

WASHINGTON, March 11, 1931.

SIR: The Department has received your telegram No. 29 of March 4, 6.00 p. m., reporting the signing of a contract for the settlement of the Barco Concession controversy by representatives of the South American Gulf Oil Company and the Colombian authorities. The Department has noted with great satisfaction the skill, tact and good judgment which you have exercised in extending your informal good offices to assist the private American interests involved and the Colombian Government to arrive at a mutually satisfactory settlement of this long pending and difficult question, and desires to commend you upon the successful termination of the controversy.

Very truly yours,

For the Secretary of State:

FRANCIS WHITE

821.6363 Barco/507 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGORÁ, April 16, 1931—11 p. m.

[Received April 17—1:21 a. m.]

50. My 37, March 13, 11 a. m., despatch No. 2388, March 27, and first numbered paragraph telegram 49, April 10, 4 p. m.²⁵ This afternoon President Olaya told me that it now appears impossible to have the present Congress ratify the contract without modifications; that he wanted to close the Congress now with the idea in mind of reintroducing the contract in the new Congress in July; he thinks he can make "combinations with new elements" in that body so as to get the contract ratified. He will not do this if the Department objects, but will continue the fight now. He "needs" the continued good will of the Department and especially for two matters:

(1) He fears that the banking group, whom he suspects of the most sinister designs, may endeavor to break up his negotiations over the Swedish match monopoly and he wishes the good offices of the Department in case of necessity.

(2) He wants the informal good offices of the Department in case of necessity in the matter of his requested advance from the United Fruit Company, and he hopes that the Department will express its general attitude in the premises to me. See my despatch No. 2403, March 30.²⁶

²⁵ None printed.²⁶ Not printed.

I think that under existing circumstances President Olaya should close Congress now and resubmit the contract to the new Congress in July. Representatives of Gulf here agree.

Urueta persists in believing that the Department could have "persuaded Gulf to accept the time limit and avoided this trouble". His judgment, however, is undoubtedly warped by his distress over the President's inability to get the contract through Congress now.

CAFFERY

821.6363 Barco/509 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

Bogotá, April 18, 1931—9 a. m.

[Received 12:22 p. m.]

51. My 50, April 16, 11 p. m. It is becoming increasingly clear that it is now too late to satisfy the Colombian Senate with time limit modifications; it will demand joint contract. Using the contract as a pretext unfriendly elements have turned current in this Congress against the President (the Senate has already overridden his vetoes, for instance, the general tariff) and he should close Congress at once and issue a statement that the failure of that body to approve a concession has prevented him from proceeding with the economic restoration of Colombia; the President could do this dramatically on Monday, April 20, at 4. Even the Cabinet is unaware that he is seriously contemplating this step.

President Olaya said he would reorganize the Cabinet on the basis of what each member can do for the ratification of the contract.

CAFFERY

821.6363 Barco/510 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, April 20, 1931—6 p. m.

22. Your 50, April 16, 11 p. m., first full paragraph, penultimate sentence, and your 51, April 18, 9 a. m. The matter of the adjournment of the Colombian Congress rests entirely with President Olaya, and, of course, the Department of State does not desire to interpose any objection thereto or make any suggestion in connection therewith. For your own information we desire to state that President Olaya will have, of course, the continued good will of the Department which will endeavor to assist him in his difficulties as far as it can appropriately

do so. The Department is concerned at the reliance which is being placed on it by President Olaya and Urueta. Your 50, April 16, 11 p. m., last paragraph. While the Department discussed the matter with the Gulf, it did not attempt to carry on negotiations with that organization with respect to the terms of the contract, which it considered to be a matter between that organization and the Government of Colombia.

STIMSON

821.6363 Barco/586 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, June 20, 1931—1 p. m.

44. Legation's 84, June 18, 2 p. m.²⁷ When the Catatumbo contract has been signed ²⁸ you may, if in your opinion such action would be helpful and would not be misconstrued, express informally to President Olaya the gratification with which this Government has learned of the final satisfactory solution of this troublesome and longstanding problem.

STIMSON

GOOD OFFICES OF THE DEPARTMENT OF STATE IN RESOLVING DIFFERENCES BETWEEN THE COLOMBIAN GOVERNMENT AND AMERICAN BANKERS

821.51/871 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Extract]

BOGOTÁ, March 12, 1931—5 p. m.

[Received 10:25 p. m.]

36. My despatch No. 2301, February 25th.²⁷ President Olaya informed me this morning that although budget had been reduced and balanced as American bankers had demanded, they told him this morning they were unable to pay over \$4,000,000 as they had clearly promised because British Minister is insisting on prior payments on Supía Marmato claim.

CAFFERY

²⁷ Not printed.

²⁸ President Olaya signed the bill approving the Catatumbo contract on June 20, 1931 (821.6363 Barco/592).

821.51/871 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, March 16, 1931—4 p. m.

16. Your 36, March 12, 5 p. m. Department has taken this matter up energetically with the bankers and has now been advised that the \$4,000,000 will be paid to Colombia today. This will bring the amount paid so far up to \$16,000,000.

The bankers state that they acted as reported in your cable in order to preserve Colombian credit in the British market in order that the long time financing envisaged by the Colombian Government may not be impeded when the time comes to undertake it. Pressure was brought to bear on Lazard and Company by the British Foreign Office, a man named . . . in the Foreign Office they state being responsible. Department understands that Lazard was told that the Foreign Office would close the British market to further Colombian financing unless this claim was paid and Lazard then brought pressure to bear on the American bankers. . . . They realize that they should have told President Olaya frankly the situation at the outset and have asked him to straighten out the British end so that he would know exactly where the difficulty came from. The National City Bank is cabling its representative in Bogotá to explain the matter now frankly and fully to President Olaya and to ask him to take the matter up through the Colombian Legation in London with the Foreign Office in order to remove any difficulties regarding the second \$4,000,000 in which Lazard will participate. Lazard is not participating in the \$4,000,000 to be advanced today and the bank professes that Bogotá representatives confused the two \$4,000,000 credits and made the settlement of the British claim a condition for the payment of the first \$4,000,000 advance, whereas it should have been done in connection with the second \$4,000,000. The bankers have asked that you help their local representatives in explaining the situation to Olaya. They state that if he can get on without the second \$4,000,000, which they doubt, it will not be necessary to take any further steps, but if they are to advance the second \$4,000,000, it will then be necessary for the Colombian Government to take steps with a view to relieving Lazard of the pressure now put on them by the British Foreign Office.

Your despatch No. 1779 of October 14, 1930²⁹ reports that the Colombian law in settlement of the Supía Marmato claim was in a principal amount of £300,000 with interest at 5 per cent from May 29, 1925 on £140,000. The bankers state that it is their understanding that the principal amount is £300,000 plus 5 per cent current interest from 1925 and that in addition there is a claim of £40,000 about

²⁹ Not printed.

which they are not at all clear. It is their understanding that it has something to do with back interest payments. Department has no record of this. Bankers state that cable received this morning informs them that President Olaya was suggesting the payment of this latter sum over a period of years and that this might definitely settle the matter. They also felt that Olaya was perhaps trading on this and that his attitude toward the American bankers was in order to make them help him out with this sum. Department has no information on this matter whatsoever and will be glad to have such comments as you may care to make.

Department will be glad to have you explain to President Olaya either directly or through supporting the bankers' representatives in Bogotá the true situation regarding the Supía Marmato claim as set forth above.

STIMSON

821.51/872 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, March 17, 1931—5 p. m.

[Received 10:07 p. m.]

39. Your 16, March 16, 4 p. m. This incident has adversely affected President Olaya more perhaps than it should. The President holds that he has based his entire political program on cooperation and friendship with us, but now, in view of the action of the bankers, his confidence in American businessmen seems to be a bit shaken. I am, of course, trying to combat this, but I am not convinced that he will continue to support the Barco contract with the same vigor, and he may not veto all the many objectionable articles in the general tariff bill which is now in his hands for signature, which he has promised to do.

The Bank's statement to the Department that the bankers' representatives here confused the two \$4,000,000 credits, etc., is not true. . . .

The figures for the settlement of the Supía Marmato claim, as set forth in despatch No. 1779 of October 14, 1930,³³ were correctly reported. The amount of the accrued interest is £40,000 sterling. President Olaya knows that the attitude of Lazard was due to pressure from the British Foreign Office. What he chiefly resents is that our bankers, after promising to pay the \$4,000,000 upon certain conditions, when the conditions were complied with, at the last moment put forth this British claim.

³³ Not printed.

The President's prestige has suffered considerably. For instance, Senator Marulanda this morning remarked that he believed that all of President Olaya's talk about American friendship was "a lot of bunk"; that Congress, believing his promises, had carried out every condition of the bankers and still the bankers had not paid over the money.

CAFFERY

821.51/891

The Minister in Colombia (Caffery) to the Secretary of State

No. 2359

BOGOTÁ, March 18, 1931.

[Received April 1.]

SIR: I have the honor to refer to my confidential despatch No. 2323,³⁴ submitting a report on the relations of the United States with the Latin American republics, with particular reference to Colombia, and to invite attention to the fact that the best efforts of the Department of State and our diplomatic missions abroad may be almost nullified by prejudicial activities of American business concerns. I have in mind especially the recent action of the group of American bankers, which has had such an unfortunate effect on our interests here in general in Colombia. Without question, activities of this kind have played a great part in creating the undercurrent of hostility against us which exists in Latin America; and I do not believe that that hostility will cease until some way is found to have American business concerns understand that it is imperative for them to act towards the Governments and peoples south of the Río Grande in the same manner as they act towards people and concerns in the United States; and we are only deceiving ourselves if we pretend that the majority of American concerns act in these countries as they do at home.

Respectfully yours,

JEFFERSON CAFFERY

821.51/933: Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, May 12, 1931—7 p. m.

[Received 10:18 p. m.]

59. President Olaya says that following continued pressure from the bankers he has settled the British Supia Marmato mining claim; forced the organic budget law through Congress and that the organic

³⁴ Dated March 11, 1931; not printed.

customs bill will be passed in a few days; he is ready to put into effect by executive decree the principal provisions of the comptroller law; and now, in the face of this, the bankers still say they cannot pay the four millions because they have discovered that the revenues for the first quarter of this fiscal year are below their estimates; the bankers want him to reduce the budget again; he says that this is an impossible situation and that no government can function if its budget is subject to revision from month to month; that the bankers themselves accepted Kemmerer's³⁵ figures for the budget and in any event, in his opinion, the increased revenues later this year will make up for whatever they are short during this quarter; that if he attempts further salary reductions at the present time, he will have social troubles on his hands; that these four millions are destined to pay the amounts still due by the National Government to the Departments and in case the Departments do not receive they will commence to default, as all his calculations have been based on that; for instance, the Department of Antioquia will be forced to default next month; the only reason why many members of Congress are supporting the Barco contract is that he has promised them part of the four millions for their Departments; he added that I could readily understand that after all he had done to force the Barco contract and the oil law and other legislation that I wanted through Congress, if he is compelled to state that my people have refused to cooperate with him there will be nothing left for him to do but resign, and that he did not think that our bankers would get very sympathetic treatment from his successor.

Again I respectfully ask that the bankers be made to understand what they are doing. If the bankers drive the President from office, the chances of their ever recovering their fifteen millions already invested will be remote. It is quite clear that after all that President Olaya has done for American interests (and in the face of bitter opposition), if he turns to Congress with empty hands he cannot retain the Presidency.

CAFFERY

821.51/933 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, May 14, 1931—1 p. m.

26. Your 59, May 12, 7 p. m. The matter has been discussed with an official of the National City Bank of New York who said that the

³⁵ Edwin Walter Kemmerer, president of the American Commission of Financial Advisers to Colombia.

difficulty was that the budget was found to be unbalanced to the extent of \$4,400,000. A balanced budget, he stated, was not a new condition now imposed by the banks but was the cornerstone of the whole agreement from the very beginning. The National City Bank has cabled to Bogotá suggesting that specific reductions be made in the budget, and this has been done by comparing the 1931 budget with the 1930 budget and suggesting that all increases in the former over the latter be scaled down to the 1930 figure. The increases in the 1931 budget over the previous budget amount to more than \$4,000,000, so that if these reductions are made, they will have, in fact, a balanced budget. The Department does not know what items are on this list, but it has been told that there are few, if any, salary reductions involved.

The National City Bank stated that this information was cabled to Bogotá; that a reply was received inquiring whether, if these reductions were made, the last \$4,000,000 would be paid over; the National City Bank answered that it would. Report further developments.

STIMSON

821.51/937 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

Bogotá, May 16, 1931—10 a. m.

[Received 5:11 p. m.]

61. Department's 26, May 14, 1 p. m. . . . President Olaya admits that a balanced budget was one of the first conditions laid down in the agreement of June 30, and he agreed with the bankers on a balanced budget of \$51,000,000 afterwards reduced to \$49,000,000 for this year. What the President holds is that he cannot revise his budget month by month in accordance with the monthly receipt of revenues; what the bankers now demand is that he reduce the budget again as the receipts for the first quarter are below their estimates. The President says that the revenues will pick up later on. There are no salary reductions involved in the new reductions demanded, but the discharge of large numbers of employees is involved. The 1930 budget reached over \$59,000,000.

CAFFERY

821.51/973 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, June 11, 1931—4 p. m.

[Received 7:30 p. m.]

80. Your 37, June 10, 1 p. m.³⁷ Negotiations are still proceeding on the questions mentioned in my 73, June 1, 4 p. m.³⁷ The local representatives believe that their principals in New York will reach a final favorable decision within a few days. If they do not, President Olaya may appeal again to the good offices of the Secretary of State.

CAFFERY

821.51/980 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

BOGOTÁ, June 19, 1931—10 p. m.

[Received June 20—12:14 a. m.]

83. My telegram No. 80, June 13 [11], 4 p. m. At the last minute after everything else was agreed on for advance of last [\$]4,000,000 bankers today have made a new condition: they desire to jump interest rate on renewal of whole loan June 30 from 7 to 8 percent. Olaya rightly says that in the face of the approval of the Catatumbo contract yesterday it is impossible for him to face the country and admit that the interest rate asked by American bankers has been increased immediately upon approval of Catatumbo contract when the entire nation believes that its approval will bring about improved economic and financial conditions here. He says that later in the year he might be able to pay more but certainly not now.

I agree entirely. An increase of this interest rate would now have absolutely disastrous consequences for the whole current of friendly feeling now existing here for the United States. The bankers apparently still have absolutely no understanding of the situation here or their own best interests. They are frivolously reopening the whole question of Olaya's continuing in office.

CAFFERY

³⁷ Not printed.

821.51/982a : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, June 22, 1931—7 p. m.

45. The position of the bankers is as follows: On December 31, 1930, the credits expired. They were renewed for a term of 6 months by agreement. No agreement now exists for extending them beyond June 30, 1931, because it was contemplated that long-term financing would take place by that time. Such financing is absolutely out of the question because of present market conditions. Even if the \$4,000,000 credit were given it would likewise expire on June 30. The bankers are willing to give the \$4,000,000 and desire to enter into a new agreement to cover the entire \$20,000,000 involved. Short-term financing now on the basis of present market prices of Colombian bonds would be at 10 percent. Nevertheless, the bankers are willing to extend the credits for a period of 90 days at 7 percent provided they are paid an initial commission for issuing the short-term credit of one-fourth of 1 percent of the total amount of \$20,000,000, that is, \$50,000. This is to cover the amount they are out for expenses for cables (\$35,000) and maintenance of Messrs. William J. Samels³⁸ and Howard M. Jefferson³⁹ in Colombia (\$9,000).

Today Mr. W. W. Lancaster⁴⁰ was in Washington and it was pointed out to him that some of the expenses for cables were due to the failure of the bankers to pay the last \$4,000,000 and in bringing up new conditions. He admitted this, but also stated that a good deal of it concerned the fiscal agency agreement and the endeavor to find a satisfactory formula for President Olaya, who had stated to the Colombian Congress that he had a definite promise of \$20,000,000 from the bankers under the letter of June 20, 1930, at a time when the bankers claim this was not true. It was pointed out to Mr. Lancaster that the bankers agreed to give the \$20,000,000 provided President Olaya did certain specific things which he has since done. Mr. Lancaster telephoned the bank officials and they stated that they would not insist upon the commission of one-fourth of 1 percent (which, for a 90-day credit added to the 7 percent interest would make a total of 8 percent) provided the President should make some gesture toward meeting the amounts they are out for expenses.

We should like to have your views on this and to know whether you think the President would be disposed to offer half of the ex-

³⁸ Local representative of the National City Bank.

³⁹ Local representative of the First National Bank of Boston.

⁴⁰ Counsel for the National City Bank.

penses. We consider this to be a very small matter for the bankers to quibble over, and although they may eventually yield under pressure, yet we want you to know their views, and before going back at them to know whether you think President Olaya would be willing to settle the entire matter by some such offer.

STIMSON

821.51/985 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

[Paraphrase]

BOGOTÁ, June 23, 1931—4 p. m.

[Received 9:22 p. m.]

88. Your 45, June 22, 7 p. m. The position of President Olaya is that aside from carrying out the bankers' conditions he has carried out a constructive program worth a great many millions to American interests, such as the Catatumbo contract and the oil law, and he can show an extensive list of other valuable favors done. As I have tried to explain, he forced the Barco contract through Congress at great cost to himself . . . I have never known the President to exhibit . . . so much feeling as now over this new demand of the bankers immediately following the approval of that contract.

I think this may be a test as to whether or not the President shall go on with his present policy of enthusiastic cooperation with the United States, thus far so amazingly successful. The dollars and cents have little to do with the matter although the President would certainly question the justice of his having to pay cable charges largely as a result of quibbling by bankers and the expenses of the resident representative of the National City Bank, or Jefferson . . .

I think, therefore, that President Olaya would resent paying any part of these expenditures, especially as the knowledge of the payment could not be kept from the public.

CAFFERY

821.51/988a : Telegram

The Acting Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, June 26, 1931—7 p. m.

47. Department advised this afternoon by Lancaster that the contract for the additional four million dollars will be signed on Monday ⁴¹ and the money will be turned over to Colombia on Tuesday. At the

⁴¹ June 29.

same time the outstanding credits will be renewed for 90 days at the same interest rate, namely 7 per cent and without the opening commission recently asked for.

The bankers added that the Bank had received information from Bogotá that a satisfactory arrangement was being made regarding the payment of expenses but the Bank has no information regarding it.

CASTLE

821.51/998 : Telegram

The Minister in Colombia (Caffery) to the Acting Secretary of State

Bogotá, July 1, 1931—5 p. m.

[Received 9:09 p. m.]

91. Department's 47, June 26, 7 p. m. Four millions made available to the Government yesterday; actually in their hands today.

Outstanding credits renewed for 90 days at 7 percent with the understanding that increased rate of interest or payment of expenses will be taken up again September 30.

CAFFERY

821.51/1100a : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

[Paraphrase]

WASHINGTON, October 2, 1931—2 p. m.

63. Mr. George Rublee⁴² telephoned us from New York City and stated that yesterday the Federal Reserve was seriously considering granting credit to the Banco de la Republica but that now an alarming telegram has been sent to him by President Olaya to the effect that unless immediate assistance is received in the form of a \$12,000,000 loan to the National Government to care for the foreign debt service payments of the Government and Departments in 1932 he will be unable to meet these. Under the circumstances, since it appears that credit to the Banco de la Republica may not save the situation or even prove constructive, the Federal Reserve is less inclined to grant the credit. Mr. Rublee desires to know whether any political developments have occurred to account for the latest move of President Olaya.

STIMSON

⁴² Financial Adviser of the Colombian Government in the United States.

821.51/1101 : Telegram

The Minister in Colombia (Caffery) to the Secretary of State

Bogotá, October 4, 1931—4 p. m.
[Received October 5—1:12 a. m.]

121. Department's 63, October 2, 2 p. m. In order to answer properly Rublee's question I must review happenings of the year :

At the time Olaya forced Congress approval Catatumbo contract (my despatch No. 2633 of May 23rd),⁴⁸ oil law, issued oil decree, et cetera, et cetera, public believed (unwarrantedly of course) that as a result of Olaya's many successful efforts on behalf of American interests American help would be forthcoming for the already unfavorable economic situation existing here. Later on Olaya attempted to secure help from the Gulf Oil Company; appealed to the United Fruit Company; offered business to International Telephone and Telegraph Company, et cetera, et cetera, with object of securing funds to avoid moratoria but was refused. Then came the situation created by the cancellation and reduction of credits by New York banks. Finally at the suggestion of the Government's foreign bankers he proceeded recently to take certain drastic measures (some of which are now known to the Department). The reaction to these measures among the public in general has been that while they accept the necessary sacrifices they say they "do not desire to sacrifice themselves" in order to pay foreign debt services. The attitude of the public is exemplified by remark a colleague made to me that "the man in the street is saying that Olaya was deceived by the North Americans who did not keep the promises they made him at the time he was putting through the many laws and measures they wanted". Moreover, it is not possible to persuade the public that no such promises were made; meanwhile Olaya asks for *quid pro quo* it is impossible to give him. He now asks this (and this would be accepted by public opinion); a loan of at least \$7,500,000 (guaranteed by specified revenues) solely to take care of the debt services of the National Government departments and municipalities for 6 months. He asserts that the measures taken on advice of Government's bankers will cause Government's revenues even with new taxes to fall to such an extent that Government will be unable to bear the burden of its debts until normal conditions are restored. He insists on declaring that the present situation has been brought about by the cancellation and reduction of commercial credits plus the failure of American entities to give him the assistance he asked of them: He asserts that had "the little help" he asked for been given him by American concerns during the past few months, the present difficulties

⁴⁸ Not printed.

could have been easily avoided; he feels that something could have been done by us.

For the first time since I have been dealing with Olaya, he is not inclined to listen to reason: his private secretary tells me the President said to him that "his international policy has been a complete failure; he has been abandoned by the United States into the hands of his enemies; he has declared repeatedly there would be no moratorium and if now forced to a moratorium all the enemies of the United States will arise and taunt him: Thus far he has had the political situation in his hands: now he will probably lose it".

CAFFERY

821.51/1101 : Telegram

The Secretary of State to the Minister in Colombia (Caffery)

WASHINGTON, October 6, 1931—8 p. m.

65. Your 121, October 4, 4 p. m. It appears that President Olaya and Colombian public opinion are taking the view that the many praiseworthy and constructive measures taken by Olaya, both directly and indirectly benefiting American interests, constituted the execution by Colombia of its part of a sort of bargain with this Government and that now this Government is failing to carry out its part.

The Department realizes that you well understand its position, but it appears advisable in view of the foregoing to state as a matter of record that while the Department has at all times extended to Olaya every assistance that it appropriately could and sincerely appreciates Olaya's great efforts to pull through the present world economic depression, at no time did it either directly or indirectly extend any sort of promise of a *quid pro quo* in the nature of financial assistance. This is clear to you and is the position the Department must maintain. (See Department's telegram No. 22, April 20, 6 p. m.,⁴⁴ in this connection). The Department's efforts before the banking group last Spring were for the purpose of pointing out the necessity for the group to live up to its contract; these efforts were not designed to obtain an additional loan for Colombia as a reward for Olaya. Olaya apparently does not understand that not only can this Government not exert pressure on private banks but also that its relationship to the Federal Reserve system precludes it from exerting any pressure upon this independent institution. To all who might help the Department has strongly indicated its friendship with the Colombian Government and its appreciation of the strenuous efforts

⁴⁴ *Ante*, p. 27.

Olaya has made to preserve Colombia's credit. Professor Kemmerer has strongly argued the Colombian case to bankers. It is likewise apparent that Olaya does not realize the extreme gravity of the economic situation throughout the world, with important effects in the United States recently greatly aggravated by the abandonment of the so-called gold standard by England and other European countries.

You may explain this to President Olaya, stressing the fact that it is not a question of letting him down but of world conditions over which the Department has no control. It would be most regrettable should Olaya publicly announce that Colombia's present situation has been brought about "by the cancellation and reduction of commercial credits plus the failure of American entities to give him the assistance he asked of them". The Department hopes that he will not take this or any other drastic and unreasonable step and that explaining his action by the extraordinary and rapid change for the worse in World Conditions, he will suspend only such Sinking Fund payments as are absolutely necessary and maintain interest payments in all events; that he will continue to work through Rublee in New York to take advantage of any possible favorable turn, to keep cool, and not to take impulsive measures in a moment of despair which may seriously and adversely affect Colombia's future credit standing.

STIMSON

CUBA

POLITICAL UNREST IN CUBA¹

837.00/2948 : Telegram

The Ambassador in Cuba (Guggenheim) to the Secretary of State

[Paraphrase]

HABANA, January 8, 1931—11 a. m.

[Received 2:45 p. m.]

3. Yesterday a meeting took place between President Machado and General Menocal² to discuss the possibility of reaching a solution to the Cuban political problem more or less along the lines suggested in my No. 164, December 12, 1930, sub-head 5.³ The opposition had requested that I take part in such a conference but I refused on the grounds that there will be no interference from the United States, whose only desire is a Cuban solution of the present state of affairs. I do not think that my participation in a conference at this time would be helpful. I have endeavored privately to urge and help both sides to resolve their differences along reasonable lines which will aid rather than hinder Cuba's political and financial stability. It is extremely difficult to reach an accord, especially on account of the deluding elements of the opposition.

GUGGENHEIM

837.00/2951

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 493

HABANA, January 8, 1931.

[Received January 12.]

SIR: Referring to my telegrams No. 177 of December 29 and No. 178 of December 31, 1930,⁴ I have the honor to report that the Habana Yacht Club was permitted to reopen last evening and that Colonel Puyol, as well as a number of other more or less well known persons arrested recently on charges of conspiracy to overthrow the Government, were released from jail in the course of the last few days.

¹ Continued from *Foreign Relations*, 1930, vol. II, pp. 649-684.

² Mario G. Menocal, President of Cuba from 1913 to 1921, and leader of the non-cooperating faction of the Conservative Party.

³ *Foreign Relations*, 1930, vol. II, p. 678.

⁴ *Ibid.*, p. 684.

As already reported in my telegram No. 175,⁵ the *Diario de la Marina* was allowed to resume publication on December 25 after a week's suspension. Another paper, the comic weekly *Karikato*, which had been suspended at about the same time, was permitted to resume publication last week.

While these events might possibly appear to indicate a more lenient attitude on the part of the Government, they are largely offset by other activities by the authorities who have in no way relaxed their vigilance to prevent disorders or their determination to punish persons involved in plans to create disturbance. Colonel Aurelio Hevia, accused of instigating a plot to seize the arsenal on Christmas Eve, is still a prisoner in Cabañas fortress and all efforts of his friends to secure his release on a writ of Habeas Corpus have been unavailing due to the suspension of constitutional guarantees. The entire directorate of the university students organization, including several young women, was arrested and imprisoned on January 4. It is further reported in the newspapers that scores of men and women who declared themselves to be in sympathy with the student movement have been ordered to appear in court to answer charges of sedition.

Yesterday a small number of students organized a demonstration of protest against the detention of their directorate and succeeded in creating a considerable disturbance in one of the city's principal shopping streets before the police could disperse them. The newspapers report that a good many shop windows were broken by missiles thrown by the students as they marched along the street and that 15 of the ringleaders were taken into custody.

In spite of the announcement by the authorities that extreme penalties would be meted out to persons found to be illegally in possession of explosive materials, hardly a night passes without the explosion of one or more small bombs in different parts of the city. On several occasions unidentified persons have dropped tear gas and stink bombs with effective results at large social gatherings.

The authorities have succeeded in apprehending very few of the persons responsible for these activities but they do not appear to be greatly perturbed by them. The Government continues to have the upper hand and there is as yet no question of the loyalty of the army and police force. President Machado replying to criticism of his administration in a speech on New Years Day once more announced that he had no intention of resigning, declaring that "presidents are not overthrown by scraps of paper".

Respectfully,

HARRY F. GUGGENHEIM

⁵ Dated December 27, 1930, *Foreign Relations*, 1930, vol. II, p. 683.

837.00/2958

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 513

HABANA, January 16, 1931.

[Received January 19.]

SIR: I have the honor to submit the following report of political events during the past week:

In addition to the newspapers closed on January 9, 1931, by Executive Resolution, several other journals have now been suspended, including *Siboney*, a third rate Habana Liberal daily, which the President informed me had been suspended on account of violent and indecent personal attacks that he could not countenance upon his political opponent, General Menocal; *Independencia*, of Santiago de Cuba, and two or three minor provincial papers. There is yet no indication as to when these newspapers will be permitted to resume publication although considerable credence is attached to a rather persistent report that their suspension will continue until a new Press Law, now in preparation, has been enacted.

The Government has taken further vigorous steps to ensure the maintenance of public order. As reported in despatch No. 507 of January 14, 1931,⁶ a decree has been promulgated⁷ placing all members of the armed forces on continuous active service and endowing each and every soldier and sailor with the attributes of an officer of the law.

On January 9, the President appointed a Committee of Public Order, composed of the Secretaries of Government and War and Navy and of high military and police officials, and empowered under the provisions of the Law of Public Order of 1870, which law is in full force and effect during the suspension of constitutional guarantees, to carry out measures for the prevention of disorders and other subversive activities.

The following day, the Subsecretary of Government announced that the male parents of minors engaging in subversive activities would be punished by enforced removal of their domicile to a point 120 kilometers distant from their actual place of residence, under authority derived from the provisions of the Law of Public Order and Article 41 of the Constitution.

In order to discourage further disorderly demonstrations in the vicinity of the Presidential Palace, of which there were several during the week ended January 10, the Commandant of the Palace police issued instructions to his subordinates to make free use of their fire-arms whenever occasion might appear to warrant it.

⁶ Not printed.

⁷ Decree No. 57, January 9, 1931, published in the *Gaceta Oficial*, January 10, 1931, p. 422.

Whether because of the suppression of the anti-Government press or due to the extraordinary measures adopted by the authorities, there have undoubtedly been fewer surface indications of serious unrest during the last 6 days. This also appears to be true of the situation in the provinces judging by the absence of consular reports to the contrary.

The sugar grinding season began on January 15 and it is hoped that the resulting decrease in unemployment may exert a tranquilizing influence. There is, however, considerable apprehension that the prevailing anti-Government sentiment may find expression in the wholesale burning of standing cane and the authorities have announced that every possible measure will be taken to protect the cane fields from incendiarism.

There has been no satisfactory progress in the conciliatory negotiations referred to in my telegram No. 3 of January 8, and Ambassador Ferrara^{*} who has acted as intermediary returned to his post on January 15 without being able to bring the President and the leaders of the Opposition into accord.

Senator José Manuel Cortina has taken Ambassador Ferrara's place but the President has sent word to the Opposition that negotiations must be suspended until there is a calmer atmosphere in the capital. The Opposition questions the President's good faith in this message.

According to information published yesterday in *La Lucha*, there were on that day 102 so-called political prisoners in the Habana jails. This is rather less than the generally accepted estimate which exceeds 200 and probably fails to take into account the persons incarcerated in the Cabañas military prison.

Respectfully,

HARRY F. GUGGENHEIM

837.00/2961

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 517

HABANA, January 20, 1931.

[Received January 24.]

SIR: I have the honor to report that on January 16 I had a long conversation with the President of Cuba at his *finca*, during which, at his request, we discussed very frankly the political and economic situation. After expounding his theories that the troubles of Cuba were not economic and political, but economic and communistic, he asked me what my views were in regard to the situation. I told him that it was my information that under the outward calm in Cuba there was a very strong spirit of unrest and dissatisfaction in all of

^{*} Orestes Ferrara, Cuban Ambassador at Washington.

the cities, but that on the farms people were not paying very much attention to politics. I told him that I could not agree with his analysis of the causes; that, while the basic trouble in Cuba was of course economic and while there was a certain amount of communistic activity, there was also a very serious political unrest throughout the country. The Liberal Party, by which I meant the Machadistas (including the Conservative elements in the coöperative movement), had been in power for five years; all the politicians without power and without jobs were in a desperate financial situation, and the Liberal Party was giving them no hope of returning to power for many years to come. This political opposition had thus taken advantage of the serious economic conditions to antagonize the country against the the Government, and the student demonstrations and communistic activities were some of the results of this agitation. The disturbances were stimulated by the fact that nearly all of the Cuban newspapers were opposed to the Government, partly because nearly everyone was opposed to the Government except those being paid by it, and partly because the press was not receiving the financial support from this Government which it had received from other Governments in the past.

I called attention to the fact that the situation had not greatly improved since our last conversation. At that time the constitutional guarantees had been suspended; the University had been closed; and the newspapers had been suppressed. After an intermission of normal conditions lasting for a week or so, all of these measures had been reimposed. I believed that it was impossible to carry on under these conditions. I pointed out that I had always advised him to find a means of making peace with the opposition, so that the people might enjoy a period of six or eight months of political calm in which to achieve their economic readjustment; but unless he could make some appeal for popular support, he might govern with the wisdom of Solomon and still fail to win any response from the people. It was apparent that he had not pursued a policy of reconciliation of late, either because he deemed it unwise or because he believed it impossible of achievement; I had avoided, however, any offer of advice or suggestions because I did not want to be an embarrassment to him or exert a weakening effect upon his actions. It now seemed evident that his policy had not been effective, and the constant tension had unfortunately resulted in a diminution in the tourist business, with a consequent further reduction in Cuban revenues.

Under these conditions it could only be a question of time before a situation might be engendered such as had developed in Peru.⁹

⁹ See pp. 905 ff.

I called attention to the recent tax bill that had been railroaded through the Senate in a few hours, the contents of which the public had not even had an opportunity to read. I told him this had a very bad effect on the vested interests in the country, which had been among the few remaining friends of the Government.

Referring then to the negotiations that Ambassador Ferrara had been carrying on with the opposition, I informed him that the opposition had the impression that these negotiations had been definitely terminated; at the same time, I felt that the opposition had reached a point where it would respond to reasonable terms. The President stated that Cortina was now acting as negotiator and would continue to do so. It should be mentioned, in this connection, that yesterday I had a long conference with Cortina, who planned to see the President today and later to report to me the results of his conversation.

The President referred to the \$20,000,000 obligation due the Chase Bank on March 31st, and stated that he would like to have my assistance in getting an extension of credit for a period of six months. I answered that this was a very inopportune time to discuss Cuban finances with the bankers, and he answered that he was not asking for any new money, but only a postponement of this commitment. I told him that I realized this, but that it would be better not to broach the matter until the situation developed a little more favorably.

The President concluded the conference by asking me if I would lunch with him again on Wednesday or Thursday of this week, and I replied that I would take great pleasure in doing so.

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/2963 : Telegram

The Ambassador in Cuba (Guggenheim) to the Secretary of State

HABANA, January 27, 1931—2 p. m.

[Received 4:10 p. m.]

22. Chamber of Representatives yesterday approved and Senate will probably approve today, a measure authorizing the President to suspend constitutional guarantees whenever and wherever he may consider it necessary and without limitation as to duration. There appears to be some question whether this measure is constitutional as article 40 of the constitution stipulates that guarantees may only be suspended temporarily although there is no indication what is meant by "temporarily". In the absence of new authorization present period of suspension would have terminated February 11th. In this general connection please refer to my strictly confidential despatch No. 517 of January 20th.

GUGGENHEIM

837.00/2968 : Telegram

The Ambassador in Cuba (Guggenheim) to the Secretary of State

HABANA, February 5, 1931—11 a. m.

[Received 12:40 p. m.]

31. My telegram No. 22, January 27, 2 p. m. The President yesterday approved law authorizing indefinite suspension of the constitutional guarantees.

GUGGENHEIM

837.00/2958 : Telegram

The Acting Secretary of State to the Ambassador in Cuba (Guggenheim)

WASHINGTON, February 7, 1931—7 p. m.

27. Your despatch No. 513 of January 16. Please investigate thoroughly and discreetly whether prisoners have been arrested without formality of law; whether prisoners are being detained without commitment or judgment of court; whether prisoners are being detained more than 10 days without delivery to court; whether citizens are being exiled or expelled from country; whether citizens are being compelled to reside greater distance than 120 kilometers from domicile; whether property of prisoners is being confiscated. Advise number of persons in several categories. See Articles 20 and 40 to 42 of Constitution¹⁰ and Military Order No. 427 of October 15, 1900.¹¹

Please cable reply as soon as possible.

CARR

837.00/2977 : Telegram

The Ambassador in Cuba (Guggenheim) to the Secretary of State

HABANA, February 13, 1931—noon.

[Received 2:40 p. m.]

38. Department's telegram No. 27, February 7, 7 p. m. Such limited investigation as nature of Department's inquiry permits seems to justify conclusion that as regards rights of individuals the Government has not exceeded powers derived from reasonable interpretation of constitutional provisions and law of public order of 1870 which is in effect during suspension of constitutional guarantees. No bona

¹⁰ Constitution of the Republic of Cuba, February 21, 1901 (Translation), *British and Foreign State Papers*, vol. xciv, p. 554.

¹¹ *Translation of the Law of Criminal Procedure for Cuba and Porto Rico* (with Spanish text), etc. (Washington, Government Printing Office, 1901), p. 322.

fide case involving excesses of authority of the kinds enumerated in the Department's telegram have been brought to the attention of the Embassy.

It is true that many persons have been detained for more than 10 days without their cases having been determined by the courts, but responsibility for delays apparently rests with the courts which are not required to take definitive action with reference to release or formal commitment within any specified time. I shall forward by mail a memorandum on this point.

It is also true that courts have in many cases refused to grant writs of habeas corpus, throwing out applications therefor on technical grounds.

GUGGENHEIM

837.00/3016

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 596

HABANA, March 17, 1931.

[Received March 20.]

SIR: I have the honor to refer to my confidential despatch No. 517 of January 20, 1931, and to advise that Senator Cortina has been confidentially but persistently carrying on negotiations with the President on one side and the Menocalista and Mendieta leaders and other opposition elements on the other side. Cortina has informed me regularly of the vicissitudes in these negotiations, and the President has discussed the subject first a little passively, but latterly enthusiastically in my conferences with him.

The basis for the *rapprochement* to date is found in proposed changes in the Cuban Constitution which are to effect a "modified parliamentary system", which is at present in a rather vague and formative state, a strengthening of the power of the Supreme Court, a severe penalization for electoral frauds, and a shortening of the terms of the President, Senators and Congressmen. Certain proposed transitory provisions call for a general election in November, 1932, the new President taking office in May, 1933, and the reduction of the terms of Senators and Congressmen elected last November. Should an agreement be reached along these general lines, it is proposed to call a Constitutional Assembly, which, in accordance with the law, requires a six months' period to modify the constitution. In the interim, President Machado would appoint a Cabinet composed of elements of different factions in the country.

This proposed agreement would remove two of the underlying causes of political resentment against President Machado, namely, the extension of terms of office for himself and his party, and the seizure of all political machinery for the perpetuation of the Liberal Party. These acts have already been partly atoned for by the legislation recently enacted for a new census, reorganization of the parties, and return to the Crowder electoral code¹² in its pristine state. In addition, the aim of the "modified parliamentary system" is to divest the Cuban President of dictatorial powers and place greater responsibilities on the Cabinet.

At the moment, the reduction in the terms of Senators and Congressmen elected last November is the point at issue. The President by his conciliatory attitude apparently has eliminated the most difficult obstacle to the negotiations, namely, the termination of the Presidential term in 1933. The reduction by two years in the terms of Senators and Congressmen elected last November has been under discussion and, it was thought, would be acceptable to both sides. Menocal and Mendieta¹³ have recently demanded, as an ultimatum, that the terms of all Senators and Congressmen elected last November should end with the Presidential term in 1933. The practical politics involved in this point which affects eighty-three legislators is obvious. Perhaps these demands of Menocal and Mendieta are offered as a basis for future bargaining in the hope of compromising on something better than a two year reduction. Or, perhaps, this is the first of a series of demands for impossible concessions which the opposition will advance with the intention of obstructing the negotiations. The greatest difficulty in reaching a political accord in Cuba continues to lie in the fact that the opposition is composed of factions which are not in agreement except in their opposition to Machado, and also the elements within the factions themselves are not united under strong leadership.

I hesitate to send this despatch on account of the uncertainty of the negotiations which have been patiently, persistently and, at times, wearily carried on over a very long period. They may have to be discontinued, as has happened for one reason or another in the past, and may come to naught.

Respectfully yours,

HARRY F. GUGGENHEIM

¹² See *Foreign Relations*, 1919, vol. II, pp. 1 ff.

¹³ Carlos Mendieta, leader of the Union Nacionalista Party.

837.00/3021 : Telegram

The Ambassador in Cuba (Guggenheim) to the Secretary of State

[Paraphrase]

HABANA, March 30, 1931—3 p. m.

[Received 8:30 p. m.]

64. My despatch No. 596, March 17, and telegram No. 63, March 30, last paragraph.¹⁴ Upon being assured by President Machado personally that he would agree to the Cortina plan including some curtailment of congressional terms of office, I gave Mendieta an interview at the request of the latter. Mendieta asked me to influence President Machado to resign and suggested that new elections be held in November 1931. I replied that the first suggestion was impossible and the second impractical, and I urged reconsideration of the Cortina plan. After further discussions between Government and opposition, which continued for several days, negotiations have been reopened by Cortina and some headway is being made. If the negotiations fail, it is proposed to execute the reforms anyway and to secure the support of the press, leading citizens, and the public. A joint meeting is now planned with Vazquez Bello¹⁵ representing the Liberals, Cortina representing the Populists, and representatives of Conservatives, of Menocal, and of Union Nacionalista.

GUGGENHEIM

837.00/3034

The Ambassador in Cuba (Guggenheim) to the Secretary of State

[Extract]

No. 637

HABANA, April 8, 1931.

[Received April 10.]

SIR: Referring to my despatch No. 618 of March 31, 1931,¹⁶ I have the honor to report that the Military Court has exonerated Major Espinosa, President Machado's former Aide de Camp, of all responsibility in connection with the placing of a bomb in the palace on February 23. The soldier Camilo Valdés, who admitted placing the bomb and whose confession implicated Espinosa and led to the latter's indictment, has been condemned to death, but it is believed that his sentence will be commuted to life imprisonment.

Respectfully yours,

HARRY F. GUGGENHEIM

¹⁴ Telegram No. 63 not printed.¹⁵ President of the Senate and President of the Liberal Party.¹⁶ Not printed.

837.00/3044

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] April 10, 1931.

The Cuban Ambassador called on the Secretary on Friday, April 10. The Secretary said that he had asked the Ambassador to come in as the Ambassador is leaving shortly for Japan and he did not want to have him go so far away, breaking a close contact with Cuba, without discussing with him very frankly the Cuban situation. He asked if the Ambassador had any recent information or any light he could throw on the Cuban political situation.

The Ambassador said that he would talk very frankly to the Secretary. The situation is very difficult. He was in Cuba in January and had a chance to observe matters closely. The people in general are opposed to Machado but will not take any active measures against him. The upper classes are not only opposed to Machado but are very bitter against him and all the active opposition comes from the better elements in the Republic. This makes the situation of course very serious. The root of the whole matter is economic. Cuba has gone from great riches to poverty. It is not the fact of being poor that has affected the people so much as the change from affluence to poverty. A great many men who had been very wealthy before are now very poor.

The Ambassador said he thought President Machado had made a mistake last November when he indicated the possibility that he might resign. This stirred up the hopes of the Opposition and was, he thought, the direct cause of all the unrest that has occurred during the past winter. As soon as he heard of what Machado had done, the Ambassador had telegraphed him at once saying that there were three things that he should do: First, he should not give any indication whatsoever that there was any possibility of his getting out even a day before his term of office was over; secondly, he should immediately take strong measures to show that he had the situation in hand, and thirdly, he should then come out with a compromise solution.

The Ambassador remarked that during the War of Independence with Spain, Cuba never had more than about 25,000 men in the field. The day after the armistice with Spain was signed Cuba had an army of 100,000, which would have been enough to win the war had they not waited until after the armistice to join up. Also when there was a revolutionary movement against Palma, the revolutionists never had more than about 500 disorganized men in the field but the moment the armistice was declared the revolutionists numbered 12,000. The Secretary remarked that getting on the band-wagon was not confined

to Cuba. The Ambassador said he realized that but it was a Spanish trait, nevertheless, to wait to see how things were going and then jump in, and that any sign of weakness on Machado's part would make the situation much worse not only by encouraging the Opposition but by actually increasing its numbers. The Ambassador therefore thought that in the negotiations now going on between Machado and the Opposition the President should be very careful not to indicate what compromise settlement he would be willing to accept because if he should do so it would not solve the situation as the Opposition elements would immediately fall out among themselves. Mendieta and Menocal are very much opposed to one another and young Mariano Miguel Gomez is opposed to both. Torriente, Alvarez and Hevia are all hoping to be chosen as a compromise candidate. The Ambassador therefore thought that President Machado should insist first, that the Opposition leaders should get together and agree on the minimum terms they would accept and inform the President thereof, and secondly, they should make a definite declaration and promise at the same time that they would not undertake a revolutionary movement. When this is done, then the President can indicate whether he accepts their demands.

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The Secretary said that he was very glad to have the Ambassador's views so freely stated and that he would equally frankly tell the Ambassador how he looked at the matter and point out to him the difficulties from the Secretary's point of view on account of the pressure that is apt to be brought to bear on this Government. The Secretary said that in this country, with the background of a six hundred years' fight for constitutional liberties, the right of a man to be tried promptly is the one which most affects our people and that a denial of this right has an immediate reaction in this country. The right for a speedy trial or the right to sue out a writ of habeas corpus on behalf of anybody deprived of their liberty except by a judicial sentence is so fundamental with us that any infringement of that right immediately causes an outcry.

The Secretary said he remembered being told by Mr. Root¹⁷ that when we went into Cuba in 1898 we found prisoners the Spaniards had held, despite a Constitution providing for a prompt trial, for a period of eleven years without their having been tried. The publication of these facts caused a profound impression in this country and if anything of the sort should happen again there would be immediate pressure brought to bear on the Secretary and he would be

¹⁷ Elihu Root, Secretary of War, 1899-1904; Secretary of State, 1905-1909; U. S. Senator, 1909-1915.

charged with dereliction in that such a state of affairs would indicate that the Cuban Government was not adequate for the protection of life, property and individual liberty as provided in the Platt Amendment.¹⁸

The Secretary said that we had looked into the matter and we had found that there were certain individuals who had been held for some time, and mentioned the case of Colonel Hevia who had been denied six times at least a writ of habeas corpus. The Secretary said that what he was saying was not the result of anything that has just immediately come before the Department or any new incident that has just arisen, but that he has been watching the situation develop for some time and, knowing the point from which pressure would be brought to bear on him, he had had this phase of the situation particularly in mind. . . .

The Ambassador remarked that the Hevia case was one before the military tribunals and not the civil tribunal. . . . The Secretary remarked that Colonel Hevia, although a former officer, is not now an officer of the Army, and that under our jurisprudence he could not be court-martialed. He remembered a case that arose in our Army Engineer Corps just before the Spanish-American War, in which a Colonel of Engineers was charged with conspiracy with two civilians to defraud the Government. The case made quite a sensation at the time because it was the first instance in over a hundred years in the existence of the Army Engineer Corps in which there had been any such charges made against any member of the Corps. The officer was tried by court-martial in New York and sentenced to Leavenworth Penitentiary. His two civilian accomplices were tried by the civil courts. The Ambassador said that the Spanish system of jurisprudence is opposed to the trial of a single matter before two different tribunals and that it was a question for the Supreme Court in Cuba whether the matter should come before a civil or military court. It was the Ambassador's own feeling as a lawyer that the matter should only come before one court and that all the persons involved should be tried before the civil courts.

The Ambassador said that Colonel Hevia and not more than five or six others had been held in prison not more than three months. Apart from these five or six cases none of the others had been held more than a month. Some of them had been rearrested because after being released they had taken part in other riots or demonstrations or hostile acts against the Government, and the Secretary must remember that martial law was in effect in Cuba. Colonel Hevia has

¹⁸ For text of the Platt Amendment (treaty of relations with the United States, May 22, 1903), see *Foreign Relations*, 1904, p. 243.

been released as have most of the others but nobody had been held more than three months and very often, in a case of this kind, in the ordinary course of events a person charged with such a crime is held for a period of much longer than three months while the formalities of the trial are taking place. They have in Cuban jurisprudence a provision regarding preventive detention for a period of six months, but that nevertheless a great many persons who have made demonstrations, et cetera, against the Palace, have been arrested, taken to the police station and then merely escorted home, and that this had hurt President Machado's prestige very much. The Cubans are not imbued with the sense of legality that prevails in this country and there are two means of governing successfully there—one is through force, and the other through prestige. Being lenient with these people was damaging to Machado's prestige. The Ambassador said that there was no question regarding the guilt of some of these people but it was impossible to get a conviction in the courts. The Secretary inquired whether the courts were acting against the Government and the Ambassador replied that, as he had already said, the upper classes were strongly against Machado and the whole influence of the wives and friends and social connections of the judges colored their views so that they would not convict a political offender.

The Secretary said he thought he had touched on the main points he had in mind in asking the Ambassador to come in and he hoped to show him the matter from our point of view. The Ambassador said he was very glad the Secretary had talked with him so frankly and that he wanted the Secretary also to consider the other side of the case and that Machado had really accomplished a great deal. He has worked hard for the good of Cuba; he has tried to maintain law and order and tranquillity; he has tried to increase the prosperity of the country through road building and public works; he has worked hard for the sugar interests and the tobacco interests, and he has really accomplished a great deal and a revolution would be most unfortunate.

The Secretary said he appreciated fully what President Machado had been up against and what he had accomplished, and that of course the thing that he most wanted to avoid was a revolution with its concomitant a possible intervention on our part.¹⁹

¹⁹Two notations in ink in the Secretary's handwriting at the end of the memorandum read:

"Ferrara also said more than once that he would report what I said directly to Machado. HLS"

"The foregoing memorandum is an excellent statement of what took place. HLS"

837.00/3049

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 662

HABANA, April 21, 1931.

[Received April 24.]

SIR: I have the honor to report that direct negotiations between the opposition and the President towards solution of the country's political problems have been held in abeyance, due to the President's absence from Habana for about ten days until last evening, as reported in my telegram No. 73, April 15, 2 P. M.²⁰

In the meanwhile I have had numerous conferences with leaders of both the Government and the opposition, who are in a position either to aid or hinder an agreement. For your information, I enclose copy of memoranda dictated after these conferences, which complete the record in your possession of these conferences since the memoranda forwarded as enclosure No. 1 to despatch No. 638 of April 8, 1931.²⁰

Respectfully yours,

HARRY F. GUGGENHEIM

[Enclosure—Extract]

Memorandum by the Ambassador in Cuba (Guggenheim)

HABANA, April 10, 1931.

On April 9th, I lunched with President Machado at his *finca* and discussed with him the conferences that have been taking place in the past days regarding which I had sent him information through Doctor Fernández. After a great deal of discussion and repetition of the arguments that have been so frequently presented, the President reiterated his general approval and his readiness to acquiesce in the features of the plan including the date of presidential reelection, constitutional reforms and the Coalition Cabinet. In regard to the dates of Congressmen and Senators, he said that he was not in any position to go beyond the original Cortina plan for a reduction of two years for Senators and three years for Congressmen. Unfortunately, Cortina had not seen the President before my visit. Whether the President was merely trying to protect himself, or whether he was waiting for me to demand a further reduction in the terms of Congressmen and Senators, I do not know. I, of course, did not make any such demand. I used every argument at my command, however, to point out that, in the interests of Cuba and in his own personal interest and that of the Congressmen and Senators involved, a compromise should be found. The last word of the President was that he would send for

²⁰ Not printed.

Cortina and get him to work with Congressmen and Senators in order that a satisfactory compromise might be achieved.

123 Guggenheim, Harry F./58: Telegram

The Secretary of State to the Ambassador in Cuba (Guggenheim)

[Paraphrase]

WASHINGTON, April 24, 1931—5 p. m.

61. Your 83, April 24, 11 a. m.²² I perceive no objection to your remaining in Cuba, until you feel it safe to leave, for the purpose of observing developments. Please exercise the utmost caution not to participate in any way in any negotiations between the Opposition and the Government. . . .

STIMSON

837.00/3056

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 672

HABANA, April 28, 1931.

[Received May 1.]

SIR: In order to complete the record of my conversations with various persons regarding the informal negotiations that have been in progress during the past few months for the purpose of exploring the possibilities of reaching an amicable solution of existing political difficulties in Cuba, I have the honor to enclose additional memoranda covering the period from April 22 to April 24, 1931.

In the future I shall, of course, be guided strictly by the views expressed in your confidential and personal telegram No. 61, April 24, 5 P. M.

Respectfully yours,

HARRY F. GUGGENHEIM

[Enclosure—Extract]

Memorandum by the Ambassador in Cuba (Guggenheim)

HABANA, April 23, 1931.

In the afternoon of April 22nd, I called at the Palace and, after fifteen or twenty minutes preparatory conversation, I told the President the following:

"I have a strong conviction that an attempt to settle the political problems in the Congress without prior agreement on the part of some

²² Not printed.

elements in the opposition will not satisfy public opinion. I believe this because any laws that may be passed in the Congress without previous agreement will be bitterly attacked by the press, and no matter how liberal the legislation may be, public opinion will not be favorably disposed toward it, or have confidence in it. Any legislation passed under these circumstances will be subject to the same criticism that applies to recent legislation, abhorrent to the public, which was railroaded through the Congress.

"Apparently, it is proposed to pass all of the important reform measures demanded by the opposition with the exception of a reduction in the terms of Senators and Congressmen adequate to appease public opinion. An adequate reduction in these terms is vital to a happy solution of the Cuban political problem. Unless reasonable concessions are made at the present time, I feel confident that political troubles will continue in Cuba and that these Senators and Congressmen and those Liberal leaders who are unwilling to relax their political grip on the Republic will not, under any circumstances, enjoy the length of office and power which might otherwise be theirs.

"In the past year, on numerous occasions I have strongly urged that a political agreement be made with certain elements in the opposition so that they may have hope for the future, and that public confidence may be restored. On all these occasions my advice has been partially taken, but not enough of it to accomplish the object desired. However, at a later period, that part of the advice which was discarded was adopted but at a time when it was too late to be effective and satisfy public opinion. I have particular reference to the reorganization of the parties, the restoration of the Crowder electoral code, and the census. When these laws were finally passed, there was no enthusiasm or satisfaction. At the present moment, if laws were passed which include adequate reduction in the terms of Senators and Congressmen and guarantees for honest election in 1932, I believe public opinion will be satisfied. If they are not passed now, I feel very sure that several months hence these same terms will be unacceptable to any elements in the opposition and to public opinion.

"The advice which certain leaders in the Liberal Party have given in the past, with the first thought of their own political fortunes, has been very bad. Several months ago, Congress, instead of reducing the budget, passed an Emergency Tax Law. At the time I pointed out that the hopes of the Government for a large return from these additional taxes would not be realized, and that most of the remaining friends of the Government would be lost by this measure. In answer, I was told that the Compañía Cubana de Electricidad, (the subsidiary of the Electric Bond and Share Company, whose representative in Cuba is Henry Catlin) had been consulted and approved of the tax law. After several months, with the Emergency Tax Law in effect, the Government must now realize that little additional revenue has come in, and also that the law was a very important factor in alienating some of the few remaining friends of the Government.

"At the present time, I understand some of the Liberal leaders are now willing and ready to reduce the budget. This is another instance of a case where the action has been postponed too long. The Government has now lost friends through the tax law and, if they reduce the budget now, which is essential, they will lose more friends

who are affected by the reduction in the budget. If this budget reduction had been effected several months ago in place of the Emergency Tax Law, obviously, the Government would have lost the friendship of only those who must necessarily be estranged now. The finances of the Government should be an indication of the necessity of avoiding any further delay in gaining the support of the public and restoring confidence. In the month of March, the expenditures exceeded the revenues by over \$600,000.00. The actual cash in the treasury on March 31 to meet future current budgetary obligations was slightly over \$140,000.00. On June 1st, a \$20,000,000.00 note is due to the Chase Bank.

"In the past, warnings of difficulty have been countered by leaders of the Liberal Party with the prediction that by the first of April sugar would be at 2 or 2½ cents a pound, and all the troubles would be over. I have on all occasions pointed out that no plans could be based on such optimistic hopes, as in all probability it would take many months for the Chadbourne Plan,²³ even if successful, to raise effectively the price of sugar.

"At the present time, there is a certain calm in the public mind; there is still hope that a Cuban solution will be found to the political problem. The newspapers have maintained a certain reserve following the reports of a possible Cuban solution and the end of the period of repressive measures. However, there is ample indication in the press that, on the slightest provocation, attacks will take place, and public opinion will be again inflamed against the government. Without the satisfaction of public opinion, agitations and demonstrations can be expected again in the near future. What will the Government's policy be at that time? If there will not be a renewal of highly repressive measures, how will the Government cope with the situation? The grinding season has about ended; the unemployment problem will be great and Cuba is about to enter a period of economic depression which impartial observers believe will be far worse than anything that she has undergone in the past six years.

"In my opinion, the only salvation in the present great emergency is for the President finally to put himself in a position that I have urged upon him so often—above party politics. He should reach an agreement with as many elements in the opposition as possible for reforms that will satisfy public opinion, which must include guarantees for an honest election in 1932. After such an agreement has been reached, he must convince Congress, which I have not the slightest doubt he can do, that these reforms are necessary, not only for the salvation of the country, but in order to save themselves."

The President said he had had a meeting in the morning with a group of Senators; that he had told them he would leave the carrying out of the constitutional reforms in the hands of the Congress; that, as far as he was concerned, he was willing to put his own destiny entirely in their hands. I told the President that I feared that leaving

²³ Sugar stabilization plan; for text (in Spanish) of the so-called Chadbourne agreement, signed at Brussels, May 9, 1931, by Belgium, Cuba, Czechoslovakia, Germany, Hungary, Java, and Poland, see Republica de Cuba, *Boletín Oficial de la Secretaría de Estado*, Junio de 1931, p. 321.

this matter entirely to Congress would not bring about the really satisfactory results that he anticipated.

In the course of the conversation he reiterated that the Senators were determined on not reducing their term below eight years—the length of term under the old Constitution. I told him, in my opinion, that would not satisfy the opposition or public opinion. I gave it as my opinion that the public would only be satisfied if there were some guarantees for an honest election in 1932; that these guarantees could be partially found in a national Cabinet including various members of the opposition. The President said that he could not include in his Cabinet every candidate proposed by various elements in the opposition. I agreed with him, of course, that this would be impossible, but that it should be possible to find a Cabinet that would be acceptable to him and to the opposition as well. He asked me who such men were. I told him I had not given the matter consideration, that I agreed it would be difficult, but that I did not think it was impossible. The President said that he would talk with the Senators and see what could be worked out. He asked if I had any objection if he told them of his conversation with me. I replied that he was at liberty to repeat it if he desired; that I was giving him the best advice I had to offer; that he was at liberty to make what use of it he desired.

The President took occasion to point out what a great friend he had always been to the United States, and also expressed his gratitude for my helpfulness to Cuba in the past year.

NOTE: In this conversation with the President, it was my intention, not only to urge a final effort in an attempt to pacify as many of the contentious elements as possible in Cuba, but, in case it should become necessary for the Government to carry out by itself the reforms (which has already been anticipated as a probability) to urge that the reforms should be carried out in the most liberal manner possible so that public opinion would be satisfied.

837.00/3058

The Chargé in Cuba (Reed) to the Secretary of State

No. 680

HABANA, May 6, 1931.

[Received May 8.]

SIR: I have the honor to report that the President yesterday signed decrees restoring the suspended constitutional guarantees in the provinces of Santa Clara and Camaguey.

Constitutional guarantees thus remain suspended only in the province of Habana, as they were restored in Oriente, Pinar del Rio and Matanzas on April 20.

Respectfully yours,

EDWARD L. REED

837.00/3061 : Telegram

The Secretary of State to the Chargé in Cuba (Reed)

WASHINGTON, May 13, 1931—6 p. m.

64. Navy Department has received the following confidential telegram from the Commandant of the naval station at Guantánamo:

"Received reliable information from Havana, Cuba, stating that a well organized revolution is imminent, the local informant believes not later than the 20th."

STIMSON

837.00/3062 : Telegram

The Chargé in Cuba (Reed) to the Secretary of State

[Paraphrase]

HABANA, May 14, 1931—11 a. m.

[Received 1:05 p. m.]

90. Your 64, May 13, 6 p. m. Similar rumors have been current here since the fall of 1930, but they have been more persistent recently. Although the elements comprising the Opposition have been gaining steadily in strength, I do not think they are prepared to start a revolution now. There are no signs of disaffection in the Army.

REED

837.00/3075

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 712

HABANA, May 29, 1931.

[Received June 1.]

SIR: In conformity with the policy agreed upon in our recent conferences and embodied for my guidance in Assistant Secretary White's "Memorandum of Policy in Cuba" dated May 19, 1931,²⁴ I have the honor to report that since my return to Habana I have twice discussed the Cuban situation with President Machado and on both occasions alluded to the imperative necessity of finding a prompt and effective solution of the present political problem.

²⁴ Not found in Department files.

With reference to the Department's view in favor of the adoption of a plan including the reduction of the terms of Senators and Representatives adequate to satisfy public opinion, the President stated that as far as Congress was concerned, the reduction of the terms of Representatives to four years was feasible, but the ten year senatorial term could not be reduced to less than eight years. A long discussion followed in which the President refused to be convinced on this point and in the course of which he threatened to resign immediately and let the Army run the country, a threat which I do not think he had or has the slightest intention of carrying out.

This was on May 23. Yesterday the President invited me to lunch at his country place and our discussion was resumed. His attitude on this occasion revealed that he had undergone a change of heart, for he assured me that he would immediately propose constitutional reforms, appoint a "national cabinet," and also use his influence to induce Congress to accept a reduction of terms to four years. I frankly do not know how much reliance can be reposed in this latter promise. The President's control over Congress is not to be questioned, but the opposition of individual Senators under the leadership of the President of the Liberal Party, Clemente Vazquez Bello, to any reduction in terms of office and to the other constitutional changes that have been proposed, will undoubtedly furnish an obstacle that can be surmounted only with the greatest difficulty and one which might conceivably provide a convenient excuse for the President's failure to secure the enactment of the necessary legislation.

I have had a few conversations with emissaries of the opposition in the course of which I explained to them that I could have nothing more to do with them unless they would put into writing what they will accept in the Cortina plan, and I sent word to this effect to General Menocal when it was intimated to me that he wished to continue conversations.

I see no present prospect of any agreement among the opposition leaders as to what they will accept. The Nacionalistas met the publication of the Cortina plan with a declaration that they would accept no solution which did not envisage the immediate retirement of the Government. They are undoubtedly encouraged to maintain this position by the hope that the Supreme Court will finally render a decision impugning the constitutionality of the amendments under which the Government and the majority of the Congressmen are now in office. Suits to determine this question were filed in the Supreme Court immediately following the decision regarding the legality of the establishment of the Federal District reported in the Embassy's despatch No. 695 [696] of May 19, 1931.²⁵

²⁵ Not printed.

In view of the attitude of the opposition, in my opinion the wise course for the Government to pursue will be on its own initiative to pass reform measures adequate to satisfy public opinion. This may possibly compel at least a part of the opposition to adopt a less intransigent attitude.

I am enclosing herewith memoranda of my conversations with the President and others regarding political matters from May 22 to May 26.²⁶ A memorandum of the conversation which I had yesterday with President Machado will be transmitted at a later date.²⁷

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/3085

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 722

HABANA, June 8, 1931.

[Received June 12.]

SIR: Supplementing my despatch No. 712 of May 29, 1931, I have the honor to transmit herewith memorandum of my conversation with President Machado of May 28.

Respectfully yours,

HARRY F. GUGGENHEIM

[Enclosure]

Memorandum by the Ambassador in Cuba (Guggenheim)

HABANA, June 1, 1931.

On Thursday, May 28, I lunched with the President at his *finca*. He discussed everything but the political situation for about an hour before lunch. During lunch, at which two of his Aides and Senator Fernández were present, the President touched casually on some recent political events. In regard to the press, he mentioned that he had come to the conclusion that the only thing to do with the press was to let it enjoy the same freedom as it did in the United States, regardless of what it might say; at the present moment in Cuba the press is completely free.

After lunch, when alone with the President, I asked him what decision he had reached following my last conference with him. He said, "I have decided to carry out the constitutional reforms. During those days in which I am the quietest, I am working the hardest. In the past few days I have had several meetings for the purpose of carrying out these reforms. There have been innumerable reform plans proposed and a 'ponente', Juan Rodriguez Ramirez, has been

²⁶ Not printed.

²⁷ See despatch No. 722, June 8, *infra*.

appointed to consider the different plans. He, together with Hernández Cartaya and Averhof, has been considering the various proposals and I hope to have a plan following very closely the Cortina ideas." I asked him whether his plan would include the four year term for Senators. He said that he was still working on this question; that he had been unable to get the support of the Senators for this curtailment, but would continue his endeavors. I reiterated my plea that the only way he could hope to get the support of the country and the newspapers, even if not the opposition, to a reform plan would be to carry it out in a thoroughly sincere and unselfish manner; I thought that the public would require adequate sacrifices on the part of the Senate, in addition to a national cabinet. The President referred to the various proposals for a modified parliamentary form of government and said that he felt sure that the United States would not be in favor of Cuba's adoption of such a measure. I told him that my Government felt that this was a question for the Cubans to work out in their own way; that my personal opinion, as expressed to Cortina, was that it would seem to be the part of wisdom to place such safeguards on their parliamentary system so that the Government would not fall more than a few times—say, during a four year period. I made to the President the same suggestion that I gave to Cortina several weeks ago—that when the President's reform plan is finished, which I assumed would be in the form of a message to Congress, he call together representative elements of the Cuban people including the press and the opposition as well, and request them to coöperate with him in putting through the reform plan, those elements which would coöperate to be represented in the national cabinet. However, I pointed out that unless the plan were aboveboard and politically generous, such an appeal to public opinion would probably be useless.

I told the President that I would be very glad to hear more about his proposed plan as soon as completed, which he promised would be within a few days.

837.00/3097

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 754

HABANA, June 24, 1931.

[Received June 29.]

SIR: Referring to the Department's telegram No. 27 of February 7, 1931, 7 P. M., to my telegram No. 38 of February 8 [13], 1931, 12 M., and to my despatch No. 625 of April 2, 1931,²⁸ in relation to the detention of various civilians by Cuban military authorities, in possible

²⁸ Despatch No. 625 not printed.

violation of the Constitution, I have the honor to transmit herewith, as of possible interest to the Department, a copy and translation of the *considerandos* and of the dispositive part of the decision announced by the Supreme Court of Cuba on June 10, 1931,²⁹ upon a petition of unconstitutionality established on behalf of Sr. Aurelio Hevia against a decision of January 24, 1931, by which the Audiencia of Habana denied a writ of habeas corpus in favor of Sr. Hevia.

The decision has been received with enthusiasm by certain elements of the opposition, who regard it as extending the privilege of the writ of habeas corpus to all cases of unwarranted detention, by military as well as civil authorities. The decision was evidently reached in the face of logical difficulties. It was presumably the expectation of the framers of the Constitution of 1901 that a law or laws would be passed determining the form of summary procedure with a view to giving effect to the provision of the first paragraph of Article 20 of the Constitution. The paragraph of the Habeas Corpus Order of 1900 cited by the Supreme Court in the Hevia case was found applicable and continued to be applied in cases of persons detained by the civil authorities. This paragraph is quite obviously limited in its scope, but it has for thirty years presented no obstacle to the enactment by Congress of supplementary legislation with reference to detention by military authorities. It is hard to see how the order providing a remedy in certain cases falling under Article 20 could be held to restrict the rights guaranteed under that article because it did not provide a remedy for other cases contemplated therein. What the Court has done in the Hevia decision is in effect to legislate on a matter neglected by the Congress.

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/3099

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

No. 761

HABANA, July 1, 1931.

[Received July 2.]

SIR: I have the honor to report that the Cuban Supreme Court yesterday rendered decisions rejecting three recourses of unconstitutionality seeking to establish the illegality of the present executive and legislative branches of the Government.

In the first case, which was an appeal brought by Dr. Herrera Sotolongo against the constitutionality of the Emergency Tax Law of January 29, 1931, the Court held that the complainant had not proved

²⁹ Not printed.

any concrete injury. The other two appeals, also directed against the Emergency Tax Law, had been defended by Dr. Cosme de la Torriente, and were rejected on the ground that the Court was not competent to determine the illegality of the constituted powers of the Government. The texts of these decisions have not yet been made public, but they are reported by the newspapers to contain interesting dicta regarding the legal status of the amendments to the Constitution adopted in 1928. According to the press only one justice, Juan T. Edelmann, dissented from the Court's decisions.

While by no means unexpected, the refusal of the Supreme Court to declare the Government unconstitutional deprives the opposition elements of their last hope that the Machado administration might be supplanted by peaceful and legal methods. The only alternative would be for them to wait for the enactment of the proposed constitutional reforms and the elections in November, 1932. This, however, they have repeatedly announced that they will not do and it therefore seems likely that there will be a resumption in the near future of the anti-Government activities which caused so much uneasiness during the early months of this year.

The actions of the Government already indicate that this is what it expects and the strong measures it has adopted may reasonably be interpreted as a challenge to its adversaries. It has announced that its tolerance has reached its limits; censorship of the press has been established in apparent violation of Article 25 of the Constitution, and arrests on a large scale of suspected conspirators are once more the order of the day.

Yesterday the newspapers announced that the police had discovered a nation-wide plot for a rising against the Government on July 1. In order to frustrate this conspiracy the government agents arrested Horacio Martinez Tranque, President of the Unión Nacionalista in Matanzas; Sebastian Iturralde, brother of Rafael, former Secretary of War, who is well known to the Department; six supposed communist leaders in Habana, six students in Pinar del Rio who are alleged to be leaders of the so-called Caribbean Army, a radical student organization, and eight more or less prominent Unión Nacionalistas. Other arrests are also reported to have been made but the names of the prisoners have not been made public. The Secretary of Government announced yesterday that all of these persons had been confined in the Cabañas military prison and that they would be brought before the civil courts within the prescribed period of ten days.

The relations of the political parties now appear to be more clearly defined. The obstructionist tactics pursued by the Conservative groups in the Lower House in endeavoring to prevent the passage of

the budget aroused the ire of the Liberal-Popular majority which, in turn, did not hesitate to employ steam roller methods in order to expedite a vote on the measure. The resulting resentment of the Conservatives has apparently led to a partial reconciliation between the "official" and "orthodox" factions, both of which have declared that they will not resume their seats until they have received ample guarantees that what they consider to be the rights of the minority will be properly respected in the future.

The price exacted by the majority members for their loyalty to the administration on this occasion was a promise by the President that he would henceforth govern with the Liberal-Popular coalition. The President yesterday issued a formal announcement to this effect. As a consequence, the Conservatives are definitely forced into opposition. While their numbers in Congress are not sufficient to block ordinary legislation they can easily obstruct the passage of constitutional reforms requiring a two-thirds vote of all the members of each House.

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/3118

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

No. 804

HABANA, July 31, 1931.

[Received August 4.]

SIR: Supplementing my despatch No. 722 of June 8, 1931, I have the honor to transmit herewith additional memoranda of my conversations with various prominent Cubans, in order that the Department's records may be complete.

Respectfully yours,

HARRY F. GUGGENHEIM

[Enclosure—Extract]

Memorandum by the Ambassador in Cuba (Guggenheim) of a Conversation With the President of Cuba (Machado)

HABANA, June 8, 1931.

In the morning of June 8th, I asked for an audience with the President. The President, as usual, spent about an hour or an hour and a half discussing many subjects. I told him that I had advised my Government in regard to his decision to carry out the reforms and that I had called to inquire from him what the present situation was. He said that the House would consider this week the various

proposals; that he would back the *ponente's* plan, but was willing to listen to certain modifications. I reiterated my advice—that in order to effect the desired results he must carry out the plan in some manner that would appeal to the public and the newspapers, even if the opposition could not be satisfied. I pointed out that expeditious action was necessary; the political, economic and financial matters had reached a “low-water” mark, and that the political situation had better be rectified immediately so that the financial situation might be taken in hand. I told the President that I did not think the country could stand a \$60,000,000 budget; that \$50,000,000 was, in my opinion, the limit. He said he realized this, but was confronted with an impossible situation. He gave me a copy of the *ponente's* plan which I told him I would study.

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837.00 Revolutions/21

The Ambassador in Cuba (Guggenheim) to the Secretary of State

HABANA, August 10, 1931—10:40 a. m.³⁰

Department: Absence from homes on Saturday of opposition leaders and interception of various shipments of arms to western end of island led to discovery of what appears to have been serious conspiracy to overthrow the Government. Military authorities yesterday arrested near Santa Lucia on north coast of Pinar del Rio Province two brothers and a son of ex-President Menocal, ex-Senator Ricardo Dolz, 2 conservative Representatives and 12 others. Ex-President Menocal, Carlos Mendieta, former Mayor Gomez and Mendez Peñate have disappeared. Outbreak was apparently intended to synchronize with arrival in Cuban waters of vessel supposed to be bringing armed expedition from abroad.

In Habana yesterday police besieged with machine guns for more than an hour a house in which considerable stores of arms and ammunition were found after capture. Three persons killed and 20 wounded most of them policemen.

Martial law declared yesterday in Habana and Pinar del Rio Provinces. Government has issued proclamation promising immunity to rebels, leaders excepted, who surrendered within 24 hours. Prisoners mentioned above and many others now confined in military prison. They will be tried by court martial.

³⁰ Telephoned to the Department by the Counselor of Embassy (Reed) in confirmation of a telephone conversation.

The President, whom I have just seen, claims to have the situation entirely in hand. There are no reports of serious disturbances east of Habana.

Thus far revolutionary effort seems to have been a failure, although activity in Pinar del Rio may have been merely a feint to draw Government forces from real scene of proposed uprising. Opposition leaders were in my opinion prompted to take the field by fear that constitutional reforms which would probably have passed House tomorrow would have served to remove principal causes of political discontent and thus have left them without a following.

GUGGENHEIM

837.00 Revolutions/1 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

HABANA, August 11, 1931—5 p. m.
[Received 7:35 p. m.]

113. I saw the President again this morning, also Chief of Staff of Army and Commanding Officer of Navy all of whom as can be expected talk confidently. President predicts that he will have revolutionary movement completely stamped out within 48 hours. Several minor encounters between troops and insurgents were reported yesterday in Habana and Santa Clara Provinces. Six alleged rebels were killed last night when rural guards attacked a farmhouse near Guanabacoa. The Government announces that a number of prisoners have been taken. Congress yesterday enacted law authorizing suspension of the constitutional guarantees throughout the Republic and the President immediately issued a decree placing suspension in effect. Civil authorities in Habana and Pinar del Rio Provinces have been superseded by the military.

Personal friends in contact with leaders of Opposition are firmly of opinion that real revolution has not yet started. They claim that Menocal and Mendieta are aboard the gunboat *Baire* bound for Santiago, where the troops will go over to Menocal.

[Paraphrase.] President Machado tried to sound me out regarding the Department's attitude toward a possible request that the Government of the United States furnish arms and munitions in case of need, which is not at present. I said that when the request was made the matter would be considered. [End paraphrase.]

GUGGENHEIM

837.00 Revolutions/2 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

HABANA, August 12, 1931—5 p. m.

[Received 6:41 p. m.]

115. There have been several clashes between soldiers and small bands of insurgents in Pinar del Rio, Habana, Matanzas and Santa Clara Provinces. The Government reports that its troops have been uniformly successful in these engagements. Up to midnight last night 28 rebels reported killed including General Peraza, one of the seven directors of the Unión Nacionalista. The whole country has been under martial law since yesterday. As far as Embassy can ascertain rebels as yet have had no success anywhere. Whereabouts of Menocal and Mendieta still uncertain.

GUGGENHEIM

837.00 Revolutions/11 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

HABANA, August 14, 1931—4 p. m.

[Received 7:43 p. m.]

118. Although as yet the Opposition have made no headway and there has been no disloyalty in the Army or Navy, in spite of rumors to the contrary, in my opinion until the Opposition leaders in the field have been taken there remain possibilities of serious consequences. Menocal, Mendieta, Gomez, and Peñate have not been definitely located and their strategy undoubtedly is to attempt to create an uprising of the people simultaneously in all of the provinces. In view of the general poverty and dissatisfaction of the people with the Machado Government the execution of such a plan would be sanguinary, even though it might not be successful. There have been no overtures from Opposition leaders for peace although mutual friends have suggested my taking action. In my opinion this would be futile and harmful at this time. My policy will be to await definite word direct from opposition leaders and if it should seem possible to arrange terms do so privately before stepping into the breach publicly.

Newspapers here are taking every opportunity to interpret reports given out by the Department as indicative of American support of the Machado Government arousing a feeling of distrust of our Government among the Cuban people.

GUGGENHEIM

837.00 Revolutions/12 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

HABANA, August 15, 1931—10 a. m.

[Received 12:15 p. m.]

119. Confirming my telephone conversation with Acting Secretary Castle last night General Menocal and Colonel Mendieta and their staff have been taken prisoners. Chief of Staff General Herrera assured me that prisoners are not wounded and that they are on gunboat en route to Habana where they will be safely returned and jailed. Department will probably be importuned as I have been to intercede to save lives of prisoners. President Machado assured me a few days ago that his desire was to capture but not put to death these leaders. In view of public opinion any other course would be foolhardy and I think he realizes it. However, because there are still important leaders in the field, the fate of Menocal and Mendieta may probably not be known immediately.

GUGGENHEIM

837.113/436 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

[Paraphrase]

HABANA, August 17, 1931—10 a. m.

[Received 12:30 p. m.]

120. My telephone conversation with Walter C. Thurston.³¹ After an informal conversation with the Cuban Secretary of State, he informed me that he would instruct the Cuban Chargé in the United States to withdraw the note regarding an arms embargo³² because the revolutionary situation had changed. The Cuban Secretary of State understands that shipments of arms from the United States are being prohibited as effectively as they would be under a formal proclamation of an arms embargo.

GUGGENHEIM

³¹ Chief, Division of Latin American Affairs, Department of State.

³² A notation in ink reads, "Note not yet sent by Cuban Chargé. H. F. M."

837.00 Revolutions/16 : Telegram

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

HABANA, August 17, 1931—4 p. m.

[Received 9:45 p. m.]

121. Military activities now limited almost exclusively to Santa Clara Province where troops are still engaging parties of insurgents. The Government has not yet succeeded in definitely locating Mendez Peñate, Hevia or Gomez.

Only destruction of American property thus far reported to the Embassy is that of a powder magazine attached to a quarry owned by N. A. Allen at Arrieta in Santa Clara Province which was blown up by insurgents on August 12th. Allen estimates damages including stolen horses and equipment at about \$5000.

President Machado announced yesterday that he would continue program of constitutional reform.

GUGGENHEIM

837.00/3149

The Ambassador in Cuba (Guggenheim) to the Acting Secretary of State

No. 840

HABANA, September 2, 1931.

[Received September 8.]

SIR: I have the honor to report further in regard to my telegrams No. 132, August 25, 3 [4] PM, No. 143, September 1, 4 PM, and No. 144, September 2, 4 PM.³³

On August 24, I called on the President to discuss with him the present Cuban crisis. I congratulated the President on his successful campaign against the revolutionists and on the efficiency and loyalty of the Army which, under his direction, had undoubtedly checked a movement which might have ended in most disastrous consequences for Cuba. I pointed out to him that although physical conflict had apparently been halted, at least for the moment, there still remained the far more difficult task of establishing moral peace without which, Cuba, in its present state of economic, political and financial exhaustion, could not recover. I took occasion to refer to the fact that in the past I had advised him to carry out certain political and financial policies—that some of the advice he had accepted—and that some that he had rejected, he had later wished to carry out, but, by that time, it was too late to be helpful.

³³ None printed.

I then asked him if he would state frankly to me, so that I might be helpful in this crisis, exactly what his personal ambitions and desires might be. He assured me that he had no further political ambitions or any desire to influence the appointment of his successor. I asked him whether it was his desire to supervise the proposed elections in November, 1932. He replied that it was not; that his sole desire was to reestablish peace and normality in Cuba. I told him that, under these circumstances, he had a final opportunity to save his country from collapse, to leave office with the good will of his fellow-citizens, and to assume a place in history as the greatest of Cuba's Presidents; that this would only be possible if he rejected the counsel of those political associates who are presidential aspirants, and whose advice in the past year had resulted in his failure to avert the present crisis. I recalled my advice to him upon my return from the United States a year ago, namely, that he put himself above politics. I recalled that he professed agreement with this advice and promised to carry it out. I suggested that, perhaps, on account of political considerations he had been unable to do so in the past, but that the situation had completely changed now and, at the moment, he could accomplish anything that he might desire, provided that it was in harmony with public opinion.

I pointed out that the opposition politicians, who were imprisoned, were out of the picture; that for the moment they enjoyed neither martyrdom nor popularity; also that the government politicians had neither the support nor the confidence of the people. The Army had just demonstrated its strength and the people had respect for it even though the government victory is unpopular throughout the country. I stated that he had the ability to impose his will on the politicians and bring about sweeping reforms that the awakened consciousness of the people is demanding and would acclaim. I told him that the formula, in my opinion, was nothing short of enacting the constitutional reforms, including the modification of the Congressional immunity provision, the choice of a Vice President by the Supreme Court with certain safeguards to prevent the appointment of a partisan, and the appointment of a Supreme Electoral Board with full powers to supervise elections. (See my despatch No. 830 of August 28, 1931.)³⁴ In addition to all this, and in view of his declaration that he did not desire to supervise the coming election, I told him that in order to restore confidence, the Vice President should assume the presidency two months before the elections, or September 1, 1932. I told him that the carrying out of such a program would, in my opinion, not only be a triumph for him; it represented the only way

³⁴ Not printed.

in which the present Liberal Party officeholders could retain their positions. They must appeal to the people in new elections. Without the carrying out of this program in good faith, there could be no moral peace in Cuba. Without moral peace, there could be no recovery from the present economic, political and financial crisis. Without this recovery, the present officeholders, who will be held accountable for the nation's difficulties, would lose office with the inevitable collapse of the government. With moral peace, these Liberal officeholders might be considered the deliverers, instead of the despoilers, of their country, and, on account of their strong political organization, they would have a fair opportunity to return to office. The carrying out of these reforms would discredit that portion of the opposition known to be office seeking politicians who rejected the reforms and plunged the country into revolution, and the President would be able to realize what he had told me was his dominant ambition—to tranquilize and make possible the return of prosperity to his country and retire from office.

The President professed agreement with everything that I had told him, and said that he was prepared to carry out this program. He said that it must be distinctly understood that this would not be done in the way of compromise, or by way of negotiation with the opposition. I told him I fully concurred in this viewpoint, and that the success of this plan depended upon his carrying it out in strength and not in weakness. We agreed that this plan should be disclosed to no one with the exception of the Secretary of Justice—Averhoff—whom he promised to send to me to work out the full details of this plan.

Doctor Averhoff and I conferred on the necessary projects of law, and I drafted a suggestion for the appropriate presentation of this program to the Cuban people, which would take the form of an address by the President to representatives of various industrial, financial, political and scientific organizations, as well as workmen's organizations and the Press, who we planned should be invited to the presidential Palace for the purpose.

I saw President Machado again on September 1, after his return from a short holiday. He was in a very aggressive mood and disavowed that he had been in agreement in regard to announcing at this time his intention of retiring in September, 1932. He said that, although he had every intention of so doing, he could not see his way clear to make the announcement; that immediately he would lose the support of the Army and his friends. We discussed the matter at some length, and I firmly impressed the President with the fact that I saw no way of establishing confidence at this time by half-measures. On the other hand, if he knew of some way to accomplish this and

put it into effect, the result would be awaited with great interest and applauded, if effected. I suggested to him that he consult with General Herrera, the Chief of Staff of the Army, and get his opinion on this subject. He agreed to do so, realizing that I was unable to change my opinion, and stating that he would defer his response to me.

This morning, General Herrera, who is a friend of long standing, asked for an interview with me. He did not refer to the fact that the President had discussed our conversation with him, or that he had been sent by the President to see me. He told me that the country needed, more than anything, a return to moral peace which was not dependent upon politicians, but on a financial and economic reconstruction. He expressed himself as entirely out of sympathy with the desires of the politicians at present in control to maintain, through unrighteous means, their grip on the country. He made a plea that I should help the President to have the reforms passed and bring about a return to normality. I told him that I agreed with his analysis of the political situation. However, I could see only one possible solution in the present crisis; perhaps there might be others, but I did not know what they might be. I pointed out to General Herrera that for the past year the country had been in a state of perturbation; that the public unrest, heightened by incident after incident, had terminated in the revolution, during which the Army had behaved with the greatest efficiency and tact in dealing with the revolutionists; that, at the present time and during the period of a year, there had been suppression of liberties of press and of speech. The high schools and University had been closed. There had been incessant agitation and demonstration, nightly bombings and destruction of property; that at the present time the jails were full of political prisoners; that business had steadily diminished and was now virtually at a standstill, and that the financial collapse of the government could not be long postponed; perhaps, within a period of a few months, the Army and police would not be paid, and interest and amortization on the foreign debt would have to be defaulted. General Herrera told me that he fully recognized all these facts. I then rehearsed at length my last two conferences with President Machado. At the conclusion, General Herrera told me that he entirely agreed with my advice and that, in his mind, it represented the only salvation for Cuba, and that I must urge and help the President to carry out this plan. I told General Herrera that he must fully realize that my plan included the announcement at this time of the President's retirement in September, 1932. He said that he understood this and, in reply to my specific inquiry, said

that he did not consider as a real danger the fears of the President of making the announcement at this time. In reply to my inquiry as to what course should be followed if the politicians refused to pass the reforms under these conditions, he answered that in an emergency of this kind, in which the life of the country is at stake, the politicians must be forced to pass these reforms.

After my conference with the President tomorrow, I shall report further to you.

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/3153

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 847

HABANA, September 9, 1931.

[Received September 14.]

SIR: I have the honor to report further in regard to the subject of my despatch No. 840 of September 2, 1931, and my telegram No. 146, September 4, 2 PM.³⁵

On September 3, I had a final conference with President Machado, at which Doctor Averhoff was present, on the subject of the constitutional reforms and the President's proposed messages to the people and to Congress. After a very lengthy discussion in which the President and I failed to reconcile our different points of view, he informed me that he would carry out the plan as developed with the exception that he would not ask the Congress to include among the transitory provisions of the constitutional reforms his termination of office on September 1, 1932. I told the President that although I considered he was making a mistake in pursuing this course, in view of his intention and desire to retire, nevertheless, I wished him every success in his program and sincerely hoped that he would be able to restore moral peace quickly enough to save Cuba from financial disaster, and that I would be the first to congratulate him on the success of his efforts. Yesterday, in accordance with the plan agreed to, the President called to the Palace representatives of various organizations of the country and read to them a message, a copy and translation of which are enclosed herewith.³⁶ The only substantial variations from the suggestions I had made to him were the elimination of the reference to his own retirement and the addition of a provision for the security of tenure of members of the armed forces.

The President likewise sent yesterday afternoon a message to Congress, a copy and translation of which are enclosed herewith.³⁶

³⁵ Latter not printed.

³⁶ Not printed.

This message does not include the projects of law agreed to between Doctor Averhoff and myself, and referred to in my despatch No. 840 mentioned above. The President makes the following proposals in his message:

1. Definition of the scope of parliamentary immunity;
2. Prohibition of motions of lack of confidence in the Ministry during the first year following the taking of office by any one occupying the presidency by right of succession;
3. Selection by the full bench of the Supreme Court of the Vice President who shall hold office until the inauguration of the Vice President to be elected in 1932;
4. The parliamentary system of government not to go into effect until the inauguration of the next president, i. e., May 20, 1933.
5. Creation of a supreme electoral tribunal charged with supervising all electoral matters from the taking of the census of voters to the proclamation of the persons elected, this tribunal to be comprised of justices of the Supreme Court assisted by representatives of the political parties and groups. (The President suggests that special legislation to establish this tribunal be enacted immediately pending incorporation of the necessary provisions in the constitution.)
6. Security against arbitrary dismissal for political reasons of members of the armed forces.

Although some of these proposals are specific and do not allow much leeway to Congress for political chicanery, nevertheless, without definite projects of law, the Congress is in a somewhat easier position to deviate from the programme indicated by the President, and thus enact amendments which would fail to fulfill the spirit and intention of the original suggestions. I enclose herewith copies and translations of the projects of law agreed to by Doctor Averhoff and myself.³⁸

There has always been uncertainty as to the action the Congress might take on the President's message. I have had some suspicion that the President, in collusion with his political associates in the Congress, might arrange for the modification of some of the proposed amendments. However, in view of the desperate situation, perhaps all interests may deem it wise not to attempt further to fight against the inevitable, but to save what they can of their political and material fortunes by bowing to public opinion. I think the fact that I am in the position of a spectator without too much confidence in the President's programme will act somewhat as an incentive to put through honest reforms, reestablish moral peace and, by that means, win our approval and good offices in an attempt at financial reconstruction.

Respectfully yours,

HARRY F. GUGGENHEIM

³⁸ Not printed.

837.00/3203

The Chargé in Cuba (Reed) to the Secretary of State

No. 930

HABANA, November 12, 1931.

[Received November 16.]

SIR: I have the honor to report that a feeling of optimism as to the possibilities of reaching an understanding between the Government and the opposition elements has emerged from the acts and declarations of representative members of both factions during the last week or ten days.

President Machado and other spokesmen of his Administration, such as Senator Viriato Gutiérrez, have strongly emphasized in published statements the need for concerted action if the country is to be saved from an economic collapse, and these appeals have found a hearty response in all sectors of the Cuban press.

The Government's first really concrete gesture of conciliation toward the opposition was the release from prison of 4 Orthodox Conservative Congressmen on November 4, which I reported in my despatch No. 920 of November 5, 1931.⁸⁹ The succeeding day Ex-Senator Ricardo Dolz, one of the principal opposition leaders, was set at liberty, and subsequently a score or more of less important political prisoners were released.

When the House of Representatives met on November 9, the Orthodox Conservatives, with the exception of the 4 who had just been released from jail, were in their seats after an absence lasting since before the August insurrection, and while it is true that their leader Carlos Manuel de la Cruz, in a speech from the floor denied that the release of his colleagues constituted any really important step in the direction of a political *rapprochement*, he nevertheless laid great stress upon the imperative necessity of reaching an accord.

In the Senate, on November 10, the committees of the three parties held an informal meeting at which it was resolved to expedite consideration of the constitutional reform bill. Informal discussion of the provisions of the bill by the party groups began on November 11 and is expected to continue throughout the present week. It is announced that the formal debate on each article will probably commence next week.

The newspapers report from day to day meetings between persons representing the divergent political points of view and although the subjects discussed thereat are entirely a matter of conjecture, the fact that such conferences are taking place, coupled with the other factors already mentioned, creates an impression that a serious effort is now

⁸⁹ Not printed.

being made to arrive at some kind of an adjustment of the conflicting political interests.

The repeated failures of similar efforts during the past two years render it impossible to predict any measure of success in the present instance. It may, however, be said without risk of exaggeration that the desire for political peace is now stronger on both sides than it has been at any time during the last two years.

Respectfully yours,

EDWARD L. REED

837.00/3204

The Chargé in Cuba (Reed) to the Secretary of State

No. 931

HABANA, November 13, 1931.

[Received November 16.]

SIR: With reference to my despatch No. 930 of November 12, 1931, I have the honor to report that Mr. Antonio Mendoza called upon me this morning and gave me the following account of his recent activities in behalf of facilitating a *rapprochement* between the Government and the Opposition.

He said that after the release of the four Orthodox Conservative Congressmen and ex-Senator Ricardo Dolz on November 4 and 5, Carlos Manuel de la Cruz, leader of the Orthodox group, went to see General Herrera, Chief of the General Staff, in order to explore the possibilities of obtaining the release from prison of General Menocal, Mendieta and Mendez Peñate. Cruz argued that the release of these Opposition leaders was an initial prerequisite to the establishment of confidence in the good faith of the Government, without which the Opposition elements could not be expected to enter seriously into any negotiations looking toward a reconciliation. General Herrera appeared to be convinced by Cruz's reasoning and discussed the matter with President Machado. He later informed Cruz that it seemed desirable as a preliminary step that some trusted person be designated to see the prisoners and sound them out in regard to their future attitude if released. The choice fell on Antonio Mendoza and he was informed that he would be permitted to visit them the end of this or the beginning of next week.

At this point, according to Mendoza, the matter was given publicity in the press. The Liberal politicians got the wind up and went to see the President. Mendoza did not say who these politicians were, but he intimated that Vazquez Bello was one of them. They succeeded in persuading the President that it would not be to the interests of the Liberal Party to release any more of the leaders of the August revolution and that it would also be futile to attempt to negotiate with the latter on the subject of a reconciliation which could only be

reached at the expense of that party's present organization. Furthermore, according to Mendoza, they told the President that if he took any steps toward making peace with the Opposition his action would be attributed exclusively to pressure from the American Government and the American banks and that he would, therefore, receive no personal credit for adopting a conciliatory attitude at this time.

Mendoza went on to say that as a result of the interposition of these politicians, he had been advised by General Herrera that the whole thing was off and that he, Mendoza, might as well carry out his plans to return to his sugar mill. He had, however, discussed the matter further with Herrera, who had undertaken to see the President again and to endeavor to persuade him to allow Mendoza to visit the prisoners.

In conclusion, Mendoza expressed the opinion that General Herrera was sincerely desirous of having a peaceful solution reached and that his attitude in the matter faithfully reflected that of the Army, which is anxious to avoid further internal strife.

I thanked Mr. Mendoza for his information, but did not express any comment on what he had imparted to me. He said he would let me know if he heard anything further from General Herrera.

Respectfully yours,

EDWARD L. REED

837.00/3206

The Chargé in Cuba (Reed) to the Secretary of State

No. 937

HABANA, November 20, 1931.

[Received November 23.]

SIR: Referring to my despatches Nos. 930 and 931 of November 12 and 13, 1931, I have the honor to report that, in so far as I have been able to ascertain, there has been little, if any, actual progress during the past week toward bringing about a *rapprochement* between the Government and the Opposition.

Having received no word to the contrary from Mr. Antonio Mendoza, I assume that he has not yet been permitted to visit General Menocal, Colonel Mendieta and Mr. Mendez Peñate in the Cabañas military prison. The President has, however, continued to order the release from jail of small groups of political prisoners of minor importance.

Yesterday's newspapers report the sudden departure for the United States on November 18 of Senator Wilfredo Fernández and Representatives Evelio A. del Real and Fidel Alonzo Caiñas, all *coöperativista* Conservatives from the Province of Pinar del Rio, Fernández being the leader of his party in the Senate. It is commonly believed that these gentlemen have embarked upon a "mission of cordiality",

the purpose of their trip being to confer with the Opposition leaders now in New York. These latter include Domingo Mendez Capote, Cosme de la Torriente, Miguel Mariano Gomez, Rafael Iturralde, Fernando Ortiz, Ramon Zaydin, Aurelio Alvarez, Juan Espinosa and Rosendo Collazo.

The action of the Senate, as reported by telegram No. 185 of November 18, 10 a. m.,⁴¹ in passing the House bill providing for the immediate creation of a Superior Electoral Tribunal has been well received. Editorial comment on the subject in the anti-Government press is favorable, without being enthusiastic, and points out that the powers to be conferred on this Tribunal for supervising all electoral operations should increase confidence in the fairness of future elections.

There has been no further progress in the consideration by the Senate of the Constitutional Reform Bill, in spite of President Machado's repeated assurances that its approval by that body would be expedited.

Respectfully yours,

EDWARD L. REED

837.00/3215

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 969

HABANA, December 24, 1931.

[Received December 29.]

SIR: I have the honor to report that at a luncheon of political and military figures in Pinar del Rio on December 22, 1931, the President of Cuba announced his determination to stay in office until the end of his term, May 20, 1935.

The announcement has occasioned no particular surprise here. A few days ago a newspaper published a similar statement from the President, which was not confirmed, and some such official announcement has been currently rumored to be a possibility in the near future. The President's trip to Pinar del Rio was hailed as a visit of good will, which involved the release of some fifteen political prisoners, and his announcement at the luncheon was vigorously applauded by the other guests, consisting of officials of the General Staff and officers of the Army, the Governor of Pinar del Rio, the Mayor of the city of that name, the leader of the Conservative Party, and various Senators and politicians. The President's speech, the significant parts of which are attached in original and translation,⁴¹ stated that a short time ago some Cubans had wished that he abandon his presidency, and he had therefore summoned his friends in Congress to suggest

⁴¹ Not printed.

the enactment of a measure for political reform, which would give the opportunity of offering the presidency to another person; after a trip through the Republic, however, in which he perceived "the sentiment of a people," he decided that it would be mere cowardice on his part to resign before the fulfillment of his term. The President referred to the recent mortal shooting of a policeman attempting to apprehend an alleged bomb thrower as an indication of the fact that his efforts to achieve a cordial relationship with the opposition had not been received in kind.

As the Department has been informed, there is a very strict censorship imposed on the Cuban press, and no editorial comment on the President's speech appeared in any of the leading Habana papers. The speech itself was reprinted in full, but not on the front page.

In the meantime, there is no immediate indication of any reconciliation on the part of the Opposition. In the past four days, some seven or eight bombs have been discharged, all of which did some damage to property, but no damage to life. The so-called Orthodox or Menocal Conservatives have issued a proclamation, a copy of which is enclosed, in original and translation,⁴² in which a committee headed by Carlos de la Cruz condemns the effort at reorganization of the parties. This committee believes that any political reorganization is futile at a time when so many political leaders are in jail, and points out that the Conservative Party, in particular, is suffering from the imprisonment of its principal figure, ex-President Mario G. Menocal.

Ferrara has returned to Habana for the holidays. His presence is reported to be linked with Torriente's mission, and, as the Department knows, Ferrara has claimed to be seeking to find a solution to the present unfortunate political situation. After Ferrara's first conference with President Machado, the former informed me that the President asked to be given "five or six days for consideration of the political problem." In my opinion, Ferrara's interest in Cuba's present problem is almost entirely self-centered like that of the other Cuban political personages. During the summer, he was wholly occupied with his mission to Japan and the League of Nations activities. The world drama is infinitely more inspiring to Ferrara's talents than the *opera bouffe* of Cuban politics. Ferrara has endeavored to maintain the *status quo* especially during this period of his absence. The means employed have been twofold (1) to alarm as far as he might be able the United States Government by predicting dire consequences in Cuba upon Machado's retirement, or even upon intimation of his retirement at some time in the future and (2) to advise Machado that he had

⁴² Not printed.

nothing to fear from the United States Government, which was not interested in the internal political situation of Cuba.

At the present moment, in my opinion, Ferrara is looking over the ground to ascertain how any political changes may affect his future. In the meanwhile, I think Machado and Ferrara have one immediate problem in mind, which is to find some relief from the burdens of the foreign debt services. They may make conciliatory gestures to the opposition, if they believe that by so doing they will create a more sympathetic attitude on behalf of the United States Government when the Chase Bank reviews the Cuban Government Public Works Debt situation early in January.

Respectfully yours,

HARRY F. GUGGENHEIM

837.00/3218

The Ambassador in Cuba (Guggenheim) to the Secretary of State

No. 973

HABANA, December 30, 1931.

[Received January 4, 1932.]

SIR: In the Embassy's despatches concerning the political situation occasional reference has been made to the existence of a conflict of jurisdiction between the civil courts and the military authorities as a consequence of the suspension of constitutional guarantees.

This conflict was greatly accentuated because of the procedure followed in several instances by the military authorities after martial law had been proclaimed throughout the republic in August of this year, but detailed reports of the various controversies that arose were unobtainable due to the strict censorship imposed on the press.

The Superior Court has, however, now broken its silence on the subject and has brought the dangers inherent in the present abnormal situation to the attention of the public by means of a communication addressed to the lower courts which was published in the Habana newspapers of December 27. A copy and English translation of this very interesting document are enclosed.⁴³

After commenting on the activities of the military authorities and mentioning several cases in which the latter have interfered with the proper functioning of the civil courts, the Supreme Court goes on to say that the prolonged state of war has had the effect of removing the citizen from the jurisdiction of the regular judges, with the consequent malaise produced in any society when persons are tried by other institutions than those established by the Constitution for the ordinary administration of justice and that whenever this state of af-

⁴³ Not printed.

fairs has been brought to the attention of the President of the Republic he has shown unequivocal evidence of the best of intentions and a spirit of conciliation which, however, was not sufficient to remedy matters, owing, perhaps, to the lack of adequate legislation or regulations to ensure the integrity of civil justice. This situation might, suggests the Supreme Court, be remedied by the modification of certain existing laws, such as the Law of Public Order, the Law of Habeas Corpus, the Law of Military Procedure and the Organic Law of the Judiciary, in such a way as to clarify their provisions and to adapt them more closely to the precepts of the Constitution.

The Supreme Court further observes that justice requires that this abnormal state of affairs be terminated in order that penalties for violation of the law may be imposed, not by arbitrary authority, but through the regular channels of legal procedure. In other words, it advocates the reestablishment of the normal régime of the Courts of Justice. While the other branches of the Government attend to matters within their respective provinces, the Judiciary is enjoined to maintain its legitimate jurisdiction, proceeding with diligence, expediting trials, holding in prison no one against whom there is not sufficient evidence to warrant prosecution and ordering the arrest of those who should be imprisoned.

The opposition has undoubtedly derived a good deal of satisfaction from this confirmation by an incontestable authority of some of the accusations it has been making against the Machado administration.

Respectfully yours,

HARRY F. GUGGENHEIM

DOMINICAN REPUBLIC

FAILURE OF THE DOMINICAN GOVERNMENT TO OBTAIN A LOAN IN THE UNITED STATES

839.51/3341%₀

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] January 26, 1931.

The Dominican Minister and Señor Despradel called by virtue of an appointment made by Mrs. Gann on behalf of her husband who is ill, Mr. Gann being the attorney for the Dominican Financial Commission.¹ They had an extract of a letter written by Brache stating that Mr. Gann had said that the Vice President had said that the Secretary had intimated that a loan of \$5,000,000 or \$10,000,000 would be all right and they exhibited a telegram from President Trujillo desiring to know the definite amount that would be authorized by this Government.

Mr. David Hunter Miller ² was present at this interview as well as at the previous one with Mr. Andres Pastoriza.³ The Dominicans were told that if they would submit a concrete proposal then they could be given a definite statement. They were told that our position is as outlined to them some days ago by Mr. Cotton, namely that the proposal for a \$50,000,000 loan is objectionable on several grounds, among them being that the service of such a loan requires too great a proportion of the Government's income and that the amount is too large. Mr. Cotton had said that no permanent financing should be undertaken at this time but that it might be possible to arrange some temporary financing. The Minister wanted a definite authorization from the Department for a stipulated number of dollars so that he could go to the bankers and say that the Department of State would authorize a loan in that sum. He was told that this could not be done; that if

¹ Composed of Elias Brache, Jr., President of the Commission; Roberto Despradel; and Rafael Brache, Dominican Minister at Washington.

On January 10, 1931, the Under Secretary of State, Joseph P. Cotton, received the Commission to discuss, and pass upon, the Memorial which had been presented to the President by the Commission and referred to the Department of State. The Department declined to accede to the Dominican request for a loan of \$5,000,000 from the Government of the United States and for an authorization to contract a loan of \$50,000,000. (839.51 Economic Mission/12)

² Editor of Treaties, Office of the Historical Adviser, "who has the question of Dominican finances under study." (839.51 Economic Mission/2)

³ Counsel for the Dominican Government.

he would get a definite proposal from any banker this would be given careful consideration to see whether the Department could give its consent or not, but that the Department could not consider a hypothetical case. The terms and purposes of the loan would have great effect on determining the Department in its decision as to how much it would authorize.

F[RANCIS] W[HITE]

839.51/3343

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] February 3, 1931.

Mr. Gann called on the Secretary on Tuesday, February 3. Mr. Miller and Mr. White were also present.

Mr. Gann stated that he came in with an urgent matter, namely a letter to the Secretary from the Dominican Financial Commission in this country regarding a proposal of J. G. White and Company to make a loan of \$5,000,000 to the Dominican Republic. Mr. Gann referred to the financial depression that the Republic is going through as well as the devastation from the cyclone. He stated that Ulen and Company had made a proposal to the Dominican Republic which President Trujillo had turned down because it called for the taking over by Ulen and Company of a number of public utilities during the life of the loan, namely 30 years. This is a proposal for a \$5,000,000 loan and has no such mortgage feature of public utilities in it.

The Secretary inquired whether this was a straight loan proposal or whether it had any arrangement attached to it with regard to public works construction. Mr. Gann replied that it was a straight loan proposal although J. G. White and Company naturally hoped that they would be given preference on all public works to be undertaken in the future. They feel that in two or three years there will be a large expansion of construction in the Dominican Republic and the syndicate making the loan hope to have a preference on future financing, and the J. G. White and Company hope to be given the construction work on the terms which they outlined in a letter to the President of the Dominican Republic, namely cost plus 12 per cent. Mr. Gann handed the Secretary annexes to the Financial Commission's letter and certain papers which he stated contain all the information in this connection.

The Secretary asked Mr. Gann in what connection he appeared in the matter and he replied as counsel for the Legation and the Dominican Republic. He said that he had been in New York to help the Financial Commission; that he found the bankers most apathetic as regards loans at this time; that most of the bankers showed no

interest in the matter whatsoever, and indicated that they would not be interested for a period of probably two years. Mr. Gann wanted to help in any way he could and in view of this situation he thought that anybody who would find a loan for the Dominicans, as the J. G. White and Company had, should be encouraged. This is a loan of \$5,000,000 at $5\frac{1}{2}$ per cent interest for 30 years, bonds to be sold at 90. The Secretary asked what would be paid to the Dominicans. Mr. Gann said that he did not know what this figure would be or if it had in fact been determined. The Secretary said that a loan at 90 to the Dominican Government at this time seemed rather out of the ordinary and for that reason he had inquired whether there were any other features, such as construction, in connection with it. Mr. Gann again said that there were not and he presumed it showed the very high credit of the Dominican Government.

The Secretary said that as he had told Mr. Gann's brother-in-law, Vice President Curtis, when the latter mentioned the matter to him at Cabinet Meeting one day, there is of course no objection on the part of the Department to the J. G. White and Company; in fact, the Secretary was delighted to have as many reputable companies, such as the White Company, take an interest in the matter—the more, the better.

Mr. Gann indicated that the matter was rather pressing as the Dominican Government needs money and asked for a decision as soon as possible. He said he of course realized that an immediate answer could not be made but would like to have one as soon as possible and stated that he wanted to be very frank with the Secretary; that he would give him all the papers and all the information at his disposal, and he hoped the Secretary would be frank with him.

The Secretary thanked Mr. Gann and said that he would be quite frank. The Secretary said that we had been very much chagrined to hear some months ago, in connection with another loan in another country, that a commission had been paid by the bankers to an intermediary—in this case, to a relative of a high officer of the Government—that of course our relations with the Dominican Republic are somewhat different and on a closer basis than the countries of South America and he wanted to be absolutely sure that everything was above board in the country where we had to look out for the interests of the borrower to be sure there was nothing of this sort. There had been rumors to the effect that something of the sort might be contemplated and he wanted to make inquiry about it because of course we wanted to know before giving consent to any loan. Mr. Gann said that so far as he knew there was nothing of the sort in this transaction. The Secretary suggested to Mr. Gann that he "keep his eye peeled" to see that nothing of this sort went on. Mr. Gann said

that he would. The Secretary stated that in any arrangement approved by us the bankers must undertake not to pay such commissions. Mr. Gann also offered to supply any further information that might be required.

F[RANCIS] W[HITE]

839.51/3345

The Dominican Minister (Brache) to the Secretary of State

WASHINGTON, February 9, 1931.

MY DEAR MR. SECRETARY: On the occasion of the visit which Commissioner Despradel and myself had the honor to make to the Department of State last Thursday, the 5th instant, Your Excellency cordially expressed your intention of giving your personal attention to the matter of the ratification of the authorization granted by the Convention of December 27, 1924,⁴ for the \$5,000,000 loan we now seek, as well as to the proposal of The J. G. White Engineering Corporation, of New York, the approval of which we solicited in our memorandum dated January 31.

As your assistant, Mr. Miller, at the request of Your Excellency, promised to render to you his report on the subject the following day (the 6th instant), I venture to respectfully request an answer regarding this vital subject, in which my Government and my people are so deeply interested, because of the urgent problems which we must solve, and which were especially aggravated as a consequence of the damage done us by the hurricane of last September 3rd.⁵

Last Saturday Mr. Gann, legal advisor to our Legation, advised me that he had been informed by the Honorable Francis White, Assistant Secretary of State, that Your Excellency had taken with you to New York all of the papers relating to our case so that you could give it your personal attention, and for this kindly, friendly act, I am, my dear Mr. Secretary, most grateful and wish to express my sincere appreciation.

At the same time I wish to take advantage of this opportunity to congratulate you upon the fine speech you made before the Council of Foreign Relations, in New York, last Friday night. All of the Latin American countries have a vital interest in the pronouncements of each of the American political parties touching upon their Latin American policy, and your recent speech will prove of the keenest interest to them.

With assurances [etc.]

RAFAEL BRACHE

⁴ *Foreign Relations*, 1924, vol. I, p. 662.

⁵ See *ibid.*, 1930, vol. II, pp. 727 ff.

839.51/3360

Memorandum by Mr. W. R. Scott of the Division of Latin American Affairs

[WASHINGTON,] February 12, 1931.

Mr. Brache and Dr. Lamarche⁶ called at the request of the Secretary on Thursday, February 12. Mr. White, Mr. Miller, and Mr. Scott were also present.

The Secretary first pointed out that this Government has certain very definite duties under its treaty with the Dominican Government and that it had a responsibility for seeing that any loan which the Dominican Government might secure should be on the very best possible terms. With these considerations in mind the Department could not conscientiously approve the J. G. White proposal, at least, in its present form. At this point a memorandum embodying the specific objections which the Department had to the plan of the J. G. White Company was handed to the Dominican Minister and a copy of this memorandum is attached to this record.⁷ In elaborating on the points presented in this memorandum, the Secretary then said:

The first and most general objection to the White plan was that it tied up the Dominican Government with an indefinite obligation with the J. G. White Company for the performance of certain construction work for an indefinite time and for an indefinite amount of money. In short, it appeared to give the J. G. White Company a mortgage on all construction work to be performed for the Dominican Government for an indefinite period in the future. Such an arrangement would preclude the Dominican Government from having the benefit of negotiating with any other American firms who would be frightened away because of the privileged status of the J. G. White Company.

The second objection was that the sale price for the bonds was not mentioned. Under present market conditions at the price which Dominican bonds are now selling, any offer to buy thirty year bonds could only be made at an excessive rate. A loan on that basis would have to be purchased on a basis that would only net the Dominican Government perhaps 78 or even lower. Such terms would constitute improvident borrowing which this Government could not approve.

It was felt also that a part of the avails of any loan should be used to pay off the floating debt and though perhaps not quite as strong a consideration that it would be desirable that some provision should be made to guarantee the heavy sinking fund for at least a year.

The Secretary explained that he was stating the main points on which objection was based to the J. G. White proposal but that he

⁶ Carlos M. Lamarche, Secretary of the Dominican Legation.

⁷ Not printed.

would be very glad to have Mr. Miller and Mr. White go over as fully as the Minister might desire all the details of this question. He added that the Dominican Government should not feel that time had been lost as a very hopeful sign was the recent turn which had taken place in the market and the fact that one or two concerns, who had previously lost interest, were now again evincing an interest in Dominican financing.

The Secretary then discussed briefly the general principles which the Department had formulated,⁸ and under point No. 4 he referred the Dominican Minister to the note from the American Minister to the Minister for Foreign Affairs of the Dominican Republic, answering the note dated March 1, 1913. (Copy attached herewith).⁹ The Secretary explained the extreme importance which this Government attached to knowing that all allocations of funds would be made in accordance with the purpose of the loan. At this point the Minister said that he understood perfectly what the Secretary had in mind, an extreme instance of this would be, for example, were funds under a new loan devoted to building a nice statue. The Secretary replied that that was exactly what he meant, and that he might add that the disbursement of funds even to build a memorial lighthouse at a time of financial crisis, such as the present, would not be favorably looked upon.

The Secretary then said that he wished to call attention to an incident which had occurred, which was not related in any way to the Dominican Government or the present matter but which had taken place in connection with financing undertaken by another country, which, of course, he could not properly name. This incident had convinced him that it was desirable for this Government to require in the future in cases where loan contracts were submitted to its consideration, that the bankers concerned should supply a written statement that no commissions had been paid other than the ordinary commissions customarily paid to brokers or houses normally involved in the transaction. (A copy of this statement of general policy was not given to the Minister but is attached to this record).¹⁰ The Secretary explained that such a policy was in conformity with a similar requirement now in effect in connection with contracts entered into by this Government.

The Minister answered that he felt that this provision was a very sound one and that he was very glad to assure the Secretary that no question of a commission of this sort had ever arisen in connection with

⁸ See telegram No. 7, February 12, 7 p. m., to the Minister in the Dominican Republic, *infra*.

⁹ See letter of the Secretary of State to the Secretary of War, March 10, 1913, *Foreign Relations*, 1913, p. 466.

¹⁰ Not printed.

the loan negotiations which had taken place with the Dominican Financial Mission. In regard to tying up the Dominican Government to giving the J. G. White Company its construction work for an indefinite period, the Minister said that the proposed contract merely expressed a preference for the J. G. White Company but was not binding in this respect upon the Dominican Government. It was his understanding that when refunding took place the Dominican Government might very easily award construction contracts to other companies. The Minister said, however, that he felt as the Department appeared to feel, that it would be much better to have a purely banking proposition at this time and he would rather see, for instance, Lee, Higginson and Company come in again on a purely financial arrangement than to tie up a construction program with a loan contract. Mr. Brache gave, or tried to convey, the impression that he was not personally very favorably impressed with the White proposal. He concluded his remarks by stating that he had just received a telegram from President Trujillo, instructing him to refrain from entering into any further negotiations in regard to Dominican financing. He said that President Trujillo was discouraged.

The Secretary replied that he felt that President Trujillo and the Dominican Government should not be discouraged, that we want to help them out and to find terms which they can accept without being ashamed of them later.

W. R. S[corr]

839.51/3344a : Telegram

*The Secretary of State to the Minister in the Dominican Republic
(Curtis)*

WASHINGTON, February 12, 1931—7 p. m.

7. The Department feels that in accordance with its responsibilities under the convention any proposals for Dominican financing should accord with the following definite principles:

1. The Department cannot give its definitive approval to any proposal before it is in complete and final form.

2. It is believed that financing up to \$5,000,000 would be reasonable at this time.

3. The Department cannot approve any loan whose terms are so onerous as to constitute improvident borrowing on the part of the Dominican Government. Under existing market conditions this probably precludes long-term financing at this time.

4. This Government will require that all advances or disbursements of the proceeds of any loan shall be made under provisions similar to those stated in the note of the American Minister to the Minister for Foreign Affairs of the Dominican Government, answering the note dated March 1, 1913. Reference, 1913 *Foreign Relations*, page 466,

and Volume III *Treaties*, page 2572. The Department feels that any loan must take care of the floating debt and should include some provision of reserve for assurance of the payment of the sinking fund during at least 1 year.

5. Only such construction work should be undertaken as is felt eminently desirable by both Governments.

The Department will inform all American bankers or construction companies who may be interested that any proposals which they may submit must conform to the principles outlined above which in their complete form are embodied in a memorandum handed today to the Dominican Minister.

The Department has informed the Dominican Minister that it is not able to approve in its present form the proposal recently made by the J. G. White Company for a loan of \$5,000,000. As submitted, this proposal is too vague and indefinite, and is subject to other criticisms which are set forth in a memorandum handed to the Dominican Minister today.

Mr. Brache said today that he had instructions to go no farther here with financial negotiations. His diminished powers seem to coincide with the arrival of Mr. Lamarche who was with him today.

Detailed instructions follow by an early airmail, and you will receive copies of two memoranda handed today to the Dominican Minister but pending such instructions you are directed to inform President Trujillo of the Department's views herein expressed both as to the general question of Dominican financing and the action which was taken in regard to the tentative proposal of the J. G. White Company.

The Department has been informed that President Trujillo has appointed an adviser to assist him in considering loan proposals. Please inform the Department by telegram concerning this.

STIMSON

839.51/3348 : Telegram

The Minister in the Dominican Republic (Curtis) to the Secretary of State

SANTO DOMINGO, February 14, 1931—noon.

[Received 2:03 p. m.]

14. I have informed the President of the Department's views as instructed in your telegram No. 7, February 12, 7 p. m. He has not appointed a Financial Adviser but has had under consideration the matter of obtaining an American for this purpose.

He stated that he intended to recall Minister Brache in the near future.

CURTIS

839.51/3366

The Minister in the Dominican Republic (Curtis) to the Secretary of State

No. 332

SANTO DOMINGO, March 5, 1931.

[Received March 7.]

SIR: Referring to my telegram No. 18 of to-day, 12 noon,¹¹ I have the honor to inform you that President Trujillo two days ago informed me that he intended to send Mr. Martin de Moya to me to discuss loan matters and that that gentleman called on me twice yesterday and again this morning, the President himself joining us for a few minutes this morning.

Mr. Mayo began by informing me that the President had told him that Messrs. Lee, Higginson and Company were again interested in floating a loan for the Dominican Government and that he (Moya) had persuaded him that the Government ought to try to obtain a loan through that company only, requesting it to make a proposal which should be accepted or rejected,—which should not be made a basis for negotiating with others. Mr. Moya stated that the Government was prepared to cable such a request to Messrs. Lee, Higginson and Company but thought it best first to reach an understanding with the Department for the modification of paragraph No. 4 of the "Memorandum—Dominican Financing. General Principles" which the Department had handed to the Dominican Minister in Washington and of which a copy was sent to the Legation with instruction No. 103 of February 20, 1931.¹²

The President objects especially to the requirement that "all advances or disbursements of the proceeds of any loan should be made under provisions similar to those stated in the note of the American Minister to the Minister for Foreign Affairs of the Dominican Government, answering the note dated March 1, 1913." He feels that the procedure established by that note is unduly mortifying to the pride of the country and that the objects sought can be attained equally well by a procedure such as the following: the proceeds of the loan will be deposited only with Messrs. Lee, Higginson and Company in New York (or with the National City Bank there) and with the branch of the National City Bank in this city; the Government will send to such American official as the Department may designate copies in triplicate of all accounts which it considers to be properly payable from the proceeds of the loan, the original having attached to it a check to be signed only by the proper Dominican authority, the duplicate to be approved by the representative of the United States and

¹¹ Not printed.

¹² Instruction No. 103 not printed.

returned with the original, and the triplicate to be similarly approved and sent to the Bank to constitute its authority to pay the original with its check when presented; in this manner, the public would not have its attention called to the control exercised by our Government.

An amount sufficient to pay the interest on this loan during the first year would be retained by the bankers. The memorandum handed to Mr. Brache suggests that there be set aside at least the amount of the present sinking fund for twelve months, or say \$1,850,000. I consider the proposal of the Dominican Government preferable to that suggested by the Department because, although this would compel the Dominican Government to exercise the greatest possible economy for another year, it would allow us to say for what purposes every cent of the proceeds of the loan should be used, instead of permitting the Dominican Government to spend without any restriction on our part the \$1,850,000 released to it from the customs revenues.

Three million dollars would be set aside for the purpose of paying off the floating debt; if it should be found that this sum is excessive, the remainder would be added to the balance which is to be used for public works.

The President especially requests that the expenses of the Dominican financial mission which has been in the United States and the salaries and expenses of those to be employed here to pass on the accounts of the floating debt (including Messrs. Moya and Roberto Despradel) be considered part of the cost of the loan and, as such, payable from the proceeds of the loan. The expenses of the mission are said to have been about twenty thousand dollars and the further expenses are expected to be less than five thousand dollars

If the foregoing proposal is put into effect, the figures will be approximately the following:

\$6,000,000 loan will yield		\$5, 000, 000
One year's interest at 5½%	\$330, 000	
For the floating debt	3, 000, 000	
For "expenses"	25, 000	\$3, 355, 000
		<hr/>
Balance to be used for public works		\$1, 645, 000

The public works program would be decided upon in accord with the provisions of paragraph No. 5 of the Department's memorandum. It is agreed by everybody here that the most important item of the program must be improvements of the highways, including some construction of bridges; the President desires that there be included also the paving of a few of the most important streets of this city and the purchase of a dredge, and possibly of barges, to replace the dredge (and barges) lost in the hurricane of September 3, 1930.

For my own information, and for that also of the Dominican Government if you permit it, I venture to enquire whether the control of expenditure of loan funds is to be applicable to those used for public works; the Dominican Government is willing that the procedure which it has proposed (see the third paragraph of this despatch) be applied to the public works but fears that any procedure adopted may cause delays to which the contractors may object with good reason; for my part, I feel that the Legation and Customs Receivership, if charged with the duty of approving the accounts, would have to verify on the spot the performance of all work to be paid for.

I venture to enquire also concerning the approval of the contracts to be made for the public works, inasmuch as neither the Legation nor the Customs Receivership possesses the technical knowledge requisite for estimating the degree of completion of any engineering work or the cost of the work completed.

The Government proposes to ask Messrs. Lee, Higginson and Company to make an offer for a loan to yield about five million dollars to the Government, to bear interest at the rate of five and a half per cent, to be amortized by payments of five hundred thousand dollars a year beginning with the year 1937 (or possibly at the rate of a million dollars a year beginning with the year 1941, when the amortization of the 1926-1940 loan at the same rate will have terminated); it will also be suggested that the loan be callable at 101 at as early a date as possible, so that all the outstanding loans may be refunded if it appears desirable to do so. The bankers will, however, probably be told that, while this is what the Dominican Government considers most desirable for it, any proposal which they think preferable in view of market conditions will be considered.

IMPORTANT. President Trujillo requests that, in view of the altered status of the entire loan matter, the memorandum submitted to the President of the United States by the Dominican Financial Mission be withdrawn and returned.¹³

It is respectfully requested that the Department give heed to the desire of the Dominican Government to obtain a loan with as little delay as possible and that it inform the Legation, by cable if possible, of its attitude towards the suggestions and desires expressed in this despatch.

Respectfully yours,

C. B. CURTIS

P. S. I respectfully recommend that the Department approve the procedure suggested by the Dominican Government as reported in the third paragraph of this despatch and that all the other proposals made in this despatch be approved in principle.

C. B. CURTIS

¹³ See footnote 1, p. 84.

839.51/3365 : Telegram

The Secretary of State to the Minister in the Dominican Republic
(Curtis)

WASHINGTON, March 6, 1931—5 p. m.

9. Department desires you to call on President Trujillo and say to him that the Department has been giving very careful consideration to the Dominican financial situation in order to be able, if possible, to assist the Dominican Government in the present crisis. The Department has found the situation to be as follows:

(1) No reputable American bankers were willing to consider Dominican financing at this time;

(2) Two American construction companies were willing to make advances to the Dominican Government in conjunction with a construction program. One of those proposals was not approved by the Department and the other was rejected by President Trujillo because he did not desire to have a financial plan combined with a construction plan; the Department concurs in the view of President Trujillo that separate financial and construction proposals are desirable.

(3) The Dominican Financial Commission has been in this country for some months, but apart from the two construction companies above mentioned has been unable to interest any reputable American bankers in Dominican financing. It also appears to be a fact that their endeavors in the financial districts over this period of time and the lack of success thereof have made it more difficult for the Dominican Republic to raise a loan.

(4) In view of the present state of the bond market and of the financial condition of a number of Latin American countries any long time financing upon provident terms for the Dominican Republic is absolutely out of the question at this time.

As President Trujillo is aware, the Department has let it be known that it would welcome the entry of any reputable bankers into the field of the problem presented by the Dominican Republic and it has been well known throughout financial circles that the Dominican Republic was seeking some financial assistance. After continuance of this situation without any offer being made, Lee, Higginson and Company were the only bankers who showed the slightest interest in the matter as a purely financial proposition. Only recently and as soon as Lee, Higginson and Company showed their interest, the Department took it up with them in order to develop their interest.

At the request of the Department, and only on that consideration, Messrs. Lee, Higginson and Company have now stated that they are willing to discuss a moderate short time proposal of say \$4,000,000 secured by \$5,000,000 bonds to be issued under the Convention of 1924, provided the Dominican Government will consent to the four following conditions:

(1) An independent survey of the actual and immediate financial requirements of the Dominican Government; whether for funding

floating debt, reconstruction of public works, meeting of deficit for 1931, or other purposes such as refunding of loans now outstanding (dependent of course, on market conditions). Such a survey should be made by Americans and we believe the cost could be confined to a small sum.

(2) Measures be adopted to insure continuance of the program of economy which we understand has been inaugurated.

(3) Definite steps be taken to insure competent control of finances in the future. This is of importance, not only to insure the balancing of the budget but also to make certain that sufficient funds are annually set aside for honest and efficient upkeep of public works, such as roads, water works, etc.

(4) Agreement that the expenditure of the proceeds of the proposed loan be supervised by a representative of the Department of State of the U. S. A. and that he countersign all checks against proceeds of loan.

The Department has discussed this matter with Lee, Higginson and Company who state that conditions 2 and 3 will be fulfilled by the appointment of an American under the audit and control laws enacted by the Dominican Congress as a result of the recommendations of the Dominican Financial Commission headed by General Dawes in 1929, provided contract between Dominican Government and bankers states that this American or another satisfactory to the bankers will serve in this position during the term of loan arranged at this time and providing that part of Section 8 of this law giving the right to the President to approve expenditures the comptroller has vetoed be suspended.

The Dominican Minister in Washington showed the Department a letter from President Trujillo asking that this Government lend him the services of Mr. Sydney de la Rue, Financial Adviser to Haiti, to help advise his representatives in the negotiation of a loan. The Department regretted that it could not meet his request as Mr. de la Rue is now in the service of the Haitian Government and is not available for the proposed service. The Department, however, would be willing to find another Financial Adviser for President Trujillo, should that be his desire, and would point out that this man could occupy the positions and discharge the functions specified in each of the four points outlined above by Messrs. Lee, Higginson and Company. That is, he could make the financial survey and examination of the floating debt, and the new construction work; could carry on the economy program initiated by President Trujillo; could make the audits of the Government's accounts, and also countersign the checks paying out the proceeds of any loan as stipulated in point 4 of the Lee, Higginson report, which forms in substance point 4 of the conditions enumerated by the Department of State as necessary for its consent to any further loans. He could also act as Financial Adviser of the Dominican Government in the negotiation of the loan.

If these steps are taken by the Dominican Government, Lee, Higginson and Company state that they will then be willing to discuss with the Dominican Government its financial problems in an endeavor to work out a solution. While they state that they can not make any definite commitments until all the details are worked out and the condition of the bond market at that time is taken into account, the Department understands that Lee, Higginson and Company probably would, upon agreement on essential features of financing, make a small cash advance of say \$500,000 pending sufficient improvement in the market to make larger financing possible. Lee, Higginson make no prediction as to when this improvement will take place but point out that market conditions often change quickly and unexpectedly and that it should be very much to the advantage of the Dominicans to arrange all details of their financing at once so that they will be prepared to take immediate advantage of an improvement in market conditions in the United States. As a prerequisite to entering into the business, Lee, Higginson and Company stated that they would require the Dominican Government to deal only with them until they arrived at an agreement or came to the conclusion that they were dissatisfied with the terms Lee, Higginson would give, and would break off negotiations. When this occurred it would then be definitely understood that the Dominican Government would be free to deal with any other bankers whatsoever but it should also be definitely understood that then Lee, Higginson would be definitely out of the picture and would not interest themselves further in the matter.

In the contract for the short term loan Lee, Higginson and Company would ask for a clause to the effect that in the further long term financing to follow, the Dominican Government would discuss the matter first and exclusively with Lee, Higginson and Company. Should the Government and Lee, Higginson and Company not agree on terms, the Dominican Government would then be free to deal with any other bankers.

You may say to President Trujillo that while it is not the policy of the Department to recommend any one particular American banking house, Lee, Higginson and Company is one of the outstanding banking houses in the United States and that it is the only one which has shown any interest, so far as the Department is aware, in a purely financial plan. You may please also say that the Department of course would be glad to render any possible assistance to the Dominican Government in negotiating a loan contract either with Lee, Higginson or with any other reputable American company in an endeavor to see that terms just and favorable to the Dominican people are arrived at.

You may leave a copy of the above with President Trujillo should he so desire. Please report by cable his views in the premises.

If asked you may say that the Department has in mind as Financial Adviser, should President Trujillo desire such an official, Mr. William E. Dunn who held the chair of Latin American History and Economics in the University of Texas from 1913 to 1917; was in the United States Naval Service from 1917 to 1919; was then Assistant Chief and Acting Chief of Latin American Division of the United States Department of Commerce; from 1921 to 1924 was Commercial Attaché at the American Embassy in Lima; from 1924 to 1927 was Director General of Internal Revenue, Republic of Haiti, and from 1927 to date has been in the banking business in this country, first as Manager of the Latin American Department of Redmond and Company, and since as Manager of the Foreign Department of the Foreman-State Corporation of Chicago. From July to December, 1930, he was General Secretary of the Kemmerer Financial Mission to Colombia. He speaks Spanish well.

STIMSON

839.51/3367 : Telegram

The Minister in the Dominican Republic (Curtis) to the Secretary of State

SANTO DOMINGO, March 9, 1931—11 a. m.

[Received 3:41 p. m.]

21. Your telegram No. 9, March 6, 5 p. m. The President asks me to inform you that he accepts the proposals of Lee, Higginson and Company as a basis for negotiation subject to your acceptance of modification of your condition number 4 along the lines described in my telegram No. 18, March 5, noon,¹⁶ and despatch No. 332 of the same date. He would however like to have Dunn here before beginning the negotiations and inquires urgently what salary (and allowances if any) he would require for a period of not less than 3 months nor more than 6 months with the possibility of increasing the period if a loan is obtained; nominally he would be Financial Adviser obtained to study with a Dominican committee a systematized tax plan; please inform me with the least possible delay regarding salary, et cetera, and earliest possible departure for this country.

Your 10, March 6, 6 p. m.,¹⁶ is fully answered by my telegram No. 18 and despatch No. 332. Your 11, March 6, 7 p. m.¹⁶ has not been mentioned to the President.

CURTIS

¹⁶ Not printed.

839.51/3367 : Telegram

The Acting Secretary of State to the Minister in the Dominican Republic (Curtis)

WASHINGTON, March 12, 1931—2 p. m.

14. Your 21, March 9, 11 a. m. and despatch No. 332. The Department perceives no objection to a modification of the procedure contemplated in its point No. 4 of the general principles for Dominican financing along the lines described in your despatch No. 332 of March 5 and believes the bankers will entertain no objection.

Dunn can sail on Steamship *Coamo* leaving New York March 19. . . . Please advise the Department by telegram if the above is satisfactory.¹⁷

CARR

839.51/3417

Lee, Higginson & Company to the Assistant Secretary of State (White)

NEW YORK, June 9, 1931.

[Received June 10.]

DEAR SIR: In our letter of February 24, 1931¹⁸ we stated we believed "that the Dominican Government to be successful in raising a loan must first convince bankers that (1) the proceeds will be honestly and efficiently disbursed for constructive purposes and that (2) fixed charges of interest and sinking fund will not be so heavy but that the probable customs revenues will be more than ample, not only to meet all interest and sinking fund charges, but to leave annually a reasonable surplus for the Dominican Government as well",

and we therefore recommended:

"(1) An independent survey of the actual and immediate financial requirements of the Dominican Government; whether for funding floating debt, reconstruction of public works, meeting of deficit for 1931, or other purposes such as refunding of loans now outstanding (dependent, of course, on market conditions). Such a survey should be made by Americans and we believe the cost could be confined to a small sum.

"(2) Measures be adopted to insure continuance of the program of economy which we understand has been inaugurated.

"(3) Definite steps be taken to insure competent control of finances in the future. This is of importance, not only to insure the balancing of the budget but also to make certain that sufficient funds are annually set aside for honest and efficient upkeep of public works, such as roads, water works, etc.

"(4) Agreement that the expenditure of the proceeds of the proposed loan be supervised by a representative of the Department of

¹⁷ Mr. Dunn arrived in Santo Domingo on March 24 (839.51/3391).

¹⁸ Not printed.

State of the U. S. A. and that he countersign all checks against proceeds of loan.”,

adding that should the Dominican Government agree,

“the next step to be taken when market conditions make it possible would be either—

(1) The borrowing of sufficient short-time funds for a year, let us say, through the bankers selected to do the financing. Long-time bonds authorized by the Convention in an amount in excess of the loan would be given as security, or—

(2) The distribution of the long-time bonds themselves to investors”,

and emphasizing that for reasons set forth in that letter

“We believe refunding necessary at the earliest possible moment in order to put Santo Domingo on a sound financial basis”.

We were subsequently informed by the Department of State¹⁹ that the Dominican Government accepted the conditions enumerated in our letter of February 24, 1931 and that upon the nomination of the Department, President Trujillo had appointed Mr. William E. Dunn to advise him on financial questions and to discharge the functions specified in the plan we outlined in our letter of February 24.

Mr. Dunn has now reported in writing and orally regarding the financial and economic situation of the Dominican Republic as disclosed to him in the course of his investigations. We have studied his report and have conferred with him and are pleased to find that he entertains a hopeful view as to the economic and financial future of the Dominican Republic. We are also pleased to observe that his judgment regarding the necessity for internal financial reforms agrees with ours and that he shares our opinion as to the importance of refunding the present External Debt of the Republic at the earliest practicable moment in order to reduce the annual burden of debt service. It is also a matter of satisfaction to observe from the memorandum of May 5th, 1931 transmitted with the undated letter we received from you early last month,²⁰ that the Department of State is in general agreement with these and the other recommendations made in Mr. Dunn's report.

As you will recall, we pointed out in our letter of last February that market conditions made it impossible to consider at that time either a refunding operation or new short-term or long-term financing. In the conference which Mr. Blair had with you on May 8 you were informed that conditions had not improved, and we regret to have to state that the situation of the investment market at the present time is even more unfavorable than in February or in May, and we can not give any

¹⁹ By letter dated March 9, 1931; not printed.

²⁰ Not printed.

assurance that there will be an improvement in the immediate future. In these circumstances, as you can readily understand, we are unable to undertake any commitment at this writing regarding the consummation any further loan operation for the Dominican Government.

We believe, however, that regardless of market conditions, there are certain specific steps which the Dominican Government should take immediately in order to improve its financial position and prepare the way for ultimate new financing. It is our opinion that, even in a favorable bond market, new securities of the Dominican Republic could be sold advantageously only if the bankers could demonstrate satisfactorily to the investing public that Dominican finances were on a sound basis, that is, for example, that government expenditures were being and would continue to be supervised and controlled in the interest of economy and efficiency by a competent financial adviser, that the budget had been actually balanced and would be kept in balance, that government revenues were sufficient to justify the incurring of additional debt, that new sources of revenue were being developed and that the present heavy burden of debt service would definitely be lessened as soon as possible through a refunding operation, which, by extending the term of the debt, would decrease the annual requirements for sinking fund instalments.

We suggest therefore, as the first concrete steps toward the realization of a satisfactory financial program for the Dominican Government, that the Department of State reach an understanding with the Dominican Republic, providing,

(1) For the definitive appointment by the Dominican Republic of a financial adviser in the person of Mr. William E. Dunn, or some other expert nominated by the Department of State, pursuant to a contract approved by the Department of State between the Dominican Government and such financial adviser, which contract should stipulate *inter alia*:

(a) that the financial adviser thus appointed or a successor approved by the Department of State should hold office for a period of at least two years, regardless of whether or not new financing is effected;

(b) that as soon as new financing for the Dominican Government is effected by the bankers, the term of office of the financial adviser originally appointed, (or a successor approved by the Department of State), shall, thereupon, be extended, so that during the entire life of any new loan or loans a financial adviser acceptable to the State Department shall be in office and possess all powers which, in the opinion of the Department of State, may be necessary to insure the successful discharge of his functions;

(c) that the financial adviser should have full authority under laws to be enacted by the Dominican Government to control the expenditures of the Dominican Government, to prevent waste and inefficiency, to institute such accounting and financial reforms as

are calculated to improve the economic and financial position of the Republic, and in general to assist the Dominican Government in obtaining the full benefit of the program adopted by it on the recommendation of the Dawes Commission, together with such other reforms as may be deemed advisable and proper;

(d) that the financial adviser shall be specifically authorized to represent the Dominican Government in an examination of the items constituting the present budget deficit, and on behalf of the Government to agree upon the sums to be allowed to the claimants in respect of the unpaid items constituting the current deficit;

(e) that no expenditures from the proceeds of any new financing shall be made without the approval of the financial adviser who, for that purpose, shall have powers equivalent to those conferred in 1913 upon "the Minister or Secretary of the Legation of the United States in the Dominican Republic" and "a person designated . . . by the Receiver General of the Dominican Customs", (see *Treaties, Conventions*, etc., 1910 to 1923, volume III, pp. 2572-2573);

(f) that the financial adviser shall be authorized and required to propose to the Dominican Government such new taxation and other revenue measures as he deems calculated to increase the Government's revenues without unduly burdening its taxable resources;

(g) that the financial adviser shall in general be clothed with all the powers which in the opinion of the Department of State are necessary to insure the successful discharge of his functions.

(2) For the definite balancing of the 1931 budget at a total not to exceed \$8,500,000 or such other figure as may be approved by the State Department.

(3) For the limitation of the total of the 1932 and 1933 budgets to a figure not to exceed the total of the 1931 budget as balanced, except in so far as actually available revenues during those years exceed actual 1931 receipts, and then only as approved by the financial adviser.

(4) For the prohibition of any government expenditure or obligation unless funds are actually available therefor.

(5) For an undertaking by the Dominican Government and the approval thereof by the State Department, that in connection with any new loan or loans that may be issued by the bankers, the Dominican Government will enact any legislation and enter into any agreement with the State Department that may be necessary for the purpose of constituting as customs revenues the charges levied under Law 190 and providing for their collection by the General Receiver of Dominican Customs under the provisions and during the term of the Convention of December 27, 1924.

(6) For the appointment of a committee consisting of a chairman to be selected by the President of the Dominican Republic, of the financial adviser and of a third member to be designated by the Department of State, such committee to examine and audit all items composing the present budget deficit, and to fix the amounts to be paid in full settlement thereof, no item to be approved that is not supported by adequate evidence of Government liability for the amount allowed.

(7) For the immediate consideration by the Dominican Government and the Government of the United States of a financial plan contemplating the issue, as soon as market conditions permit, of a refunding loan to be governed by the terms of the Convention of December 27, 1924, such loan to be retired through a sinking fund calculated on a basis substantially to reduce the present heavy annual sinking fund instalments on the existing debt of the Dominican Republic and to retire the bonds by maturity.

We feel that an understanding between the Dominican Government and the Government of the United States along the foregoing lines and the active efforts of a competent financial adviser in effecting economies and improving the financial administration of the Dominican Republic will provide a favorable and sound basis upon which a previously agreed upon program of new financing can be carried out when market conditions permit, and we hope that the Department will see its way clear to approving a procedure of this nature, as in our opinion nothing will give the investing public more confidence in the stability and solvency of the Dominican Republic than such concrete evidence of cooperation between the United States Government and the Dominican Government, particularly when such cooperation may be expected to yield tangible results along the lines of governmental economy and efficiency. In the meantime we are working on the technical points involved in any new financing that might be undertaken for the Dominican Government, so that when an understanding along the lines outlined above has been reached by the Dominican Government and the Government of the United States, and when conditions in the investment market permit the raising of additional funds for the Dominican Government, as much as possible of the preliminary work incident to either a short term, long term or refunding operation will have been completed, and advantage of any improvement in the bond market can be taken with a minimum of delay.

In conclusion, may we point out that, under the terms of the 5½% Customs Secured Bonds of the Dominican Republic maturing in 1942, the Republic covenanted that "no future bonds of the Republic will be issued secured by customs revenues . . . unless the annual average customs revenues for the five years immediately preceding amount to at least 1½ times the total charges on all obligations secured by the customs revenues, including charges of any new loan". The decline in customs revenues during 1930 and 1931 has been so substantial that unless steps are taken to increase the amount of such revenues either by adding thereto the proceeds of the charges levied pursuant to Law 190, or in some other way, the amount of new customs secured bonds of the Dominican Republic which might be issued in connection with a new financial program may be seriously limited so long as bonds of the 1942 issue enjoying the foregoing covenant remain outstanding.

It also appears that certain provisions of the bonds of the 1940 maturity were intended to extend similar protection to those bonds also and that as a consequence the Covenant quoted above would operate so long as bonds of either the 1942 or 1940 maturities remained outstanding. In these circumstances it is clear that, given favorable market conditions, the most satisfactory form of financing which could be undertaken would be a refunding operation which would permit the retirement of all bonds of the 1940 and 1942 maturities and the issue of new customs secured bonds in a total amount sufficient to effect such retirement and to provide the additional funds required by the Dominican Government.

We feel that it should be clearly borne in mind that the adoption of a program such as that outlined above cannot but have a most beneficial effect upon the internal economic and financial position of the Dominican Republic and that by promoting in this way the fundamental prosperity of the country, the government will be enabled to retire its entire external debt more rapidly and regain its complete freedom of action with respect to its customs revenues, thus bringing to an end the foreign participation in the administration of the customs of the Dominican Republic established under the Convention of December 27, 1924.

Very truly yours,

LEE, HIGGINSON & Co.

839.51/3417

The Secretary of State to Lee, Higginson & Company

WASHINGTON, June 16, 1931.

SIRS: The Department has received your letter of June 9 regarding Dominican financing. The Department is giving the matter careful consideration and, in this connection, would like to be advised more fully what you have in mind regarding a refunding loan mentioned in paragraph (7) on page 7 of your letter under acknowledgement.

Very truly yours,

For the Secretary of State:

FRANCIS WHITE

Assistant Secretary

839.51/3428

*Lee, Higginson & Company to the Assistant Secretary of State
(White)*

NEW YORK, June 20, 1931.

DEAR SIR: We have received your letter of June 16 with further reference to Dominican financing, and in reply to your request for additional information regarding the refunding loan mentioned in Para-

graph (7) on page 7 of our letter of June 9 take pleasure in advising you as follows:

As we have pointed out in previous discussions of Dominican financing, one of the principal causes of the present difficulties of the Dominican Treasury is the very heavy sinking fund payments which the Treasury has had to meet since 1930. You will recall that except for extraordinary amortization pursuant to the provisions of Article I of the Convention of December 27, 1924 the Dominican Government was required to make no sinking fund payments on its outstanding debt until last year. In March, 1930, the first monthly payment was made for the sinking fund on the 1942 maturities, and in August, 1930 the first monthly payment was made for the sinking fund on the 1940 maturities. Such payments now aggregate \$1,851,667 annually and under the terms of the present contracts continue at the same figure until 1940 when one of the loans matures. As the total revenues of the Dominican Government for 1931 are tentatively estimated at \$8,300,000, it appears that the sinking funds alone absorb about 22% of the Government's income. This is a tremendous drain on the Government's current resources, and unless there is an immediate return of prosperity in the Dominican Republic through a substantial appreciation in prices for sugar, coffee, cacao, and the other products of the country, (and no such return of prosperity seems to be in immediate prospect), we feel that no marked permanent improvement in the position of the Dominican Treasury can be expected until a refunding operation can take place which would lessen the annual sinking fund requirements.

Bonds of the 1942 maturity are now callable on March 1 of any year and Bonds of the 1940 maturity are callable on October 1 of any year, beginning with 1931. At the present time there is outstanding \$8,759,000 principal amount of the 1924 issue and \$8,661,000 principal amount of the 1940 issue, or a total of \$17,420,000 for both issues. If market conditions permit, a refunding loan large enough to retire this entire indebtedness should be issued. It should also provide funds for the repayment of any short term advances which may in the meantime have proved practicable and any then existing recognized floating debt, and in addition provide for necessary public improvements. On the basis of the figures which have been submitted to us by Mr. Dunn and on the basis of our own examination of the problem, we feel that a loan of about \$25,000,000 should be sufficient to meet the requirements of the situation, but whether the market will be able to absorb an issue of that size within the next year or so is a question we can not answer at the moment.

We do not feel that the actual details of a refunding loan can be agreed upon in advance of the time when the market shows promise

of permitting the flotation of such an issue, because coupon rate, price, etc., depend on market conditions. It may well be that a long term refunding loan with only a 1% cumulative sinking fund provision, the influence of which would be almost negligible in so far as maintaining market prices is concerned, would have to bear at least a 6% coupon. Such an issue with a 6% coupon and a 1% cumulative sinking fund would be retired in about 33 years. Interest and sinking fund charges on a loan of \$25,000,000 would thus be \$1,750,000 per annum, or about \$1,000,000 less than the 1931 charges of \$2,851,149 on the existing debt of about \$17,500,000. As stated above, \$1,851,667 of this \$2,851,149 represents the fixed annual sinking fund instalment required to be paid until the maturity of the 1940 issue. It is because of the financial advantages to the Dominican Republic of such an operation that we referred in our letter of June 9 to the desirability of immediate consideration by the Dominican Government and the Government of the United States of the questions involved in a plan for refunding the existing debt as soon as market conditions permit.

It must, of course, be borne in mind that any refunding loan must enjoy at least the same protection as that enjoyed by the present loans, and that it must in particular be covered by all the provisions of the Convention of December 27, 1924, so that customs revenues of the Dominican Republic will continue to be collected by the General Receiver of Dominican Customs and pledged as security for the service of the loan, as at present. We realize and sympathize with the reluctance which the Dominican Government may naturally feel in agreeing to bind itself to the continuation of the Customs Receivership for a period considerably beyond the maturity of the present outstanding issues. It is important to realize, however, that a return of prosperity may make it possible to shorten the duration of the Receivership by permitting a rapid redemption of the refunding bonds, while under conditions of prolonged adversity the benefits of the Convention will continue to accrue to the Dominican Government.

Very truly yours,

LEE, HIGGINSON & Co.

839.51/3428

The Acting Secretary of State to Lee, Higginson & Company

WASHINGTON, June 30, 1931.

SIRS: In answer to your letters of June 9 and June 20, 1931, regarding Dominican financing, the Department has given most careful consideration to the plan you propose in this connection.

The Department is not disposed to undertake any increased responsibilities vis-à-vis the finances of the Dominican Republic, beyond those set forth in the existing Convention between the United States

and the Dominican Republic signed at Washington on December 27, 1924. Therefore the Department would not be disposed to be involved in the proposed arrangement for the Financial Adviser such as is outlined on pages four to seven of your letter of June ninth. There would appear to be no reason why you should not inform the Dominican Government, however, of your views regarding the functions of the Financial Adviser provided that where "the Department of State" is mentioned in your proposal the words "the bankers" be substituted in each instance, except perhaps in paragraph (6) where the words "common agreement" or some other suitable phraseology might be employed. The Department, of course, does not know the views of the Dominican Government concerning such an arrangement, but should that Government desire to enter into an arrangement such as you propose, or some satisfactory modification thereof, this Government would not be disposed to object.

I desire to point out, however, that the requirement in paragraph (1) (c) of your letter of June ninth is likely to bring the Financial Adviser into constant friction with the Dominican Government. Full authority to the Financial Adviser "to prevent waste and inefficiency" in effect makes the Financial Adviser the supreme authority in the Dominican Republic in nearly all Governmental matters and, even should it be acceptable to the Dominican Government, might possibly defeat its own ends on account of the friction which would likely be engendered by the Financial Adviser should he attempt to exercise such broad powers.

The Department also assumes that the wording in paragraph (1) (e) is merely a rough draft and that when put into final form it will contain an appropriate adaptation of the language contained in the document referred to and will not merely cite that document.

With regard to the refunding, it is noted that you contemplate issuing new bonds which will be retired in about thirty-three years. Should these bonds be issued this year, it would mean an extension of this Government's present connection with the collection of the Dominican customs for a period of twenty-two years beyond the present term of the Convention, which would expire with the retirement of the 1922 bond issue in 1942. This Government desires that its participation in the administration of customs revenues in the Dominican Republic should be terminated as soon as possible and therefore will be glad to have you consider an arrangement between the bankers and the Dominican Government for the refunding of the bonds without reference to the Convention of 1924. In this connection, it is suggested that the loan contract might contain a financial plan agreed to between the bankers and the Dominican Government, carrying the same safeguards and provisions as the Convention of 1924 except that this Government

would not be a party thereto. In other words, it would be an arrangement such as the bankers made in 1911, 1917, and 1920 with Nicaragua,²¹ or that made in 1923 with El Salvador.²² This Government, if desired by both parties, would be disposed to act in the same way as it does in the Nicaraguan arrangement.

Incidentally it may be said, with regard to the statements contained in your letter of June 20 indicating that you are of the opinion that the \$25,000,000 refunding loan you have in mind must be covered by all the provisions of the Convention of December 27, 1924, that the Department would appreciate receiving an expression of your opinion as to how this may be properly brought about in its entirety in view of the provisions of Article I of that Convention taken in connection with the language of the Preamble.

The Department would appreciate it if Messrs. Lee, Higginson and Company will acquaint it in advance with the specific proposal which they make to the Dominican Government, including any financial plan to be made a part thereof.

Very truly yours,

For the Acting Secretary of State:

FRANCIS WHITE
Assistant Secretary

839.51/3448

*Lee, Higginson & Company to the Assistant Secretary of State
(White)*

NEW YORK, July 23, 1931.
[Received July 25.]

DEAR SIR: Your letter of June 30th informed us that the Department was "not disposed to undertake any increased responsibilities vis-à-vis the finances of the Dominican Republic beyond those set forth in the existing Convention between the United States and the Dominican Republic,["] and that the Department, therefore, "would not be disposed to be involved in the proposed arrangement for the financial advisor". You also stated that the Government of the United States desires that its participation in the administration of customs revenues in the Dominican Republic should be terminated as soon as possible and indicated that the Department would be glad if the refunding loan which we recommended should be carried out without reference to the Convention of 1924.

²¹ See *Foreign Relations*, 1912, pp. 1071 ff.; *ibid.*, 1917, pp. 1138 ff.; *The United States and Nicaragua, a survey of the relations from 1909 to 1932* (Washington, Government Printing Office, 1932), pp. 33-39.

²² See *Foreign Relations*, 1922, vol. II, pp. 835 ff.

In a letter dated July 18th Mr. Dunn informed us of the present views of the Dominican Government on these two questions. He stated:

"There are two fundamental points involved in the Government's financial policy, however, which I fear will not coincide with your own ideas. It has been thought in accord with the wishes of the Dominican people to try to negotiate an eventual refunding issue outside of the 1924 Convention, similar to the arrangement between El Salvador and the Chatham Phenix National Bank, i. e., with this difference, that the bankers will be given actual control of customs collections by means of a private contract. The other point is that the Government is apparently not desirous of granting as strict fiscal control as you have thought necessary in order to insure successful financing. If, however, you would consider further negotiations on this new basis, the President would like to give you the first opportunity to discuss the matter. Please advise me of your wishes in this connection."

On July 22nd we received the following cablegram from Mr. Dunn:

"Account of urgency situation here please cable whether you are interested proceeding new basis mentioned my letter July 18."

Since it appeared from your letter of June 30th and from Mr. Dunn's letter of July 18th that both the Department of State and the Dominican Government now contemplate that any eventual refunding issue should be negotiated outside of the provisions of the 1924 Convention, that the Dominican Government is unwilling to agree to as strict a fiscal control as we have felt necessary, and that the Department of State is not disposed to assume any responsibility in respect of the financial advisorship for the Dominican Government that we have recommended, we decided that we should reply to Mr. Dunn's cablegram that we were not interested in proceeding on the new basis mentioned in his letter. Accordingly, after informing you of the contents of Mr. Dunn's letter of July 18th, of his cablegram of July 22nd, and of our proposed reply, we sent Mr. Dunn the following cablegram:

"Replying your today's cablegram Please express our appreciation to President of his courtesy in offering us first opportunity consider financing on new basis outlined your letter eighteenth and inform him we regret that new basis differs so substantially from plan we proposed that we are not interested proceeding further and that he may feel entirely free submit his new plan to other bankers stop. Please add that we should be glad to reopen discussions should President at later date wish reconsider the program we have recommended."

We greatly appreciate the assistance which you have given us throughout our discussions with the Dominican Government and regret that it has been impossible to reach a satisfactory understanding with that Government. Please be assured that we shall be pleased to co-

operate further with the Department at any time you may wish to have us do so.

Very truly yours,

LEE, HIGGINSON & Co.

SUSPENSION OF AMORTIZATION PAYMENTS ON THE EXTERNAL DEBT
OF THE DOMINICAN REPUBLIC

839.51/3477

*The President of the Dominican Republic (Trujillo) to President Hoover*²³

[Translation]

No. 25788

SANTO DOMINGO, August 25, 1931.

GREAT AND GOOD FRIEND: The peculiarly intimate friendly relations that have existed for many years between the United States of America and the Dominican Republic impel me to bring directly to Your Excellency's personal attention the critical situation through which my country is passing with respect to its public debt and its finances.

The Dominican Republic has maintained an uninterrupted record for many years and up to the present time of the exact fulfillment of its obligations in connection with its foreign debt. This record is due in large part to the arrangement under which our customs revenues have been pledged as security and are collected in accordance with the Dominican-American Convention;²⁴ but the Dominican people, on its part, has loyally cooperated in carrying out the said Convention and it considers with pride that to this is due in part the high credit enjoyed by the country in the financial circles of the world.

For some time, however, it has become daily more evident that, due to the existing world-wide economic depression, the Dominican Republic is making efforts to pay its foreign public debt to an extent exceeding its capacity to pay. Even though the total amount of our public debt is not excessive, the provisions for the payment of the sinking fund agreed upon by previous administrations are so onerous and unscientific that they constitute a burden which our diminished national receipts can no longer support.

It is not without great regret that my Government finds itself obliged to admit this fact. During my own administration I have put into practice all means within our reach, carrying out administrative and economic reforms in order to be able to continue as hitherto to fulfill our foreign obligations. Not even such a fatal and unforeseen event

²³ Handed to the Chief of the Division of Latin American Affairs on September 2 by the Dominican Minister with an accompanying note of the same date by the Dominican Minister requesting that President Trujillo's letter be forwarded "to its high destination." (839.51/3475)

²⁴ Signed December 27, 1924, *Foreign Relations*, 1924, vol. 1, p. 662.

as the cyclone of September 3, 1930,²⁵ was sufficient ground for us to interrupt the payments or seek means of suspending them. Our national revenues have diminished from a total of approximately \$14,000,000 in 1929 to a level of \$7,000,000 per annum at present, with a prospect of continuing to diminish unless a prompt reaction takes place in the world situation.

Our customs revenues, pledged under the Dominican-American Convention as security for the payment of the bonds of the debt, have also been affected by the economic crisis, having gone down to such an extent that, while the Dominican Government formerly received a considerable residue after taking care of the service of its foreign debt, it is now necessary to supplement the proceeds from the customs revenues allotted to our Fiscal Agents in New York with funds taken from our scanty domestic receipts.

This entirely wipes out the revenues received by the Government as customs receipts for administrative purposes. It is really impossible for the Government to continue to function under such conditions, and to attempt to continue in this way would incur the risk of a complete disorganization of the Public Administration.

I have the satisfaction of having done everything humanly possible during my term at the head of the Public Administration to maintain an orderly economic situation and be able to continue making the burdensome payments on our public debt. In proportion as the receipts have diminished I have made corresponding reductions in our expenditures, to such an extent that our estimates are now balanced on the basis of approximately \$7,000,000, in which are included \$3,000,000 for the payment of the debt, while in 1929 the sum of \$13,841,019.58 was collected and the service of the debt amounted to only \$1,221,639.13, and in 1930 the sum of \$9,975,673.95 was collected and the service of the debt amounted to only \$2,345,119.86. So drastic a reduction was rendered possible only by decreasing expenditures in all Departments of the Government, beginning with the offices of the Executive Branch and not omitting the forces of the National Army; but in order to secure the aforementioned balance it was also necessary to abolish public services which should be restored if the Dominican Republic is to continue satisfying its legitimate aspirations for progress.

Some months ago I engaged the services of an American expert to advise the Government in solving its fiscal problems, an expert who was recommended, at my instance, by the State Department at Washington.²⁶ Since his appointment, and in fact for several months previously, negotiations have been carried out with various American

²⁵ See *ibid.*, 1930, vol. II, pp. 727 ff.

²⁶ William E. Dunn; see telegram No. 9, March 6, 5 p. m., to the Minister in the Dominican Republic, p. 95.

banking groups for the purpose of securing some relief even though it be but temporary;²⁷ but the conditions existing in the world's financial markets have frustrated all efforts and we have been unable to assure ourselves of obtaining money on any terms.

The Dominican Government has, then, exhausted all possibilities of finding help by utilizing the ordinary banking resources or through domestic expedients. It is physically impossible for the country to continue to spend about 40% of its receipts solely to maintain the service of its foreign debt. The balance remaining at our disposal is such that it is a physical impossibility to obtain the necessary funds or credits for the current expenses. The country is being constantly impoverished by the continual exportation of capital, the result being that it is no longer a question of what the Dominican people and government would like to do, but of what it is physically possible for them to perform.

Please permit me to state here, Mr. President, that the Dominican Republic neither intends nor desires to evade in the least its obligations toward the bond holders of its foreign debt or toward its creditors, and that, after adjusting and thoroughly cleaning up its domestic debt, it is firmly determined to pay every cent of the interest and principal owed. Far from wishing to scale down or repudiate its debts, the Government is anxious to protect itself against the remotest possibility of such a contingency. It wishes on the contrary to increase the fundamental solidity of its foreign obligations by placing them on such a basis that they shall always be within the limits of our capacity to pay.

For the reasons set forth above, the Government has decided to adopt a plan of procedure which appears to be the only rapid solution of the present difficulties without affecting the high credit which this country has won.

The adoption of this plan entails, however, the making of great sacrifices on our part, but it will without doubt afford some prospects of hope to our people and enable the Government to restore certain services which are indispensable and which cannot be neglected any longer without causing considerable injury to the whole nation.

One of the most obvious realities in our present situation is that the aid must be given without any delay. For over a year we have been avoiding the adoption of emergency measures in the hope that an improvement in the world's economic situation would be reflected in our own country. We have now come to the limit of our strength. The main feature of the plan I am now proposing is that it must be put into execution no later than October 1, 1931, that is, just as soon

²⁷ See pp. 84 ff.

as the current semi-annual payments of interest and for amortization have been made.

What the Government proposes to accomplish, in short, is an immediate readjustment of our foreign obligations by means of an exchange of our bonds of the foreign debt for new conversion bonds to be issued in accordance with the terms of the Dominican American Convention now in force.

There are at the present time approximately \$17,000,000 of our 5½% bonds maturing in 1940 and 1942 that are unredeemed. The Government proposes to exchange these bonds for new ones similarly secured but bearing a higher interest rate, namely, 6% annually and having a 1% sinking fund instead of the mistaken and burdensome rate of amortization of the present bonds. The \$17,000,000 in bonds necessary to effect this exchange will be part of a total issue of \$25,000,000 which will give to the Republic additional bonds to the nominal amount of \$8,000,000, which may be used in paying the floating debt, claims, urgent repairs to our roads and the construction of other public works which are of vital importance to the economic and commercial development of the country. The fundamental aspects of the Government's plans are comprised within the appended copy of a bill which will be voted on soon by the National Congress. This bill was prepared with the advice of reputable lawyers and bankers of the United States. It seems to me that it embodies the least detrimental expedient that can be resorted to in order to secure the necessary relief so as to enable us, instead of injuring, to increase the credit which we have won in financial circles. Certainly any other mode of solution, whether adopted actively or passively, would be more radical and injurious.

The Government realizes that the proposed law covers aspects of the Convention of 1924 which had not as yet been considered as a concrete problem, but it is my earnest hope that the Government of the United States will appreciate our plight and that it will endeavor not to interpret the Convention in such a way as to prevent our obtaining the immediate help which we imperatively need for our welfare, unless, indeed, Your Excellency can suggest some modification or some other plan which our own efforts have been unable to devise.

Inasmuch as the study of various points embodied in the appended draft and affecting the Convention will require considerable time, I trust that Your Excellency will agree with me that it is impossible to hope that such studies will be finished before the plan is put into execution.

In order that we may not fail to fulfill the obligations contracted toward our creditors, it will be necessary to pass the proposed law

quickly enough to enable our lawyers in the United States to prepare the necessary financial contracts by October 1 of this year.

I take the liberty, therefore, to request Your Excellency's approval of the plan of the Dominican Government as an emergency measure, making the proposed readjustment of our domestic debt subordinate to the completion of all the legal details. The approval should become effective by October 1, 1931, so that the Government may have available as of that date, from the customs receipts, the balance arising from the payment of our bonds under the plan now in execution and the payments required under the new plan.

It is understood, of course, that the details necessary to legalize the new arrangement will be completed through the usual diplomatic channels, as is proper, if Your Excellency so desires.

I beg Your Excellency kindly to accept the assurance of my highest esteem together with my deep gratitude for such attention as you may devote to the present statement.

(Your) loyal and good friend,

RAFAEL L. TRUJILLO

[Enclosure—Translation]

Plan for the Conversion of the Foreign Debt of the Dominican Republic

THE NATIONAL CONGRESS IN THE NAME OF THE REPUBLIC

WHEREAS the National Congress, by law No. 158 of July 17, 1931, authorized the Executive Power to issue bonds of the Republic to the amount of \$5,000,000;

WHEREAS the law in question does not provide for the conversion of our foreign debt, an operation whose expediency has become revealed as necessary at present;

WHEREAS the economic and industrial conditions of the country, aggravated by the hurricane of September 3, 1930, and by the world crisis, make it urgently necessary that the Government should obtain and devote to public services a larger sum than that now available from the revenues of the country;

WHEREAS the foreign loans contracted by the country during previous years stipulate, for the payments on their sinking fund, disbursements which under present circumstances are beyond the economic capacity of the country;

WHEREAS measures must be adopted to relieve the situation and these measures must be such as not to injure the high credit which the Republic has won for itself in the money markets;

AND WHEREAS it is absolutely essential to the proper functioning of the public administration that the floating debt contracted by preceding administrations should be refunded;

THEREFORE, by virtue of the powers conferred by No. 14 of article 33 of the National Constitution, the National Congress has enacted the following law on behalf of the Republic:

No.

Article 1. Law No. 158 of July 17, 1931, and any others that may be contrary thereto are hereby repealed.

Article 2. The Executive Power is hereby authorized to issue bonds of the Dominican Republic to an amount not exceeding \$25,000,000, with a sinking fund of not less than 1% per year, at interest not exceeding 6% per annum, and with a premium not to exceed 1% and payable only in case of extraordinary redemption in advance. The bonds may be issued either all at once or at various times.

Article 3. The Executive Branch shall avail itself of the said bonds in the following manner:

a. It shall allot a sufficient number thereof to redeem at par the existing bonds of the present foreign loans of the Republic contracted in the years 1922 and 1926 to 1928, at the rate of one new bond of \$1,000 for each existing bond of \$1,000, and it shall proceed to effect such redemption.

b. It shall allot such number as it may deem necessary in order to pay (*a*) the floating debt of the Republic; (*b*) the claims pending against the latter; and (*c*) the expenses of issuance of the new bonds in so far as such expenses can be paid in bonds; and it shall proceed to make such payments. The payments of the debts, claims, and other expenses shall be made on the terms and conditions to be determined by the Executive Power in each case, but the value assigned to the new bonds in these agreements shall never be less than their nominal value (or 90% of their nominal value), and the total nominal value of the new bonds intended for these purposes shall not exceed \$4,500,000.

c. The remainder of the bonds shall remain in the possession of the Dominican Government until an opportunity offers to sell them under favorable conditions, in whole or in part, and until the Congress authorizes the Executive Power to make such sale or sales.

Article 4. The bonds shall be secured by the customs receipts collected by the Receiver General of Customs in accordance with the Convention between the United States and the Dominican Republic of December 27, 1924, and they shall be considered as bonds issued under that Convention.

Article 5. The bonds shall be payable in United States gold coin of the present standard, weight, and fineness, and they are hereby declared exempt from any contributions or taxes, already established or in future to be established in the Dominican Republic, either on them or on the income arising therefrom.

Article 6. The Executive Power is empowered to conclude any agreements and take any measures that may in its opinion be necessary or suitable in order to carry out the present law, and it is likewise ex-

pressly authorized to designate the Fiscal Agents of the Bonds and to determine, within the general lines designated in this law:

- a. The form of the Contracts of Fiscal Agency;
- b. The date and form of the bonds and of the provisional and final coupons, and who is to sign them and in what manner;
- c. The mode of redeeming the bonds;
- d. The place, time, and manner of paying interest and redemption.

Article 7. The payments connected with the interest and redemption of these bonds shall be considered as being in the nature of a continuous allocation without any additional allocation being necessary in the case, and the Auditor and Comptroller General of the Republic are hereby ordered to make the proper allowances in the account corresponding to these allocations.

Article 8. The necessary sums are hereby assigned from the funds of the Public Treasury to defray the expenses of printing these bonds, the advertisements relating thereto, and other incidentals arising in connection with the issuance, registration, redemption, and cancellation of the bonds now in force. However, the Executive Power is hereby authorized to pay any of the aforesaid sums with the new bonds, charging them against the bonds mentioned in par. (b) of Article 3 of this law.

Article 9. The Executive Power is hereby authorized to suspend, on any date after October 1, 1931, the service of the existing foreign loans of the Republic, being required, starting from the date of suspension, to cause a monthly deposit to be made, on account of the new bonds to be given in exchange for the existing ones, of one-twelfth of a sum equal to 6% per annum for interest on and 1% per annum for redemption of the new bonds.

Article 10. The interest accruing on the bonds in possession of the Government (those of par. (c), article 3), shall be paid to the Government and go into the general funds of the Nation.

Article 11. The Executive Power is hereby authorized to conclude with the United States Government, under such terms as it may consider most advantageous to the Republic, any agreements that may be necessary in order to carry out and facilitate the carrying out of the acts authorized by this law.

Given, etc., etc.

839.51/3477: Telegram

*The Acting Secretary of State to the Chargé in the Dominican Republic
(Stafford)*

WASHINGTON, September 3, 1931—6 p. m.

31. Upon study of President Trujillo's Note and Plan we feel there are going to be insuperable objections to the plan as stated, but we

are making strenuous efforts to find constructive solution. We have stated to Despradel²⁸ today and request that you state to Dunn and President Trujillo our conviction that immediate passage of law proposed in Trujillo's Plan would prejudice constructive solution of problem which probably will require cooperation New York bankers. Please strongly urge delay in passage of law and urge that Dunn come to Washington by airplane to confer Schoenfeld²⁹ and Department next Wednesday if possible.

CASTLE

839.51/3479 : Telegram

The Chargé in the Dominican Republic (Stafford) to the Acting Secretary of State

SANTO DOMINGO, September 4, 1931—noon.

[Received 2:30 p. m.]

55. Your telegram No. 31, September 3, 6 p. m. Law has been passed but not promulgated by President who informs me he is returning it to Congress for amendment. Dunn says in confidence that amendment was proposed by Judge Schoenrich³⁰ and authorizes President to accept suspension or substantial reduction in sinking fund rate on bonds now outstanding in lieu of \$25,000,000 issue if latter is found impossible. Dunn plans to leave on plane Sunday and should be in Washington, Tuesday evening. He will urge President to delay passage and promulgation of amended law until appropriate time.

STAFFORD

839.51/3475

*President Hoover to the President of the Dominican Republic (Trujillo)*³¹

WASHINGTON, September 5, 1931.

GREAT AND GOOD FRIEND: I take great pleasure in acknowledging the receipt of Your Excellency's important communication under date of August 25, 1931, outlining the efforts which the Dominican Government has successfully made to maintain its financial credit through the prompt payment of the service on its foreign debt, despite the burdens imposed upon it by the present world depression and by the disastrous hurricane which visited Santo Domingo in September of 1930.

²⁸ Roberto Despradel, Dominican Minister at Washington.

²⁹ H. F. Arthur Schoenfeld, appointed Minister to the Dominican Republic. He presented his letter of credence on October 9.

³⁰ Counsel for the Dominican Government.

³¹ Transmitted to the American Chargé in the Dominican Republic in Department's instruction No. 163 of the same date, with the request that he deliver the letter personally to President Trujillo.

Your Excellency also set forth in that letter the impossibility of maintaining an adequate public administration in the Dominican Republic and at the same time of satisfying the amortization payments on its debt, and requested the cooperation of the Government of the United States in obtaining some solution for this financial problem.

The present financial problem confronting Your Excellency's Government will have the sympathetic and prompt consideration of my Government.

Your good friend,

HERBERT HOOVER

839.51/3488 : Telegram

The Chargé in the Dominican Republic (Stafford) to the Secretary of State

SANTO DOMINGO, September 15, 1931—9 p. m.

[Received 9:47 p. m.]

59. Senate amends recent measure authorizing 25 million dollars bonds to empower President to suspend amortization payments. This is in direct violation of the Department's advice transmitted by its telegram of September 3, 2 [6] p. m., and promise which Trujillo is understood to have given to Dunn.

STAFFORD

839.51/3488 : Telegram

The Secretary of State to the Chargé in the Dominican Republic (Stafford)

WASHINGTON, September 17, 1931—noon.

32. Your No. 59 September 15th, 9 P. M. Dunn discussed situation fully with Department and with legal counsel in New York. Senate amendment you mention will probably be superseded by plan which Dunn is taking back to Santo Domingo sailing today. Default of some sort is probably inevitable. Department endeavoring to limit default and protect bondholders. Procedure still under discussion. Schoenfeld will arrive Santo Domingo October 1st with full instructions and knowledge of Department's views.

STIMSON

839.51/3514

Memorandum by the Assistant Secretary of State (Bundy)

[WASHINGTON,] September 28, 1931.

In a telephone conversation today I told Judge Schoenrich that a letter from Dunn in Santo Domingo indicates a plan to insert in

preamble of emergency law a suggestion that it has been impossible to reach prompt and final agreement with American Government in regard to proposed issue of new bonds in exchange for present bonds. This implies that United States can agree to an exchange of bonds held in fact by private individuals. This is incorrect and objectionable although United States Government would perhaps consider any proposal eventually made in agreement with bond holders.

The fiscal agents have stated substantial exchange can not now be accomplished willingly. Substantial exchange certainly seems impossible without strong banking cooperation. Dunn's proposed bond exchange plan contemplates forcing unwilling bond holder to exchange by withholding all payments on present bonds. This is complete repudiation of all present obligations and is necessarily objectionable. It would be preferable to withhold any final action of any sort until Mr. Schoenfeld arrives in Santo Domingo October 4th and Mr. Pulliam ³² arrives here October 3rd giving opportunity for complete discussions.

Judge Schoenrich said he would communicate the ideas expressed to Mr. Dunn by telegram.

H[ARVEY] H. B[UNDY]

839.51/3520 : Telegram

The Chargé in the Dominican Republic (Stafford) to the Secretary of State

SANTO DOMINGO, October 6, 1931— 6 p. m.
[Received 8:05 p. m.]

65. For Bundy [from Schoenfeld]. Department's telegram 31, September 3, 6 p. m. Dunn today consulted me on behalf of the President of the Republic as to propriety of promulgation of the enabling act passed by Dominican Congress early September authorizing issue of 25 millions copy of which was transmitted with Legation's despatch No. 480, September 3.³² This law was amended as reported in Legation despatch number 488, September 17.³³ The law has been passed by Congress but not officially signed and promulgated. I see no objection to its promulgation as only alternative course now possible would be a Presidential veto which is described by Dunn as politically inexpedient. If the law is promulgated as of the September date when it first reached the President no substantial alteration in the situation will be occasioned and our discussions can proceed in a normal atmosphere. As will be seen from the last article

³² William E. Pulliam, General Receiver of Customs.

³³ Not printed.

of the law any action taken under it is expressly subject to agreement with us. I stated to Dunn that I see no objection to the promulgation. Signed, Schoenfeld.

STAFFORD

839.51/3521 : Telegram

The Chargé in the Dominican Republic (Stafford) to the Secretary of State

SANTO DOMINGO, October 7, 1931—noon.
[Received 4:17 p. m.]

66. For Bundy from Schoenfeld. In conversation with Dunn last evening and this morning he pointed out that indispensable prerequisite to any negotiations for conversion of outstanding bonds will be formal notice by Dominican Government to fiscal agents of this Government's inability to make up deficit in revenues pledged to debt service; that lack of such formal advice to fiscal agents here is probably the reason for aloofness of the latter in committing themselves; that he is seriously considering recommending to the President of the Republic a formal communication to fiscal agents setting forth inability to meet debt service deficit, requesting cooperation of the fiscal agents in organizing appropriate representation of bondholders to discuss default and possible readjustment by conversion in order to protect the interests of the bondholders, the whole being subject to treaty relations between the United States and Dominican Governments.

Foregoing seems to me sound reasoning on Dunn's part. I can well believe that the attitude of fiscal agents thus far has been due to non-existence of necessary legal position to enable them to act.

It is my impression that unless the President overrules Dunn the emergency procedure previously contemplated will be suspended at least pending outcome of proposed conversation [*conversion*] negotiations. Acting General Receiver of Customs estimates customs revenue will fall short of debt service requirements by roughly as much as \$50,000 in current month. [Schoenfeld.]

STAFFORD

839.51/3522 : Telegram

The Chargé in the Dominican Republic (Stafford) to the Secretary of State

SANTO DOMINGO, October 7, 1931—6 p. m.
[Received 10:20 p. m.]

67. For Bundy from Schoenfeld. My telegram No. 66 today. Dunn informs me this afternoon that by direction of the President, Minister

of Finance is telegraphing fiscal agents of the Dominican Government at New York today as follows in translation:

"In spite of all our efforts and sacrifices we see no possibility of completing deficiency in quota for September or future months for indefinite period. Customs revenues September amounted only to \$196,000 and future prospects even more pessimistic. It is materially impossible for us to pay from other revenues since the latter are insufficient for ordinary requirements of the Government; for this reason we regret to have to tell you formally that we cannot pay entire service our bonds. Since the return of situation is due mainly to burdensome amortization quotas we think it convenient for all to make readjustment thereof by means of exchange of bonds or modification of terms of present contract.

We therefore suggest formation of bondholders committee for our 1926 bonds and possibly for 1922 bonds in order to have a body with which this Government can discuss terms of readjustment, it being understood that any arrangement would be subject to approval of Government of the United States according to Convention of 1924. We would appreciate your help and advice as to the best way of proceeding in this painful situation. Signed Rafael Vidal, Secretary of State for Finance."

As I have not yet presented my letter of credence I have not discussed any of these matters with any Dominican official other than Dunn. Latter, however, has called upon me repeatedly by direction of the President and has kept me informed of latter's thought on the subject. Dunn tells me the President has made the decision to declare formal default as above in the expectation that it will clarify and regularize the whole position. I expect to present my letter of credence to the President of the Republic on October 9th. [Schoenfeld.]

STAFFORD

839.51/3525 : Telegram

The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State

SANTO DOMINGO, October 11, 1931—noon.

[Received 10:11 p. m.]

70. Legation's telegram No. 67, October 7, 6 p. m. It is announced that the Enabling Act was promulgated yesterday.

SCHOENFELD

839.51/3530 : Telegram

The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State

SANTO DOMINGO, October 14, 1931—1 p. m.

[Received 3:35 p. m.]

72. Dunn informs me this morning that local representative of National City Bank of New York reports his head office has not been

informed by Lee, Higginson of official notice of decrees transmitted to fiscal agents by telegram of Dominican Minister of Finance, October 7.³⁴ Dunn has therefore requested local representative National City Bank to advise his head office of the action of the Dominican Government and to inquire whether head office would object to Dominican Government cabling Lee, Higginson and Company inquiring whether the latter would be willing to step aside and allow National City Bank to assume lead in attempting to carry out refunding plan.

I assume that the Department has been in constant communication with Lee, Higginson in order to exhaust every possibility of securing their cooperation with the Dominican Government in debt readjustment but I gather that Lee, Higginson are inclined to wash their hands of the situation and to attempt to place responsibility on the Department of State. Under the circumstances, I respectfully request that unless Lee, Higginson have definitely determined on a negative attitude, the Department make a further effort to secure their active assistance.

It is already evident that the Dominican Government is considering an extension of emergency procedure to divert amortization on entire outstanding loans or alternatively the entire service of the two series of 1926 bonds including interest. I have made it clear that an incontestable showing of necessity for this together with unquestionable assurances as to the purposes to which funds would be applied and as to the agency through which they would be disbursed will have to be made before this Legation could undertake to submit so far reaching a proposition to the Department. It seems to me to be increasingly desirable that another and stronger effort be made, if possible, to secure cooperation of the bankers.

SCHOENFELD

839.51/3528 : Telegram

The Secretary of State to the Minister in the Dominican Republic
(Schoenfeld)

WASHINGTON, October 14, 1931—7 p. m.

38. Your 71, October 13, 7 P. M.³⁵ Dunn is apparently wrong in thinking that first series 1926 bonds have prior lien over second series. Our records indicate and banker's circular specifically states second series rank equally with first series. Please consult and advise basis of Dunn's statement.

STIMSON

³⁴ See telegram No. 67, October 7, 6 p. m., from the Chargé in the Dominican Republic, p. 120.

³⁵ Not printed.

839.51/3532 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the
Secretary of State*

SANTO DOMINGO, October 15, 1931—10 a. m.

[Received 12:43 p. m.]

74. Department's telegram number 38, October 14, 7 p. m. Dunn points out that article 1 of the Convention supports his belief that interest must be paid on all bonds issued under the Convention and still outstanding before custom receipts can be applied to payment of any sinking fund. In practice, moreover, fiscal agents, in applying September payments to debt service, apparently considered that default occurred on sinking fund of second series 1926 bonds only and did not apportion default pro rata to first and second series of 1926. Acting Receiver says receivership has followed the same practice in forwarding payments to the fiscal agents.

SCHOENFELD

839.51/3537 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the
Secretary of State*

SANTO DOMINGO, October 16, 1931—10 a. m.

[Received 11:55 a. m.]

76. Local representative of National City Bank has received negative response from his head office to the Dominican request reported in first paragraph of my telegram No. 72, October 14, 1 p. m. This was expected here in view of the answer received last night from Lee, Higginson to Dominican Government's telegram of October 7. In that answer fiscal agents decline to act as requested by Dominican Government and say that the Department of State has been informed. Dunn tells me that request reported in my telegram 72 would not have been made if answer of fiscal agents had been previously received.

SCHOENFELD

839.51/3542 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the
Secretary of State*

SANTO DOMINGO, October 20, 1931—11 a. m.

[Received 11:21 a. m.]

80. Acting Receiver General informs me that he had available this morning for remittance to fiscal agents New York today \$160,506.31 to be distributed as follows: interest on all bonds \$83,790.20, amortiza-

tion on 1922 bonds \$70,138.88, amortization on 1926 bonds \$6,577.23, representing a deficit on amortization of 1926 bonds amounting to \$77,589.43.

SCHOENFELD

839.51/3556

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] October 20, 1931.

The Dominican Minister, Señor Despradel, called to leave with me a long note from his Government regarding the financial situation in the Dominican Republic and certain projects of law which the Dominican Government was contemplating submitting to the Dominican Congress.⁸⁶ I told him that I understood that the legal counsel for the Dominican Government in this matter, Judge Schoenrich, was today cabling Santo Domingo certain modifications in the proposed law, and I suggested that he withhold presenting the note for a few days in the thought that his Government might want to make some change. The Minister said that he had categoric instructions from his Government to present the note, and he felt that he had to do so, especially as after I had told him that I would receive him he had cabled his Government that the note had been delivered.

We then agreed that I would keep the note on my desk until he could hear from his Government, so that before the documents were indexed and registered in the Department he could make the necessary substitution should his Government so desire.

F[RANCIS] W[HITE]

839.51/3582

The Dominican Minister (Despradel) to the Secretary of State

[Translation]

WASHINGTON, October 20, 1931.

EXCELLENCY: By direction of the Government of the Dominican Republic, the Financial Adviser of that Government has recently been in Washington in order to explain in person the critical situation now prevailing in my country. The seriousness of the present crisis will be apparent if we examine the figures of our public revenues.

In 1929 there were available for the expenditures of the Government approximately \$13,859,000; in 1930, \$9,879,000; whereas for the current year, 1931, not more than from \$7,000,000 to \$7,350,000 is anticipated. Our revenues still show a tendency to decline. Con-

⁸⁶ *Infra.*

fronted with a world wide depression and still suffering from the devastation of a destructive hurricane, our people now find that the difficult situation created by so great a decline in revenues is greatly aggravated by reason of the increased amounts which we are obliged to pay for the annual service of the debt of our foreign loans.

Up to 1930 we had only to pay the annual interest on such loans, amounting to \$1,082,619. The first redemption payments, however, became operative in March 1930, and as we had previously paid nothing for amortization, such payments amounted in 1930 to \$1,262,499 and have increased \$1,841,666 (*sic*) in the current year, making a total service of approximately \$2,890,000. It is impossible to continue longer on this basis.

In order that Your Excellency may realize the efforts made by my Government to effect economies and meet the present emergency, I take the liberty of pointing out here some of the measures which have been taken:

1. The Government Departments have been reduced from ten to seven.

2. The personnel of the Government offices have been reduced by from fifteen to twenty per cent.

3. Salaries of the remaining public employees have been reduced this year by fifteen per cent which amounts to a total reduction of twenty-five per cent since 1929.

4. The salary and expense allowances of the President of the Republic have been reduced in proportion.

5. General economies in the expenses of all Departments of the Government have been made; the total budgetary reductions since the beginning of 1930 having reached a total of more than \$2,500,000 or about twenty-five per cent (25%).

Despite all our efforts, the revenues have become so insufficient that the economic life of the Republic is paralyzed, and the existence of orderly government is in serious danger. Following are some of the main features of the present situation:

1. Salaries of the majority of Government employees have remained unpaid for a period of several months, due to lack of funds.

2. It has been necessary to reduce the appropriations for health and sanitation, in particular for maintenance of hospitals and charitable institutions, to such an extent that the public health is endangered.

3. Many schools have been closed, and the majority of teachers cannot be paid.

4. Our national highways, which represent an investment of many millions of dollars, are in a deplorable condition and are rapidly becoming impassable. Long established channels of commerce are, therefore, threatened with disruption.

5. The aqueduct of the City of Santo Domingo, the capital of the Republic, is going to ruin on account of lack of funds for its maintenance and operation, constituting a menace to the water supply of the city.

6. Our principal port, that of the capital city, is filling up with silt due to the continued suspension of all dredging operations, thus making the entrance of vessels more and more difficult.

7. The insufficiency of funds to pay for current supplies has resulted in the impossibility of paying many accounts, thus increasing our floating debt. The inability of the Government to pay accounts of this kind is greatly decreasing the purchasing power of the merchants, the imports of merchandise have been greatly reduced, and customs revenues have decreased in the same proportion.

The amount of revenues with which my Government must be maintained has now fallen to about \$225,000 a month. The salary payroll alone, in its reduced form, amounts to more than \$250,000 a month; and other current expenses amount to approximately \$125,000 a month. The utter inadequacy of the general revenues can, therefore, be fairly perceived. Our customs revenues, which previously sufficed to pay the monthly installments of the debt service, amounting to \$242,000 and which still left a balance to provide for general requirements of the Administration, have now dropped to less than \$200,000 a month, and show signs of a continued decline.

This situation has brought the Dominican people to a state of pessimism and despair, which in itself constitutes a serious menace to the continuance of a stable and orderly government. Like many other countries of the world, the Dominican Republic imperatively requires a period of internal reconstruction and economic rehabilitation.

In view of the present critical emergency, my Government has decided that it must take immediate action to prevent a complete collapse of our national life. It has, therefore, prepared a bill for submission to the Dominican Congress, which, on the basis of the present level of customs receipts, will place at the disposal of the Government additional revenues which will amount to approximately \$100,000 a month. The necessary result of such action will be the suspension on the part of the Dominican Republic of payments of sinking fund charges on our foreign bonds; but we intend to continue faithfully the payment of interest on the said bonds.

In accordance with the plan incorporated in the proposed legislation, a copy of which is enclosed for Your Excellency's information, the additional funds placed at the disposal of the Government will be paid to an official who will be designated as Special Agent of the Emergency Fund. It is intended to expend this fund in the manner believed to be most beneficial to the entire country, namely, for the payment of the current salaries of Government employees, giving preference to those charged with the maintenance of public order, the financial offices, the public health and other similar services. If any balance remains available, it will be applied to the partial payment of back salaries and to the most urgent part of our floating debt.

Ample safeguards have been provided for the careful expenditure not only of the emergency fund but also of the ordinary government revenues. The enclosed documents show in detail the purposes for which the emergency fund will be applied, as well as the other measures proposed to safeguard the entire plan. Your Excellency will observe that the proposed legislation covers the coming fiscal years, 1932 and 1933. My Government, nevertheless, hopes that the duration of the emergency period will be even shorter and it has, therefore, incorporated in the emergency bill a provision to the effect that whenever the general revenues during any six months' period of the fiscal years 1932-33 shall have amounted to \$2,250,000, the law shall automatically become null and void. It is also the intention of my Government to enact simultaneously with the emergency law the other law, a copy of which is enclosed, whereby our Finance Law is amended, for the purpose of providing due safeguards for handling the emergency fund.

It is with deep regret and full appreciation of the fact that our action is not in accordance with the obligations contracted by the Dominican Republic in the Convention which it concluded with the United States of America in 1924 nor the stipulations contained in the contracts for our foreign loans, that my Government finds itself compelled to take such measures for the purpose of protecting the very life of its people. Resort has been made to them only after the alternative solutions of our financial difficulties were unsuccessfully attempted.

In view of the foregoing statements and explanations I trust that Your Excellency, as well as the Government of the United States of America, will appreciate the reasons on which the adoption of the proposed laws are based and will interpose no objection to the emergency measure which my Government finds itself obliged to take.

I avail myself [etc.]

ROBERTO DESPRADEL

[Enclosure 1—Translation] ⁸⁷

Emergency Law Referring to the Services of the Dominican Debt
Approved October , 1931

THE NATIONAL CONGRESS
IN THE NAME OF THE REPUBLIC

AN EMERGENCY HAVING BEEN DECLARED

WHEREAS the national revenues have diminished to such an extent and the needs of the Treasury are so pressing that the provision of immediate relief, pending the refunding of the national debt, is unavoidable;

⁸⁷ Filed separately under 839.51/3583; for circumstances in connection with text of this document and its receipt in the Department, see memorandum by the Assistant Secretary of State, October 27, p. 133.

WHEREAS a state of economic emergency exists in the Republic and in the entire world, which requires extraordinary provisional measures to provide for the needs of the moment;

WHEREAS it is necessary for the relief of the Treasury to suspend the payment of the excessive service of the sinking funds of our foreign 5½ per cent bonds and devote the amounts so released to the satisfaction of the most urgent items of the budget;

WHEREAS the Republic orders such suspension under the exigencies of a special situation and with the firm intention to resume compliance with all its obligations as soon as circumstances permit;

By virtue of the powers conferred by Article 33 of the Constitution of the State, has passed the following Law:

Number:

Article 1. There is designated as an emergency fund the total amount of customs duties paid during each month in the customs houses of the Republic after the General Receivership of the said custom houses has covered in the order which is indicated: *a*) The expenses of the General Receivership of customs; *b*) The monthly installment of interest on the foreign bonds of the Republic, loan of 1922.

Article 2. The financial expert now in the service of the Government shall act as Special Agent and shall administer the said emergency fund. The amounts constituting said fund shall be received and paid out by him in accordance with the provisions of this law.

Article 3. The General Receivership of Customs shall continue to collect in each month the amounts designated in Article 1 of this law under letters (*a*) and (*b*). When the said amounts have been collected by the Receivership, all the other amounts payable as customs revenues shall be paid directly to the Special Agent of the emergency fund.

Article 4. The executive power shall issue the regulations necessary to carry out the purposes of this law.

Article 5. The compensation of 5 per cent guaranteed by the Convention of 1924 (Article 1) on total customs revenues shall suffer no diminution whatsoever on account of the present law.

Article 6. No payment shall be made from the emergency fund except by the Special Agent or a Delegate of his. From the said emergency fund the following payments shall be made in the order indicated below:

a) Payment of the monthly installment of interest on the foreign bonds of the Republic of the loan of 1926, which shall be paid to the Fiscal Agent of the said loan:

b) Expenses authorized by the executive power to cover harbor services and other expenses hitherto paid by the General Receivership of Customs for the Dominican Government; expenses of the office of the Special Agent of the emergency fund;

c) Payment to the Dominican Government of a monthly amount not to exceed One hundred twenty-five thousand pesos American gold (\$125,000.00), which shall be applied to the following objects in the order indicated:

(1) Payment of the monthly deficiency, if any, in the 70 per cent of the monthly revenues of the general funds of the Nation destined for the payment of salaries.

(2) Payment of the debt of the Dominican National Red Cross, occasioned by the hurricane of September, 1930, up to the maximum sum of Two hundred thousand dollars American gold (\$200,000), and in accordance with the official list of that organization.

(3) Payment of current expenses in the same order as that specified in Law No., dated, in case of deficiency in the general funds of the Nation.

(4) Any balance, if such there be, of the said maximum amount of One hundred twenty-five thousand dollars American gold (\$125,000.00) shall be applied to the payment in equal amounts of salaries in arrears and expenses in arrears.

d) Any excess in the custom house revenues after payment of the amounts stated assigned to the purposes mentioned in this Article shall be paid over by the Special Agent of the emergency fund to the Receiver General of Customs to be applied to the payment of the monthly installments of amortization on the foreign bonds of the Republic.

Article 7. Whenever the total general fund revenues of the Nation during any six months' period of the fiscal year 1932 or 1933 shall amount to the sum of Two Million Two Hundred Fifty Thousand dollars American gold (\$2,250,000.00), the present emergency law shall be without effect.

Article 8. During the life of this law none of the general fund revenues of the Nation now in existence shall be specialized, nor shall the laws which have created them be modified or repealed if such modification or repeal reduces or abolishes any of the said revenues.

Article 9. This law shall become effective on the day of its publication and shall continue in force until the end of the year 1933 unless the circumstances which have prompted the passage of this emergency law change, in accordance with Article 7.

Article 10. This law repeals all laws or provisions of laws that may be contrary thereto.

DONE, etc.

[Enclosure 2—Translation] ⁸⁸

*Law Relative to Dominican Budget Payments Approved
October 1931*

THE NATIONAL CONGRESS
IN THE NAME OF THE REPUBLIC

AN EMERGENCY HAVING BEEN DECLARED HAS ENACTED THE FOLLOWING LAW:

Number:

Article 1. The following order of payment of the appropriations, from the general fund, authorized in the Budget Law is hereby established and shall be observed by the National Treasurer:

1. Current salaries, to which there shall be applied the Seventy per cent (70) of the general funds of the Nation (beginning with the salaries of October, 1931) in the following order:

- a) Executive and Legislative powers; Public Order and National Defense;
- b) Treasury Offices;
- c) Sanitation and Public Welfare;
- d) Instruction;
- e) All other salaries.

2. Current expenses, to which there shall be applied the 30 per cent of the general funds of the Nation in the following order:

- a) Rations and hospitals;
- b) Rentals and contracts;
- c) Current supplies;
- d) Expenses in arrears.

Article 2. The National Treasurer shall set aside daily from the general fund revenues such sums as may be necessary to make the payments of the Government in the order and according to the percentages herein established.

Article 3. The Office of Supplies (*Suministros*) shall ship supplies only upon orders authorized in accordance with Accounting Law No. 1114. The limit of purchases in any month to replace stocks shall not exceed the amount of the orders filled during the month immediately preceding.

DONE, etc.

⁸⁸ Filed separately under 839.51/3584.

839.51/3582

The Secretary of State to the Dominican Minister (Despradel)

WASHINGTON, October 23, 1931.

SIR: Your note of October 20, 1931, advising me of the critical difficulties with which the Dominican Republic is faced, has had my most careful and sympathetic consideration, and I have been much impressed by the gravity of the situation as set forth by you. The reports which I have received from other sources all show that the Dominican Government is passing through a most grave and difficult period.

I have noted that your Government is convinced that in the present critical emergency something must be done to relieve the situation and that accordingly your Government proposes to submit to the Dominican Congress a law, the adoption of which will result in making additional sums of approximately \$100,000. per month available for the expenses of the Dominican Republic. This, you state, will necessarily result in the failure of the Dominican Government to pay the amortization on the external loans.

The step the Dominican Government proposes to take is a most serious one. It must necessarily adversely affect the credit of that Government. I am convinced that the gravity of this step is fully appreciated by your Government. The efforts made by the Dominican Government during the last year of grave depression which was made even more difficult by the disastrous hurricane that destroyed the city of Santo Domingo in September, 1930, are evidence of the desire of the Dominican Government to meet fully and promptly its financial engagements. The sacrifices and efforts made by the Dominican people during the last year are inspiring and, while it is to be regretted that the protracted depression has robbed these efforts of the success which they merited, they have nevertheless firmly set forth the determination of the Dominican people to live up to their obligations and have entitled them to all possible consideration.

I have noted specifically that it is the amortization payments of the external loans that your Government now proposes to defer for the time being, but that the interest on these loans will be met regularly. The continuance of interest payments is of the utmost importance to Dominican credit and to prevent even greater hardship to the bondholders. You point out that the amortization payments in question are extremely onerous. This Department felt that the amortization provision of the 1926 bonds was unwise at the time the loan was contracted and your Government will recall that the American bankers concerned also counseled against it. This provision was inserted on account of the very understandable desire of the Dominican Government to have the Customs Receivership limited to as short a period

as possible, a desire with which this Government was then and remains in hearty sympathy. The measure now proposed by the Dominican Government will necessarily extend the life of the Receivership of Customs for so long a period as the amortization payments are held in abeyance, and I assume you have taken this into consideration in arriving at your decision.

I have also noted that your Government recognizes that the step it proposes to take is contrary to the provisions of the Treaty signed December 27, 1924, between the United States and the Dominican Republic, and also the Loan Contract contained in the bonds and in the agreement with the bankers acting as fiscal agents of the loan, but that your Government insists that the maintenance and continuance of government and orderly procedure in the Dominican Republic upon which the ultimate payment of your obligations depends, requires your Government to take this action. I understand that it is the firm intent of the Dominican Government to make as soon as possible the payments which are now to be deferred. This is essential in order that the effect on Dominican credit may be but temporary. I also note that the additional funds made available will be spent with the greatest care in maintaining vital Governmental functions and that your Government feels compelled to meet the difficulties that have arisen by the proposed measure as a last resort.

It is with an understanding of the special circumstances which you point out that the policy of this Government will be guided.

Accept [etc.]

HENRY L. STIMSON

839.51/3554 : Telegram

The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State

SANTO DOMINGO, October 24, 1931—10 a. m.

[Received 10:30 a. m.]

My telegram No. 84, October 23, 7 p. m.³⁹ Local press this morning published practically without comment emergency law and amendment to finance law in the precise terms previously reported. Both laws were passed by the Senate the night of October 22, and by the Chamber of Deputies yesterday and received the signature of the President yesterday.

SCHOENFELD

³⁹ Not printed.

839.51/3558

The Dominican Minister (Despradel) to the Secretary of State

[Translation]

WASHINGTON, October 26, 1931.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of Your Excellency's kind note of the 23rd of the current month, by which I am informed that this Legation's note of the 20th instant has received your most careful and sympathetic consideration.

I have the honor to note also that Your Excellency recognizes the desires of the Dominican Government to comply promptly and in full with its financial obligations, which is shown, as Your Excellency very justly expresses it, by the efforts made by the Dominican Government during the past year of serious depression, aggravated by the disastrous hurricane which destroyed the city of Santo Domingo, on September 3, 1930.

In expressing my thanks for all the views contained in the said note, I avail myself [etc.]

ROBERTO DESPRADEL

839.51/3568

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] October 27, 1931.

The Dominican Minister, Señor Despradel, came in at my request and I pointed out to him that there was a paragraph in his note of October 22 which did not conform with the statement in the penultimate paragraph of his note of October 20. The latter recognizes that the action of the Dominican Government is contrary to the Convention of 1924 and contracts with the bankers, whereas the paragraph in the note of October 22 states that the changes made in the law are to bring it within the terms of the Convention.

I suggested to him that all that would be necessary would be to hand us a new copy of the enclosure to the note of October 20, giving the text of the proposed law as recently modified in substitution of the text enclosed in that note. We would then give him back the text originally included in the note and there would then be no necessity for the note of October 22, which I would also give back to him.

Señor Despradel said that he was surprised at the wording also, but he had put it in the note under instructions from his Government and he would have to consult them first. He later called up and asked

to come in to see me and said that on returning to his Legation he had received the text of the proposed law as finally submitted to the Congress,⁴⁰ and he had brought it along to substitute for the one originally enclosed in his note of October 20. He made the substitution, and I gave him back the original text. He also took back with him the note of October 22.

F[RANCIS] W[HITE]

839.51/3632

Lee, Higginson & Company to the Secretary of State

BOSTON, November 9, 1931.

[Received November 10.]

DEAR MR. SECRETARY: We have received word by cable from the Dominican Republic that an emergency law has been promulgated providing for a temporary suspension of amortization of its external bonds, but declaring its intention to continue the paying of interest punctually.

Those who hold the bonds in question undoubtedly bought them relying largely on the terms of the Convention between the United States and the Dominican Republic, and they will certainly make inquiry as to the policy of the United States concerning the temporary modification of these terms declared by the Dominican Republic.

We know that the financial difficulties of the Dominican Republic have been the subject of consideration by your Department and we shall hope to receive some statement as to your policy and action which we can communicate to the bondholders.

Faithfully yours,

LEE, HIGGINSON & Co.

839.51/3632

The Secretary of State to Lee, Higginson & Company

WASHINGTON, November 10, 1931.

SIRS: In reply to your letter of November 9, 1931, you are advised that the economic conditions of the Dominican Republic have suffered in common with the rest of the world and were made much worse by the disastrous hurricane of September, 1930. The conditions have become so serious and the revenues, including both customs and internal revenues, have declined so abruptly that the Dominican Republic has informed the Department of State that it has found it necessary to adopt emergency legislation giving priority to the interest charges on the foreign loans but temporarily diverting certain customs revenues

⁴⁰ For the official texts of Laws No. 205 and No. 206, see *Gaceta Oficial*, No. 4404, October 24, 1931.

from the payment of amortization on these loans, applying the amounts so diverted to the maintenance of vital governmental functions and the preservation of law and order upon which the ultimate payment of the external debts must depend.

The Dominican Government communicated to the Department of State in advance its intention and the facts upon which its action is based together with a statement of the drastic economy measures already taken in an endeavor to meet the situation. The Dominican Government frankly recognized that the step proposed by it is not only a violation of the obligations as to the holders of its securities but also a violation of the Convention between the United States and the Dominican Republic. After an independent investigation by the Department confirming the existence of the serious situation in the Dominican Republic, the Department informed the Dominican Government that it noted the steps which that Government felt required to take and the reasons therefor; and that the additional funds thus made available to the Dominican Government as a measure of last resort would be spent with the greatest care in maintaining vital governmental functions by an official specially designated to administer the same as a special emergency fund. The Department noted the firm intent of the Dominican Government to make as soon as possible the payments now to be deferred, and called attention to the fact that the measure proposed would necessarily extend the life of the Receivership of Customs for so long a period as the amortization payments are held in abeyance. The Department added that with an understanding of these special circumstances thus pointed out the policy of the United States Government would be guided.

With reference to your specific inquiry as to the policy and action of this Government, and having in mind the provisions of the Convention between the United States and the Dominican Republic, I may say that, in view of the circumstances set forth above, this Government is not disposed at this time to take any action other than to continue to follow with attention and care the developments in the Dominican Republic. It is the belief of the Department that this policy will be the best for all concerned, including the bondholders upon whose bonds the Dominican Government proposes to continue to pay interest regularly.

Very truly yours,

For the Secretary of State:

HARVEY H. BUNDY
Assistant Secretary

839.51/3602: Telegram

*Lee, Higginson & Company to the Assistant Secretary of State
(Bundy)*

BOSTON, November 12, 1931.

[Received 11:55 a. m.]

As you know our letter to our bond holders will consist of some introductory comments by us, our letter to the State Department and the State Department's reply. We plan to mail letter this afternoon and would appreciate any suggestions which you care to make with regard to our introductory comments which are as follows:

Despite the difficulties imposed by the severe economic depression during the past 2 years which were greatly aggravated by the destruction caused by the hurricane of September 1930, all interest and sinking fund payments on your bonds were punctually made in full by the Dominican Republic until September 20, 1931. In the case of payments due on the latter date and on October 20 while customs revenues of the Republic were sufficient to cover the interest and sinking fund payments on the loans of 1922 and the interest payments on the loan of 1926, such revenues were not sufficient to cover fully the sinking fund payments due on account of the latter issue which has a lien junior to the earlier issue. The Dominican Republic has notified Lee, Higginson and Company that an emergency law has been enacted temporarily suspending the payment of the sinking funds but has declared its intention to maintain regularly the payment of interest. The emergency law provides that after the interest requirements on the bonds of 1922 are met the balance of the customs revenues shall be paid into an emergency fund to be administered by the Financial Adviser of the Government. The purposes for which this fund may be used are specified and the interest on the bonds of 1926 is given priority over all other purposes. The law further provides that when the receipts of the general funds of the nation again become normal the law shall be annulled. The results to the bond holders are that the interest on their bonds is still secured by a lien on the customs revenues subject only to the cost of collection but that the sinking funds on both issues are suspended until conditions materially improve. As stated in the letter from the State Department to Lee, Higginson and Company which appears on the following page the postponement of the sinking fund payments will necessarily extend the life of the receivership of customs for so long a period as the amortization payments are held in abeyance. We have been in conference with representatives of the Dominican Republic and with the State Department of the United States and have given careful consideration to all plans suggested for meeting the situation. Believing that it is the firm intention of the Dominican Government that interest payments shall continue to be promptly paid and that sinking fund payments shall be reestablished as soon as conditions permit, we believe that the best course for the present is to trust to the good faith of that Government and the good offices of the Government of the United States.

LEE, HIGGINSON & COMPANY

839.51/3602

The Secretary of State to the Minister in the Dominican Republic
(Schoenfeld)

No. 188

WASHINGTON, November 17, 1931.

The Secretary of State encloses for the information of the Minister at Santo Domingo a copy of a telegram, which was received from Lee, Higginson and Company,⁴¹ dealing with statements which that Company proposes to make to the holders of Dominican bonds. The Minister is informed that the Department has made no comments to Lee, Higginson and Company on the statements which that Company proposes to make.

[File copy not signed]

⁴¹ Dated November 12, *supra*.

BOUNDARY DISPUTE WITH HAITI

(See volume I, pages 771 ff.)

ECUADOR

POLITICAL UNREST IN ECUADOR

822.00/791 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, August 24, 1931—4 p. m.

[Received August 25—1:03 a. m.]

37. Congress has just accepted resignation of President of Ecuador. Following prior resignation of Cabinet, Colonel Luis Larrea Alba was appointed Minister of Gobernacion and automatically under the constitution becomes Acting President. However, this appointment has not been well received by the people. Situation still continues uncertain.

DAWSON

822.00/792 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, August 24, 1931—5 p. m.

[Received August 25—1:48 a. m.]

38. At personal request of Mrs. Ayora President and family are my guests in this Legation. Granting of temporary sanctuary is in my opinion fully justified until danger to personal safety of President has passed.

DAWSON

822.00/793 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, August 25, 1931—8 a. m.

[Received 11:36 a. m.]

39. Colonel Larrea Alba appears to have the situation well in hand and the support of the entire Army. Evidences of popular feeling against him decreased visibly toward evening and the night passed quietly. Quito is quiet this morning and the Legation has no reports of disorders elsewhere.

DAWSON

822.001 Larrea Alba, Luis/2 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, August 25, 1931—9 a. m.

[Received 3 : 32 p. m.]

40. Referring to my telegram No. 37, Colonel Larrea Alba does not have title of President but merely assumes charge of the Executive power. See articles 79 and 81 of Ecuadoran Constitution. Larrea was thoroughly loyal to the last government and took no subversive part in the movement against it. The transfer of the Executive power to him has been effected in accordance with the constitution. In the circumstances it appears to me that the question of recognition does not arise and that the Legation should deal with the present government as the lawfully constituted successor of that previously in power. I shall appreciate an early expression of the Department's views on this point.

DAWSON

322.2222/2 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, August 25, 1931—11 a. m.

[Received 3 : 30 p. m.]

41. Referring to my telegram No. 38. As city is quiet Dr. Ayora and his family left the Legation this morning and returned to their home. They will return to the Legation immediately if there is any reason to believe that their safety is menaced.

DAWSON

322.2222/3 : Telegram

The Acting Secretary of State to the Chargé in Ecuador (Dawson)

WASHINGTON, August 25, 1931—5 p. m.

16. Legation's 38, August 24, 5 p. m. Inasmuch as you were convinced that former President Ayora was exposed to grave personal danger, the Department acquiesces in your keeping him and his family in the Legation during the present emergency but trusts that you will be able to obtain satisfactory assurances with respect to his safety so that he may depart at an early date.

The Department desires to remind you, however, of the consistent policy of this Government with respect to the so-called Doctrine of Asylum.

CASTLE

822.01/72a : Telegram

The Acting Secretary of State to the Chargé in Ecuador (Dawson)

WASHINGTON, August 26, 1931—6 p. m.

17. Legation's 40, August 25, 9 a. m. The Department concurs in your opinion that under the circumstances of Colonel Larrea Alba's accession to the Executive Power the question of recognition does not arise. The Legation may accordingly deal with the present Government as the constitutional successor to that of President Ayora.

Please report when elections shall have been called in accordance with Article 81 of the Constitution.

CASTLE

822.002/108 : Telegram

The Chargé in Ecuador (Dawson) to the Acting Secretary of State

QUITO, September 1, 1931—6 p. m.

[Received 11:28 p. m.]

44. By two Executive decrees of today Senator Pedro L. Nunez has been appointed Minister of Finance and Presidential elections have been called for October 20 and 21 in compliance with article No. 81 of the constitution.

DAWSON

822.00/813 : Telegram

The Chargé in Ecuador (Dawson) to the Secretary of State

QUITO, October 15, 1931—10 a. m.

[Received 12:30 p. m.]

55. Larrea Alba proclaimed himself dictator at 5 o'clock this morning. He has encountered both military and popular opposition. Shots have already been exchanged between military forces and troops have fired upon the people. Situation very confusing and more fighting is feared.

DAWSON

822.00/814 : Telegram

The Chargé in Ecuador (Dawson) to the Secretary of State

QUITO, October 15, 1931—4 p. m.

[Received October 16—9:25 a. m.]

56. Attempted dictatorship collapsed in face of opposition of unanimous Congress, people of Quito and majority of local troops. Further bloodshed and political chaos which threatened this morning

have been averted for the present at least by the resignation of Larrea Alba and previous appointment as Minister of Gobernacion of former President Alfredo Baquerizo Moreno who, in compliance with the constitution, has automatically assumed charge of the Executive power. . . .

DAWSON

822.00/815 : Telegram

The Chargé in Ecuador (Dawson) to the Secretary of State

QUITO, October 16, 1931—4 p. m.

[Received 10:08 p. m.]

57. City is quiet and assumption of Executive power by Baquerizo Moreno has been received with satisfaction on all sides.

DAWSON

822.00/817 : Telegram

The Chargé in Ecuador (Dawson) to the Secretary of State

QUITO, October 18, 1931—3 p. m.

[Received October 19—9:12 a. m.]

58. Following Cabinet Ministers have been appointed and very well received:

Foreign Relations, Carlos Manuel Larrea; War, Leonardo Sotomayor Luna; Finance, Juan de Dios Martinez Mera; Education, Francisco Perez Borja.

Presidential elections will be held Tuesday and Wednesday as already planned.

DAWSON

822.00/818 : Telegram

The Chargé in Ecuador (Dawson) to the Secretary of State

QUITO, October 22, 1931—9 a. m.

[Received 4:09 p. m.]

59. Presidential elections held Tuesday and Wednesday were orderly, free and fair. Returns give Bonifaz a large plurality insuring his election. While Bonifaz had declined to identify himself with any party and received considerable conservative support he declared Tuesday night that liberal institutions would have nothing to fear from his administration.

DAWSON

EGYPT

EQUALITY OF REPRESENTATION AS AMONG THE PRINCIPAL CAPITULATORY POWERS ON THE MIXED COURTS OF EGYPT¹

883.05/375 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, February 3, 1931—4 p. m.

15. Your 13, January 27, noon.² At the time of the official announcement of the appointment of an additional French judge to the Mixed Court judiciary, please present a note to the Minister for Foreign Affairs substantially as follows:³

“On several occasions during recent years my Government has had occasion to express to the Royal Egyptian Government its interest in favor of a return to the principle of equality of representation as among the principal capitulatory Powers on the Mixed Court judiciary. The last of these occasions was on April 18, 1929, when my predecessor, in a note to the Egyptian Minister for Foreign Affairs,⁴ set forth in considerable detail my Government's viewpoint on this question.

The subsequent action of the Egyptian Government in appointing an additional American judge to the Mixed Court of First Instance at Cairo was particularly gratifying to my Government, which interpreted this appointment as indicative of the Egyptian Government's intention to bring about an early realization of the principle of equality of representation among the principal capitulatory Powers.

That it is the intention of the Egyptian Government to bring about a return to this principle is now further indicated by the recent announcement of the appointment of an additional judge from among the nationals of one of the principal capitulatory Powers which in recent years has not been equally represented on the Mixed Courts.

In reaffirming my Government's position with respect to the principle of equality of representation, I have been instructed to express my Government's confidence that the Egyptian Government will continue to apply this principle in future appointments in order that American representation on the Mixed Court judiciary may soon be brought to a parity with that of the other principal capitulatory Powers.”

¹ For correspondence on the regime of the Mixed Courts, see *Foreign Relations*, 1929, vol. II, pp. 936 ff.

² Not printed.

³ The note was presented under date of March 3, 1931 (883.05/382).

⁴ *Foreign Relations*, 1929, vol. II, p. 942.

After the note has been presented you may, if you perceive no objection, show a copy thereof in strict confidence to your French colleague.

STIMSON

883.05/393

The Egyptian Minister for Foreign Affairs (Yehia Pasha) to the American Minister in Egypt (Jardine)^a

[Translation]^a

No. 29/7/1 (45)

CAIRO, June , 1931.

MR. MINISTER: I have the honor to acknowledge the receipt of the Note dated March 3, 1931,⁷ by which Your Excellency was good enough, in referring to a former note, dated April 18, 1929, addressed to His Excellency Mohamed Mahmoud Pasha, then Prime Minister and Minister for Foreign Affairs, ad interim, to express again the interest which the Government of the United States attaches to the question of the representation of the principal Capitulatory Powers on the bench of the Mixed Courts.

The Note above mentioned of April 18th, having been forwarded upon the occasion of the proposals for the modification of the Judicial Organization of the Mixed Courts, made by the Government of His Majesty the King in December 1927,⁸ and October 1928,⁹ and the realization of these proposals not having been followed up since then, it resulted that this Ministry has not again expressed, following this note, the point of view of the Egyptian Government on this question.

But the last Note of Your Excellency, of March 3, 1931, indicating that the Government of the United States would be inclined to interpret the relatively recent nomination of a judge of American nationality to the Cairo Court, and that which has just occurred, of a judge of French nationality to the Mansourah Court, as the expression of an intention of the Egyptian Government to arrive at an equal representation of the principal Capitulatory Powers, I take the liberty of again explaining the point of view of the Government of His Majesty the King. Apart from the arrangements admitted with certain powers to select from among their nationals a certain number of judges, Egypt remains entirely free to choose the judges called to fill the supplementary seats.

^a Copy transmitted to the Department by the Minister in Egypt in his despatch No. 196, June 11; received July 2.

^b File translation revised.

⁷ See *supra*.

⁸ See circular note of the Egyptian Minister of Foreign Affairs dated December [25], 1927, *Foreign Relations*, 1928, vol. II, p. 747.

⁹ See note of the Egyptian Minister for Foreign Affairs to the American Minister dated October 28, 1928, *ibid.*, p. 767.

The letter of Sir Henry Elliot of May 26, 1873,¹⁰ to which reference is made in the Note of April 18, 1929, constitutes only an episode in the long negotiations which preceded the establishment of the Mixed Courts and during the course of which various opinions were expressed at certain times, by one or another of the States taking part in these negotiations. The opinion expressed in this letter by the representative of Great Britain was never shared in by the Khedivial Government. Furthermore, it is shown by the convention entered into between Egypt and Great Britain on July 31, 1875,¹¹ for the establishment of the Mixed Courts that the above-mentioned letter formed no part of this convention and was not mentioned therein.

On the other hand, according to the opinion of the Government of His Majesty the King, "to avoid giving a preponderance of one nationality over another in the choice of judges", following the terms employed by Sir Henry Elliot according to the citation from his letter made in the Note of April 18, 1929, is not equivalent to applying the principle of equality in the number of judges of each nationality.

Such a rule would be of a nature to embarrass considerably the Egyptian Government in the composition of the Mixed Courts according to needs and circumstances, and would greatly hamper it in the proper administration of justice.

Finally, in stating that it has no agreement in this respect, the Government of His Majesty the King considers that there does not exist at the present time, nor has existed at any time, the preponderance, envisaged in the phrase of Sir Henry Elliot, in the mixed judicial corps, to the benefit of a particular nationality.

Accept [etc.]

A. YEHLA

883.05/393

The Secretary of State to the Minister in Egypt (Jardine)

No. 108

WASHINGTON, October 28, 1931.

SIR: The receipt is acknowledged of your despatch No. 196 of June 11, 1931,¹² regarding the equality of representation of the principal capitulatory Powers on the Mixed Courts of Egypt.

The Department has studied with interest your analysis of the position of the different capitulatory Powers in this matter and has given careful consideration to your recommendations as well as to the recommendations made by Judge Crabitès in his communication of June 9, 1931,¹³ addressed to Mr. Childs.¹⁴ It is desired that you seek

¹⁰ *Foreign Relations*, 1873, vol. II, p. 1118.

¹¹ *British and Foreign State Papers*, vol. LXVI, p. 106.

¹² See footnote 5, p. 143.

¹³ Not printed.

¹⁴ J. Rives Childs, Second Secretary of Legation.

an early occasion to express to Judge Crabitès the appreciation of the Department for his continued helpfulness and advice.

The Department cannot, of course, acquiesce in the reply of the Egyptian Minister for Foreign Affairs to your note of March 3, 1931. On the contrary, since the Department is convinced that the right of the United States with respect to representation on the Mixed Courts of Egypt is equal to that of any of the principal capitulatory Powers, it desires that every proper effort be made with a view to insuring the due recognition of that right, subject to the qualification hereinafter indicated growing out of the special interest of Great Britain in Egypt. The Department, however, concurs in your suggestion that before any further communication on the subject is addressed to the Egyptian Government an effort should be made to enlist the support of the Residency in favor of the position of this Government.

It is realized that such support probably could not be obtained if the British authorities felt any apprehension that the position of the United States might indicate an intention on the part of this Government to question the preponderance of British representation on the Mixed Courts. You are, therefore, authorized to request an audience with the High Commissioner and to advise him, informally and orally, that the American position involves no such intention but contemplates American representation on the Courts equal to that of the principal capitulatory Powers other than Great Britain. At the same time you should express the hope that the High Commissioner will use his good offices with a view to insuring the due recognition of the position of the United States and preventing a further departure from the principle of equality of representation on the Mixed Courts. In this connection you will point out the importance which this Government attaches to the appointment of another American judge prior to the appointment of any additional non-British judges.

In view of the possible transfer to the Mixed Courts of criminal jurisdiction over capitulatory nationals, you will doubtless also find it advisable, during the course of your conversations, to allude to the evident desirability, from the point of view of British as well as American interests, of increasing the representation on the Mixed Courts of countries whose systems of law are based upon or developed from the English Common Law.

If you consider it desirable you may furnish the High Commissioner with copies of such of the correspondence exchanged with the Egyptian authorities on this subject as have not previously been made available to the Residency. In order that the British Foreign Office may be informed of the views of this Government on this question a copy of this instruction, as well as copies of your despatch under acknowledgment and of other pertinent documents, is being trans-

mitted to the Embassy at London. At the same time the Embassy is being instructed to acquaint the Foreign Office with the essential circumstances which have made it appear desirable to bring this matter again to the attention of the Residency. You may, if you consider it advisable, inform the High Commissioner of these facts.

Upon receipt from the High Commissioner of a reply to your request for his support in this matter it is desired that you inform the Department by telegraph of the substance thereof together with your suggestions as to the character which further representations to the Egyptian Government should assume.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

883.05/413

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2395

LONDON, November 16, 1931.
[Received November 28.]

SIR: I have the honor to refer to the Department's instruction No. 980 of November 5, 1931,¹⁵ with respect to United States representation on the Mixed Courts of Egypt, and to state that, in compliance with the Department's instruction, an appointment was sought to discuss this question with the Foreign Office, when it was suggested that the question should be taken up directly between the Embassy and Mr. Peterson, head of the Division of Egyptian Affairs.

With the end in view to assuring recognition of the position of the United States and preventing a further departure from the principle of equality of representation, I took occasion to set forth the American attitude at some length. Mr. Peterson said he had at one time been in Egypt with Lord Lloyd and was not wholly unfamiliar with the matter, and added that certain considerations had been urged on the Residency at one time that those nations having a larger population resident in Egypt were entitled to special consideration as to the number of their nationals appointed to the Mixed Courts. I replied I felt certain that such a view would not be acceptable to my Government, and pointed out that strict adherence to the principle of equal representation among the principal capitulatory Powers participating in the Mixed Courts of Egypt had been laid down when the adherence of the United States Government was given to the judicial reform in Egypt in 1876.¹⁶ Mr. Peterson agreed to this and stated it was merely an observation from memory he was making, and that he was entirely ready to write to the High Commissioner at Cairo

¹⁵ Not printed.

¹⁶ See *Foreign Relations*, 1876, p. 602.

asking how the matter stood and whether it were possible to "ear-mark" an American representative for the next place to be filled on the Mixed Courts. Mr. Peterson said it was not until the Foreign Office and the Residency at Cairo had had an exchange of views that he could be of much assistance in making any statement in the matter, but that he fully understood the United States position from our conversation and that he would communicate with me again at as early a date as he was able.

Respectfully yours,

RAY ATHERTON

883.05/416 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

[Paraphrase]

CAIRO, December 9, 1931—5 p. m.

[Received December 11—2:11 p. m.]

109. In conformity with the Department's No. 108, October 28, 1931, I obtained an audience with the British High Commissioner, Sir Percy Loraine, on November 21, at which time I outlined to him our position and furnished him with our correspondence with the Egyptian Government. On December 8 the High Commissioner gave me an oral statement of his personal opinion on the subject.

While Sir Percy warmly welcomed the United States Government's friendly attitude in authorizing me to state that, owing to Great Britain's special position in Egypt, the greater number of judgeships which are held by British subjects is conceded as proper, and while the High Commissioner expressed every desire to give such proper assistance as lay within his power, he was personally apprehensive lest supporting the United States Government's wishes regarding the Egyptian Government's recognition of the principle of equality of representation as among the principal capitulatory powers on the Egyptian Mixed Courts would meet with the genuine difficulty of bringing about a change in the British Government's attitude of both principle and practice as claimed to have been consistently followed in regard to the Mixed Courts. In Sir Percy's view, there appear to be strong arguments favoring the Egyptian Government's position not to recognize the principle of parity of representation, and it also appears inexpedient to insist upon such a principle, for should it be admitted the result probably would be that other great powers not represented now on the Mixed Courts would make claims difficult to refuse, and France and Italy would claim five judgeships as of right henceforth. Conceding such claims and that of any fixed

proportion of national representation beyond three Mixed Court judgeships would tend to a conception of international rather than Egyptian courts, but the British Government's consistent practice in matters affecting the filling of judgeships over and above those mentioned through the appointment of foreign nationals has been strictly to act on the principle of leaving to the Egyptian Government's discretion the qualifications and nationality of candidates. Compliance with my request would accordingly involve reversing the conception long held by the British Government respecting the Mixed Courts, and it would not be possible, in Sir Percy's opinion, for his Government to reverse its consistent attitude so far as to lend the requested support to the United States Government. In conclusion the High Commissioner requested me to consider the foregoing to be an expression of his personal views, since he is not able to reply definitely or officially until he has received a statement of the British Government's views from the Foreign Office.

Recognition by the Egyptian Government of the principle of equality of representation is not likely to be attained by further diplomatic correspondence, pending reorganization and extension of the Mixed Courts, short of our giving notice of intention to withdraw from them. Pending this reorganization we might seek to attain actual equality with France and Italy through representations based upon our desire for equality as a great power and as one of four recognized capitulatory powers, without referring further to recognition at the present time of the principle. The situation might well be reviewed initially with London in the event of this latter approach.

JARDINE

883.05/416 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

[Paraphrase]

WASHINGTON, December 22, 1931—4 p. m.

346. Reference the Department's No. 980 of November 5, 1931.¹⁷ The Minister in Egypt has telegraphically reported his informal discussion of the question of American representation on the Egyptian Mixed Courts with the British High Commissioner, whose purely personal opinion as expressed was that support by the British Government of the American viewpoint in this connection would involve a marked change in the attitude and practice of the British

¹⁷ Not printed.

Government with reference to the courts. Sir Percy Loraine felt also that should the principle of equality of representation be admitted, representation would be demanded by other great powers not represented now on the courts. He added that concerning the appointment of foreign nationals to judgeships beyond the three required posts, his Government has consistently acted upon the principle that the qualifications and nationality of candidates were matters solely for the Egyptian Government's discretion.

The point was stressed by the High Commissioner that the above were purely personal views and he would have to seek the British Foreign Office's views before giving a definitive answer. However, it is altogether probable that the Foreign Office will take its cue from Sir Percy when it replies to your recent informal representations. Since his personal views are known now to be unfavorable to the position of this Government, it is deemed desirable that another informal approach in this matter be made by you to the Foreign Office before the preparation of its definitive reply to your recent representations.

For such discreet use as may be deemed desirable and for your information, the Department is not impressed at all by the reasoning that representation would be demanded by other great powers not represented now on the courts following British acquiescence in the American request. The Department in this connection fails to understand the basis upon which powers not represented now would be entitled to make a demand for such representation. Since the Department's records indicate that on more than one occasion the British Government has taken an interest or intervened in the appointing of foreign judges, it is difficult also to comprehend Sir Percy's statement that his Government has acted consistently on the principle that the qualifications and nationality of candidates were matters for the Egyptian Government's discretion.

In again discussing this matter with the appropriate authorities in London, you may point out that it is not considered essential by this Government that the Egyptian Government necessarily should acknowledge formally the principle of equality of representation, and it would be satisfactory for effect to be given to that principle and for the present discrimination to be removed by the early appointment in sufficient number of American judges to ensure representation to the United States equal to that of principal capitulatory powers exclusive of Great Britain.

This Government, as you know, bases its claim to equality of representation with the other principal capitulatory powers upon the letter by Sir Henry Elliot on May 26, 1873 ¹⁸ (see enclosures with the Depart-

¹⁸ *Foreign Relations*, 1873, vol. II, p. 1118.

ment's instruction No. 980, November 5, namely, letter of Judge Pierre Crabitès dated January 31, 1931, transmitted with despatch No. 88, March 13, from the Legation at Cairo¹⁹). The Department never has received copies, though on several occasions such have been requested, of documents upon which the Egyptian Government has relied to negative the sense of the letter by Sir Henry Elliot. When the United States by proclamation of the President on March 27, 1876, adhered to the judicial reform in Egypt, the principle of equality of representation was regarded as fundamental. From the founding in 1876 of the Mixed Courts until 1915 there was, in fact, only a single temporary departure from the principle of equality.

You may, in view of these circumstances, state the hope of this Government that the British Foreign Office will see its way clear to instruct the High Commissioner in Egypt to give suitable support in this matter to the American viewpoint. It may be added by you that the United States Government would not be disposed to consider favorably the eventual transfer from the Consular Courts to the Mixed Courts of criminal jurisdiction unless and until satisfied that in the appointment of judges to the Mixed Courts this Government will not be the subject again of discrimination in comparison with the other principal capitulatory powers.

This telegram and your answer should be repeated to the Legation in Egypt.

STIMSON

RESERVATION OF AMERICAN RIGHTS UNDER THE TERMS OF NOTES EXCHANGED IN 1930 WITH EGYPT RELATING TO THE EGYPTIAN CUSTOMS REGIME²⁰

683.003/33 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

CAIRO, December 16, 1930—8 p. m.

[Received December 17—3:15 p. m.]

111. Since promulgation of present provisional tariff regime the Egyptian Government has on several occasions revised upward the rates of import duties on certain articles. Principal among these are certain fresh and dried fruit and vegetables, wheat and certain other cereals and flours therefrom including all alimentary pastes, and sugar including glucose and alimentary preparations therefrom. Prin-

¹⁹ None printed.

²⁰ For correspondence on the provisional commercial agreement of May 24, 1930, see *Foreign Relations*, 1930, vol. II, pp. 740 ff.

cipally affected imports from the United States are glucose and wheat flour. Latest decree was published yesterday. Commercial Attaché cabled new rates this morning.

Representations regarding corn [*glucose*] have been made to me by representative Corn Products Refining Company along lines earlier memorandum (see Legation's despatch No. 33 [331] of February 13, 1930).²¹ Imports of this commodity, approximately \$100,000 in 1928 and 1929, have been greatly reduced this year and will be practically eliminated by decree published yesterday.

Stated object of increase[s] is to further Government's new economic policy, particularly in the field of agricultural relief. It is hoped new duties will encourage increased production crops and wheat, and development processing industries for same.

I am informed that the Egyptian State Legal Commission has handed down opinion that Government is within its legal right to modify provisional tariff as it may wish. I have inquired of Residency and of French, Belgian, Italian and Greek Legations regarding their attitude. They are hopeful that formal representations may safeguard their countries' principal exports to Egypt for the time being. They are apparently not yet prepared to force the issue as regards legal position of Egyptian Government under the present provisional commercial accords with the capitulatory powers. While some of them seem to feel that Egyptian Government has gone farther than the circumstances and spirit in which these accords were signed justify, I have formed the opinion that they are reluctant to press matters in the light of present internal political situation.

When provisional accords were signed it was of course anticipated that a definitive tariff would be adopted this Fall by Egyptian Parliament and definitive treaties negotiated before next February. Political developments have rendered this impossible and it now appears certain Egyptian Government will wish to extend the present provisional agreements for another year. Some of my colleagues feel that in these circumstances present tariff position might well be carefully reviewed in advance and efforts also be made to obtain some assurance that their trade would not be jeopardized during such period by further frequent and severe increases in the rates on their principal exports to Egypt.

I should appreciate your views as basis for further conversation with my colleagues.

JARDINE

²¹ Not printed.

683.003/33 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

[Paraphrase]

WASHINGTON, December 22, 1930—4 p. m.

73. Reference your 111, December 16, 8 p. m. Although under the terms of the Legation's note dated February 16, 1930, to the Egyptian Minister for Foreign Affairs,²² second paragraph, second sentence, it might be possible to make representations respecting the new rates of duty, it is considered by the Department that unless a clear case exists of discrimination against American products it would not be desirable to do so.

The United States Government would not desire to take the lead in questioning Egypt's right, under treaty, custom and usage, to change its tariff rates without consulting the powers which enjoy capitulatory privileges, but should it be decided by other capitulatory powers to press this issue the Department would be willing to consider the possible making of similar representations.

In your conversations with colleagues you may discreetly use the above information. The Department wishes in this connection to have the views of the other capitulatory powers, as they may be developed in your conversations, reported in full in regard to the legal phase of this question.

STIMSON

683.003/36 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

CAIRO, February 18, 1931—9 a. m.

[Received 10:30 a. m.]

22. Following decree of Egyptian Government of February 11 imposing increased customs duty on matches and new excise duty of some \$15 a case and prescribing penalties for failure on the part of merchants to declare all matches in their possession in order that new excise duty be collected, announcement made officially on February 14 that Assembly of Mixed Court of Appeals having approved article 1 of the decree establishing method of collection and article 7 establishing penalties, the decree has become applicable to foreigners. French and Italians presented to Government yesterday an almost identic *aide-mémoire* and Belgians have also protested without reference matter their respective Governments. French point out retroactive features tax and failure Government to submit entire text of decree

²² See telegram No. 15, February 15, 1930, 4 p. m., to the Minister in Egypt, *Foreign Relations*, 1930, vol. II, p. 743.

to Assembly Mixed Court of Appeals despite request that body to be consulted on entire provisions to determine whether the legislation, according article 2 decree January 31, 1889 (for which see Brinton,²³ *Mixed Courts of Egypt*) contained no provision contrary to text of treaties and conventions.

French, Italian and Belgian Legations, while expressing themselves as not averse to the taxation in question, decline to admit the application to their nationals of tax established under such conditions. Judge Brinton opposed approval in Assembly which was subsequently moved to reconsider action as the result of strong influence Bedawi Pasha²⁴ who stated that Government would accept all political and diplomatic responsibility. In approving the two articles of decree submitted administrators [*Assembly*] expressly reserved any expression of opinion as to decree as whole and placed upon Government responsibility for its promulgation. French, Italians and Belgians anxious for our support. While no Americans affected, I regard principle as an important one and recommend I be instructed to present *aide-mémoire* substantially following broad general position taken by principal capitulatory powers as indicated above.

JARDINE

683.003/37 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

CAIRO, February 19, 1931—noon.

[Received 2:20 p. m.]

24. Your 73, December 22, 4 p. m.

1. Decree promulgated February 9 increasing duties on wheat and flour; February 11 increases introduced on matches. Rates on foregoing cabled by Commercial Attaché February 17. Changes in some 200 articles tariff chiefly from ad valorem to specific basis introduced in the light of experience past 12 months and to protect growing home industries and provide additional revenue sorely needed.

2. Principal American commodities affected by increases include dried and canned milk, packaged cereals, canned and preserved fruit, paint and varnishes, cotton piece goods, remnants, boots and shoes, machine tools, and starch, exports of which are estimated approximately one million dollars annually. In addition excise duties on gasoline increased from 160 to 360 piasters, kerosene from nothing to 44 piasters per metric ton.

3. United States would appear less affected than principal European countries and there is no evidence discrimination.

²³ Judge Jasper Y. Brinton (American), member of Mixed Court of Appeals.

²⁴ Chief of legal commission of Egyptian Government.

4. Have discussed questions raised in the Department's telegram 73 with Residency, French, Italian and Belgian Legations. I gather impression that apart from Residency opinion prevails that principal capitulatory powers when agreeing to provisional commercial accords with Egypt did not act sufficiently in concert with result that agreements were given under varying conditions. Now strong desire particularly on the part of Italians for concerted common action to question right of Egypt to revise its rates of duty not under custom and usage but under reservations made by French and Italians when giving their consent to establishment of provisional commercial accords that schedules would not be increased during life of accords.

While Residency has not reached any definite decision I gather that it would not associate itself in common action and that while representations would be justified on the basis of its note of accord agreeing to "minor modifications" it prefers to maintain position of aloofness.

Our position would seem to be strongest of any of capitulatory powers by virtue of express reservation with regard to all rights under treaty, custom and usage contained in Legation's note of February 16, 1930, a reservation which I cannot find any other power made. Further, our position would seem fortified by fact that in same note adherence was given to particular rates only[;] powers are not disposed to rest any objections to be made to present increases on capitulatory rights which French, Italians and Belgians consider were waived insofar as right of Egypt to revise tariff is concerned when provisional commercial accords concluded.

Before promulgation of rates of 17th I had assured myself that there would be no discrimination against American products. In view of apparent desire of Government to meet our views in tariff revision so far as budgetary situation permits I am of opinion it would be unadvisable to raise tariff issue at this time.

JARDINE

683.003/36 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, February 21, 1931—6 p. m.

23. Your 22, February 18, 9 a. m. Before issuing instructions with respect to the action which you should take in connection with the Egyptian decree, the Department would wish to receive the following additional information:

1. Were the articles of the decree approved by the General Assembly as a police measure under the provisions of the Khedivial Decree of January 31, 1889, or as mixed legislation under the terms of the

law of January [*November?*] 11, 1911? As described in your telegram the decree would appear to partake more of the nature of mixed legislation than of a police measure.

2. If the two articles of the decree were approved under the terms of the law of November, 1911, on what date was such approval given?

3. Please furnish by telegraph brief résumé of text of entire decree and a more detailed statement of nature of French, Italian and Belgian representations as well as the basis thereof. Also indicate what, if any, action has been taken by British High Commission.

4. Department would also be interested in learning circumstances under which pressure to approve the decree was apparently brought by the Egyptian Government on the General Assembly of the Mixed Courts.

STIMSON

683.003/38 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

CAIRO, February 25, 1931—6 p. m.

[Received February 26—11:45 a. m.²⁵]

27. Your 23, February 11 [*21*], 6 p. m.

1. There was promulgated on February 11th law imposing excise taxation on matches and a decree providing means for collection and penalties for enforcement. Only article 1 and portion of article No. 7 of this decree, relating to police measures, submitted to General Assembly Mixed Court of Appeals under the decree of January 31, 1889. No part or portion of the decree was submitted to Legislative Assembly of Mixed Court under decree November 11, 1911.

2. This law, consisting of two articles, establishes consumption or excise tax on matches at indicated rates. Article 1 of the decree states that all merchants or depositaries of matches shall declare quantity in their possession within 5 days of the coming into force of the decree. Article 2 provides that no matches may be removed from premises before declaration is made. Article 3 provides for search of any suspected establishment (though not of any foreign establishment without due notice to consul). Article 4 provides confiscation of any matches undeclared. Article 5 designates officials who may make seizures. Article 6 authorizes customs to exercise all necessary control and to demand from merchants statements and accounts relative to matches purchased, sold or deposited. Article 7 provides penalties for infraction not exceeding a week imprisonment and closing establishment 15 days to 6 months and for collection of the tax notwithstanding.

²⁵ Telegram in two sections.

3. French and Italian representations identic. French *aide-mémoire* begins by reference to announcement of the Government that Assembly having approved article 1 of decree establishing the method of collection of an excise tax on matches stored in the country as well as penalties attached thereto. This [*The*] decree has become applicable to foreigners. French point out that taxation in question does not offer characteristics of consumption or excise tax as it affects imported goods which are not manufactured locally and which have already been subject to import duty. Question involves one of actual imposition having retroactive effect. French add that Mixed Court only asked to pronounce on certain articles of the decree although request was made to be consulted regarding entire provisions. Accordingly Assembly was unable to examine the facts for which penalties might be incurred and therefore, contrary to article 2, paragraph 2, of the decree of 1889, Assembly was not in a position to assure itself that proposed legislation contained no provision contrary to text of treaties and conventions. French Legation though not hostile to principle in itself regrets its inability to admit application to its nationals of a tax established under such conditions. Belgian representations same except for omission reference to principle.

4. Judgment recognizing legality of excise tax on products of the soil or local industry rendered by Mixed Court in 1919 [1902] which expressed opinion that as such tax was neither direct land or personal its submittal to General Assembly Mixed Court unnecessary. Excise tax July 27, 1921, on certain liquids, foodstuffs and construction materials whether domestic or imported provided collection tax on imports at the time of their importation. Excise tax alcohol distilled in Egypt approved by General Assembly 1921 without protest of powers. No excise tax on imports ever submitted Legislative Assembly or previous last week to General Assembly.

5. Decision Residency probably forthcoming Thursday,²⁶ I am [now] informed.

6. At first sitting Assembly, February 13th, articles 3, 5, 6 and 7 submitted and approval withheld at[. *At*] second sitting next day.[.] article 1 and portion article 7 submitted when Assembly approved motion declaring Government had promulgated decree on its own responsibility and, without approving or disapproving, provisions submitted considered not contrary to treaties. In view of conflicting interpretation[s] as to what took place in Assembly and character of influence exercised by the Government, both of which I am investigating, I conclude from conversations Assembly sought a way out of an embarrassing situation and in explanations now being given is seeking to justify its position. It is now contended that Assembly did

²⁶ February 26.

not request entire text but took position law and decree inseparable and approval impossible articles submitted without recognizing legality tax. Assembly apparently shared general uncertainty extent its competence pronounce upon [question] involving taxation foreigners and sought way out of having [on] one hand by approval law to exceed its competence or on other hand by disapproval emphasize Egypt's capitulatory obligations.

Add to paragraph 4: Excise taxes promulgated February 17, 1931, on cement, kerosene, denatured alcohol and gasoline whether domestic or imported contain no retroactive feature applicable imported products.

JARDINE

683.003/37 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, February 28, 1931—5 p. m.

25. Your 24, February 19, noon and your despatch 26, December 23.²⁷ The Department concurs in your opinion that it would be undesirable at this time to make any formal representations to the Egyptian Government with respect to the new rates of duty.

However, in view of the fact that other Powers have already entered protests with respect to former increases in duties, it is desired that you seek an informal interview with the Minister for Foreign Affairs. At this interview you should inform him orally that while this Government is animated by the friendliest feelings for the Government of Egypt, and does not intend at this time to protest the present increases it is under the necessity of making full reservations with respect to its rights under the terms of the Legation's note of February 16, 1930,^{27a} and the exchange of notes of May 24, 1930.²⁸

Please keep the Department informed by telegraph of any action that may eventually be taken with respect to the new rates of duty by the other foreign legations and by the British Residency.

STIMSON

683.003/38 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, March 4, 1931—1 p. m.

26. Your 27, February 25, 6 p. m. Please inform the Minister for Foreign Affairs that this Government foresees the possibility of hav-

²⁷ Despatch not printed.

^{27a} See telegram No. 15, February 15, 1930, to the Minister in Egypt, *Foreign Relations*, 1930, vol. II, p. 743.

²⁸ *Ibid.*, pp. 754-755.

ing to raise certain objections with respect to the law and the decree of February 11 as soon as it has had an opportunity to study the texts of the instruments and the circumstances under which they were promulgated, and that pending such opportunity this Government makes full reservations of its position regarding the law and the decree in question.

Please forward by mail full text of law and decree and complete details surrounding the circumstances of their promulgation.²⁹

STIMSON

683.003/40 : Telegram

The Minister in Egypt (Jardine) to the Secretary of State

CAIRO, March 19, 1931—5 p. m.

[Received March 19—2:20 p. m.]

36. Your 26, March 4, 1 p. m. Egyptian Government a few days ago requested Residency formally, and French, Italian and Belgian Legations orally, in order to avoid "grave fiscal inconvenience[s]", to give necessary instructions to Consuls to make match law and decree applicable to respective nationals leaving principle involved in procedure for further consideration [*discussion*]. Residency has formally expressed readiness to discuss matters of principle involved and has taken notice of personal assurance of Foreign Minister that pending an agreement on such Egyptian Government will not adopt method of procedure to which exception has been taken. Capitulatory powers consider that principle asserted has been maintained with request from Government for assent to tax and French, Italian and Belgian assents have studiously avoided any reference to the future discussion of principle. I have been acquainted by Egyptian Government with action of the powers and have been requested orally to withdraw reservations made in accordance with the Department's instruction in order that law and decree may become applicable to Americans. I recommend that I be authorized to inform Foreign Office that my Government has no objection to the tax being levied on American citizens.

JARDINE

683.003/40 : Telegram

The Acting Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, March 23, 1931—6 p. m.

31. Your 36, March 19, 5 p. m. You may address a written communication to the Minister for Foreign Affairs stating that on the

²⁹ Despatches not printed.

clear understanding that this Government's consent has been requested by the Egyptian Government you have been authorized to consent to the collection from American nationals of the excise tax on matches. At the same time you should add that this Government will not be in a position to give consideration to the possibility of withdrawing its reservations to the law and decree of February 11 until it has had an opportunity to study the official texts thereof and the circumstances under which they were promulgated.

CARR

 683.003/40 : Telegram

The Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, April 14, 1931—5 p. m.

40. Your telegram 36, March 19, 5 p. m. and despatch 95, March 20.³⁰ The Department is of the opinion that the tax under reference is not an excise tax but a double import tax retroactively applied and that the question of the validity of the application of the tax and of the measures adopted for its collection from capitulatory nationals was not within the competence of the General Assembly or the Legislative Assembly of the Mixed Courts but should have been submitted in the first instance directly to the Powers for their consideration.

However, in consonance with the view expressed in the last paragraph of the above-mentioned despatch,³¹ the Department wishes to avoid further discussion of the matter with the Egyptian Government. Moreover, in view of the reservations contained in its telegram of March 4, 1 p. m., and in view of the personal assurance given by the Egyptian Minister for Foreign Affairs to the British Residency to the effect that pending an agreement on the subject the Egyptian Government will not again adopt this method of procedure, the Department considers that there is no present need for such further discussion.

Please keep the Department informed of developments in this case, especially of any discussions which may eventually take place between the Residency and the Egyptian Government with regard to the principle at issue.

STIMSON

³⁰ Despatch not printed.

³¹ i. e., "it would be difficult to enter into such discussions without involving the broad and thorny problem of the general question of capitulatory rights and obligations. . . ."

683.003/45

The Secretary of State to the Minister in Egypt (Jardine)

No. 50

WASHINGTON, May 6, 1931.

SIR: The receipt is acknowledged of your despatch No. 97 of March 23, 1931,³² reporting upon recent changes in the Egyptian import tariff schedule and recapitulating the attitudes of the principal capitulatory Powers with respect to the general question of the Egyptian tariff régime.

The Department concurs in the opinion expressed on page 18 of the despatch under reference, that it would be desirable for you to confer with your French, Italian and Belgian colleagues regarding the eventual conclusion of permanent commercial conventions with Egypt, and authorizes you to engage in such informal conversations regarding this question as may appear desirable. It is understood of course that the conversations which you envisage would be simply an exchange of views as to the possible courses of action which might be taken by the Powers concerned in order to protect their legitimate interests in Egypt and that you would not commit this Government to any specific course of action without obtaining the prior consent and instructions of the Department.

You will, of course, keep the Department promptly and fully informed of the substance of the conversations referred to above.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

PROPOSAL OF THE EGYPTIAN GOVERNMENT FOR AN INTERNATIONAL
CONFERENCE TO REGULATE COTTON PRODUCTION

561.321D1/1 : Telegram

The Minister in Egypt (Jardine) to the Acting Secretary of State

ALEXANDRIA, August 25, 1931—8 p. m.

[Received August 26—8:40 a. m.]

92. Egyptian Government has been very much concerned since the publication of the estimate of the American cotton crop by the United States Department of Agriculture with regard to the decline in cotton prices, Sakellaridis having reached this week the lowest price ever recorded. Egypt's dependence on cotton goods and the prospect of a long period of low prices has aroused much apprehension on the part of the Government, already disturbed by steadily increasing forced sales of land and the inability of cultivation to meet mortgage and other payments falling due.

³² Not printed.

Acting Minister for Foreign Affairs called on me today and is now writing a *note verbale* embodying decisions taken by the Council of Ministers yesterday and which he requested that I communicate to my Government. The note begins by stressing the necessity of public authorities in cotton producing countries "to join together with a view to examining the most appropriate means for the regulation of cotton cultivation".

It adds that the Egyptian Government "would be happy to participate in any commission of inquiry or conferences having in view the examination of the question of the production of cotton". The suggestion is made that without anticipating the decisions to which the commission or conference should confine itself the Egyptian Government would be disposed to examine measures of prohibition of cotton cultivation graduated over a number of years as it is considered that prohibition of cotton cultivation for a year might defeat its own object by bringing an increased demand in anticipation of reduced stocks and a consequent pressure upon public authorities to repeal or to restrict the application of the measures of control. The note concludes with the opinion that in the absence of any present possibility of increasing demand the only means of restoring the supply to harmonize with the present demand is through a reduced production over a number of years.

JARDINE

561.321D1/2 : Telegram

The Minister in Egypt (Jardine) to the Acting Secretary of State

ALEXANDRIA, August 26, 1931—5 p. m.

[Received 5:15 p. m.]

93. My telegram No. 92, August 25, 8 p. m. I called on the Prime Minister this morning at his request at which time he expressed the desire to discuss with me the practicability of calling an international conference composed of representatives of the principal cotton producing countries to work out a common cotton policy in the light of the *note verbale* of the Egyptian Government which I communicated to the Department yesterday. He emphasized the urgent necessity of action from the point of view of Egypt and desired to ascertain whether I thought such a conference ought to be called and where it should be called. He informed me that no other governments had been approached on the subject as the Egyptian Government desired to await an expression of opinion from the United States as the most important cotton producing country are [*and?*] whose non-participation in the proposed conference or inquiry would render such deliberations nugatory.

I informed the Prime Minister that I had yesterday afternoon communicated the views of the Egyptian Government to my Government and that I preferred not to raise any illusory hopes by an expression of my opinion and for that reason preferred to await the reply of my Government to the proposal before offering my comment. I stated it as my personal opinion, however, that if a conference was held, it should be preferably convoked in the United States where its deliberations would be more accessible to the various interested states of the United States and where, in coming in contact with others than regularly appointed delegates, a better appreciation might be obtained by the representatives of foreign governments of the inherent difficulties in the way of the legislative enactment and enforcement of restrictive measures on the part of the United States such as are possible to other governments.

The Prime Minister stated he could not but believe that a study of the problems confronting the several cotton producing countries and an exchange of views with regard thereto and the formulation of recommendations would be beneficial while he was hopeful that constructive measures looking to the bringing of supply more in harmony with demand might be attainable.

He is of the opinion that the chief cotton producing countries should be invited to participate, including if possible Russia, an opinion in which I concur.

I cannot perceive any grounds of objection to the proposed conference if the limitations under which the United States would be obliged to enter it were made plain. While I have endeavored to point out to the Prime Minister the difficulties in the way of the formulation of enforceable binding decisions by such a conference, and have endeavored to explain that its conclusions at best might only be expected to have the character of recommendations, I am of the opinion that the moral authority calculated to be given the conclusions might have beneficial results and that the occasion might well be welcomed for an exchange of views of the problems involved in the case of each participating country.

[Paraphrase.] The Egyptian Government's concern over the situation is such that a receptive consideration of its proposal for a conference would create a most favorable impression. In view of the early commencement of the cotton season, a conference would have to be convened not later than the first of October in order to accomplish results most desirable for Egypt. [End paraphrase.]

JARDINE

561.321D1/6 : Telegram

The Acting Secretary of State to the Minister in Egypt (Jardine)

WASHINGTON, August 29, 1931—1 p. m.

84. Your 92 and 93 August 25 and 26. The Department has referred to the appropriate authorities of this Government the suggestion of the Egyptian Government that an international conference of the principal cotton producing countries be convened to consider measures for the regulation of cotton cultivation.

Pending the receipt by the Department of the views of the above-mentioned authorities on this matter, the Department desires that you carefully refrain from encouraging the Egyptians to believe that this Government is in a position to give favorable consideration to the present proposals.

CASTLE

561.321D1/43

The Secretary of State to the Egyptian Minister (Sidarouss Pasha)

The Secretary of State presents his compliments to the Minister of Egypt and has the honor to inform him that his *note verbale* of August 28 and his note of August 31, 1931,⁸² regarding a proposed conference of representatives of cotton producing countries, have been brought to the attention of the appropriate authorities of this Government.

These authorities have given careful study and consideration to the Egyptian proposal and they have now come to the conclusion that, since this Government would not be in a position to apply in the United States a direct program of production limitation or limitation and control of cotton exports, it would be unable to participate in a conference which had such objects in view.

On the other hand, in view of the fact that one of the agencies of the American Government is the owner of substantial amounts of cotton and since it is understood that the Egyptian Government likewise holds a considerable quantity of Egyptian cotton, this Government is of the opinion that there might be some advantage in providing for informal discussion between a representative of the Egyptian Government and the American Farm Board with a view to formulating methods of cooperation. The Farm Board would be glad to discuss this question with any representative that the Egyptian Government may wish to send to Washington.

HENRY L. STIMSON

WASHINGTON, September 18, 1931.

⁸² Neither printed.

561.321D1/44

*The Egyptian Minister (Sidarouss Pasha) to the Secretary
of State*

[No.] 6538

The Minister of Egypt presents his compliments to His Excellency The Secretary of State and has the honour to communicate the following Note he has received from his Government in answer to the Note dated September 18th. 1931 of the Department of State.

The Egyptian Government thanks The President and The Government of the United States for their courtesy in accepting the idea of a discussion of representatives of the two Governments with a view to formulating methods of cooperation as regards cotton held by them.

Though the Egyptian proposal had in view a Conference of representatives of all the cotton producing countries in order to secure to its decisions the maximum of efficiency, The Egyptian Government looks with favour upon a discussion limited to the United States and Egypt alone.

Taking into consideration the particularly close relations between their economical conditions The Egyptian Government anticipates an understanding fertile in advantages and possibilities.

The disposal of cotton is of an evident interest to Egypt, but she may be even more interested to discuss other questions concerning production and commerce of cotton. The Egyptian Government therefore highly appreciates the statement of the Government of The United States that nothing shall prevent the American and Egyptian Representatives from discussing other questions they might consider useful to examine.

Being quite aware of the Constitutional difficulties in the United States, The Egyptian Government had never considered that the decision to be taken by the International Conference should be legislatively promulgated, but would simply represent an exchange of views which each State might use for its advantage according to its conditions.

The Egyptian Government is happy to note that the American conception as to the Rôle of these limited "pourparlers" does not differ from its own.

Owing to the special agricultural conditions in Egypt, the Government deemed it necessary to urgently take steps for the limitation of acreage but it considers that the proposed discussion should not be influenced by such measures but should proceed freely on the various questions concerning cotton.

The Egyptian Government proposes to send two delegates to Washington and should be very grateful if The United States Government

would fix the date at which shall take place the meeting with the representatives of the American Farm Board.

The Minister of Egypt avails himself [etc.] SESOSTRIS SIDAROUSS
WASHINGTON, September 22, 1931.

561.321D1/45

The Secretary of State to the Egyptian Minister (Sidarouss Pasha)

The Secretary of State presents his compliments to the Minister of Egypt and has the honor to acknowledge the Minister's *Note Verbale* of September 22, 1931, stating that the Egyptian Government concurs in the suggestion contained in the Secretary's *Note Verbale* of September 18, 1931, that it might be advantageous if representatives of the Egyptian Government were designated to hold informal discussions with the Federal Farm Board regarding possible methods of cooperation in handling the stocks of cotton held by the governmental agencies of the two countries.

While the Farm Board does not wish to limit the field of discussion arbitrarily, it will not be able, as was pointed out in the *Note Verbale* of September 18, 1931, to give consideration to programs calling for limitation of production or control of the exports of privately owned cotton.

The Federal Farm Board will be glad to start the proposed informal discussions at any time which may be convenient to the Egyptian representatives. The Board requests, however, that it be informed as far in advance as possible of the date on which the Egyptian representatives will arrive in Washington.³⁴

WASHINGTON, September 25, 1931.

AGREEMENT BETWEEN THE UNITED STATES AND EGYPT FOR ARBITRATION OF THE CLAIM OF GEORGE J. SALEM, SIGNED JANUARY 20, 1931

[For other documents relating to the claim of George J. Salem (Salm) against Egypt, including correspondence between the American and Egyptian Governments, see:

Department of State, Arbitration Series No. 4 (parts 1 to 6), *Salem Claim: Claim of the United States of America on behalf of George J. Salem v. the Royal Government of Egypt Under Protocol of January 20, 1931* (Washington, Government Printing Office, 1932, 1933, 1935):

³⁴ On December 2, 1931, the Egyptian First Secretary of Legation (Ismael Bey) informed the Department that it was clearly understood that the Egyptian Government was to set a date (561.321D1/52). Discussions took place at Washington in 1933.

- (1) Case of the United States; Counter Case of the United States; Reply of the United States (1933);
- (2) Brief of the United States (1933);
- (3) Case of Egypt; Annexes A-D (1932);
- (4) Counter Case of Egypt; Reply of Egypt; Brief of Egypt; Annexes E-G (1932);
- (5) Oral Arguments, Vienna, Austria, November 20 to December 22, 1931 (in two volumes, 1935);
- (6) Award of the Arbitral Tribunal; Dissenting Opinion of Hon. Fred K. Nielsen (1933).

Senate Document No. 261, 71st Cong., 3d sess.: *Claim of George J. Salem Against the Government of Egypt*.

Arbitration of the Claim of George J. Salem Against the Government of Egypt: Hearings before the Committee on Foreign Affairs, House of Representatives, 71st Cong., 3d sess., on H. J. Res. 485, February 10, 1931 (Washington, Government Printing Office, 1931).

Department of State, *Press Releases*, August 1, 1931 (No. 220), pages 115-116, press release of July 27, 1931.

Green Haywood Hackworth, *Digest of International Law*, volume II (Washington, Government Printing Office, 1941), pages 496, 514-515, 544, citations relating to the "Salem claim".]

Executive Agreement Series No. 33

*Agreement Between the United States of America and Egypt, Signed at Cairo, January 20, 1931*³⁵

Whereas the Government of the United States of America has presented to the Royal Government of Egypt a claim on behalf of George J. Salem for damages resulting from acts of the Egyptian authorities;

Whereas the Royal Government of Egypt has denied its liability in the premises; and

Whereas the two Governments are equally committed to the policy of submitting to adjudication by a competent tribunal all justiciable controversies that arise between them which do not lend themselves to settlement by diplomatic negotiations,

Therefore the undersigned William M. Jardine, Envoy Extraordinary and Minister Plenipotentiary of the United States and His Excellency Abdel Fattah Yehia Pasha, Minister for Foreign Affairs of the Royal Government of Egypt duly empowered therefore by their respective Governments, have agreed upon the stipulations contained in the following articles:

³⁵ In English and French; French text not printed.

ARTICLE 1

The claim of the United States against the Royal Government of Egypt arising out of treatment accorded George J. Salem an American citizen by Egyptian authorities shall be referred to an Arbitral Tribunal in conformity with the conditions herein-after stated, the decision of the said Tribunal to be accepted by both Governments as a final, conclusive and unappealable disposition of the claim.

ARTICLE 2

The Tribunal shall be composed of three members one selected by the Government of the United States, one by the Government of Egypt and the third who shall preside over the Commission should be selected by mutual agreement between the two Governments. If the two Governments shall not agree within one month from the date of the signature of this agreement in naming such third member then he shall be designated by the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague.

ARTICLE 3

The questions to be decided by the Tribunal are the following: first, is the Royal Government of Egypt under the principles of law and equity liable in damages to the Government of the United States of America on account of treatment accorded to the American citizen George J. Salem? Second, in case the Arbitral Tribunal finds that such liability exists what sum should the Royal Government of Egypt in justice pay to the Government of the United States in full settlement of such damages?

ARTICLE 4

The procedure to be followed by the two Governments and by the Tribunal shall be as follows: Within ninety days from the date of the signing hereof the Government of the United States and the Government of Egypt shall respectively file with the Tribunal and with the Foreign Office of the other Government a statement of its case with supporting evidence.

Within ninety days from the expiration of such period the two Governments shall in like manner file their respective counter-cases with supporting evidence with the Tribunal and with the Foreign Office of the other Government.

Within sixty days from the expiration of this latter period each Government shall file in the same manner a reply to the counter-case of the other Government or notice that no such reply will be filed. Such replies if made shall be limited to the treatment of questions

already developed in the cases and counter-cases and no new issues shall be raised or treated of therein.

ARTICLE 5

The two Governments shall have the right to submit to the Tribunal both orally and in writing such arguments as they may desire but briefs of all written arguments shall be filed with the Tribunal and with the agent of the other Government not less than ten days before the time set for oral argument.

Ample time shall be allowed the representatives of both Governments to make oral arguments of the case before the Tribunal. Such arguments shall take place in Vienna and shall begin not more than sixty days from the expiration of the date for filing replies or notices that no replies will be filed.

ARTICLE 6

Each Government shall designate an agent and such counsel as it may desire to represent it in the presentation of the case to the Tribunal and otherwise

ARTICLE 7

The decision of the Tribunal shall be given within two months from the date of the conclusion of the oral arguments and in case an award is made against the Royal Government of Egypt the amount thereof shall be paid to the Government of the United States within ninety days from the date of the said award.

ARTICLE 8

All written proceedings in connection with this arbitration shall be in both the French and English languages. The oral arguments before the arbitral commission may be made in either English or French but a translation thereof shall be submitted to the Tribunal and to the agent of the other Government at the end of each argument.

ARTICLE 9

Each Government shall bear its own expenses including compensation of the arbitrator named by it.

The compensation of the third Arbitrator and general expenses of the arbitration shall be borne by the two Governments in equal proportions.

Done in duplicate in the English and French languages at Cairo the twentieth day of January A. D. 1931.

WILLIAM M. JARDINE
A. YEHIA

EL SALVADOR

REVOLUTION IN EL SALVADOR

816.00 Revolutions/1 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 3, 1931—7 a. m.

[Received 10:30 a. m.]

97. Revolution broke out last night and controls the city completely which history shows probably means final success. President is bringing troops from Santa Tecla.¹ I am trying to minimize bloodshed.

CURTIS

816.00 Revolutions/2 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 3, 1931—11 a. m.

[Received 4:40 p. m.]

98. My 97, December 3, 7 a. m. I have arranged a truce between the opposing forces in San Salvador. Part of the National Guard and two regiments control most of San Salvador. Cavalry regiment and police are loyal. The leadership of the revolution is in the hands of officers who appear to have no capacity and no fixed plan beyond getting rid of the present government. I have arranged a 2-hour armistice from the time the revolutionists handed me their conditions for delivery to President Araujo. The revolution appears to be limited to the military mentioned above, the civil population apparently being decidedly in favor of the President.²

CURTIS

¹ For correction of this statement, see par. 2 of despatch No. 26, December 15, from the Minister in El Salvador, p. 197.

² For correction of this statement, see par. 3 of despatch No. 26, December 15, from the Minister in El Salvador, p. 197.

816.00 Revolutions/3 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 3, 1931—4 p. m.

[Received 7:07 p. m.]

100. Gomez Zarate and Enrique Cordova were at revolutionary headquarters this morning. General Claramount was arrested last night by the police but the latter³ surrendered this morning. President Araujo refuses the demands of the revolutionists, of which the only important one is his resignation. The plan of the revolutionists is to put the Vice President in but no doubt he will be forced out as quickly as possible, but he probably does not have much desire for the office anyhow. President promised his truce until 10 a. m. tomorrow, and I believe the revolutionists will accept it for they have more to gain by delay than he has. [Paraphrase.] Those named were very probably back of the revolution, and I think that the last named was one of the leaders.⁴ [End paraphrase.]

CURTIS

816.00 Revolutions/6 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 3, 1931—5 p. m.

[Received 8:40 p. m.]

63 bis. Minister of Foreign Affairs has just called to inform me that the Guatemalan Government had received a telegram from the military junta of Salvador stating that the Assembly had been convoked to take cognizance of the resignation of ex-President Araujo and to elect his successor.

The Minister added that the Guatemalan Government would adhere strictly to the terms of the treaty of 1923⁵ and in no case would take any action except in agreement with the United States.

WHITEHOUSE

³ i. e., the police.

⁴ See telegram No. 105, December 4, 1 p. m., p. 172, and pars. 4 and 5 of despatch No. 26, December 15, from the Minister in El Salvador, p. 197.

⁵ General Treaty of Peace and Amity, signed February 7, 1923, *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 287.

816.00 Revolutions/10 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 3, 1931—7 p. m.

55. Your December 3, 7 a. m. Who is leading revolution?

Please keep the Department promptly informed of all important developments by telegraph.

STIMSON

816.00 Revolutions/4 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 3, 1931—7 p. m.

[Received 9:24 p. m.]

101. President left Santa Tecla for Santa Ana this afternoon apparently under the false impression that the latter was in the hands of his adherents. His closest friends expect him to leave the country entering Guatemala sometime tomorrow. It appears almost certain that there will be no serious fighting. Minister of Finance Espinosa was among those killed last night.

CURTIS

816.00 Revolutions/5 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 3, 1931—9 a. m. [p. m.]

[Received 11:26 p. m.]

102. My 101, December 3, 7 p. m. President reached Santa Ana at 7:30 and the Army Commander gave him command of the town. I believe nevertheless his chances are hopeless.

CURTIS

816.00 Revolutions/13 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 4, 1931—11 a. m.

[Received 4:06 p. m.]

64. President Araujo sent a delegation from Santa Ana last night to see President Ubico. It is headed by Contreras, Under Secretary of Gobernacion, and its purpose is to ask for material aid. Minister of Foreign Affairs tells me the Salvadoran Minister came to see him early this morning to ask for the loan of airplanes to bomb the barracks in

Salvador and the delegation will probably ask for arms and ammunition also as it appears that Santa Ana had only arms for 900.

Minister of Foreign Affairs is relying on article 4 of the 1923 treaty to refuse all such requests.

The Minister of Salvador has also been to see me to sound out my feelings about war material and I referred him to the treaty. He claims that Araujo has 5,000 men at Santa Ana but needs arms: that the revolutionary movement lacks popular support and cites their hesitancy in advancing on Santa Ana as a proof and alleges that while the capital is quiet it is because forces are evenly balanced and the American Minister has arranged an armistice. He also requested our moral support for Araujo as the duly recognized President and that I communicate this to you as intercourse between Curtis and Araujo was interrupted.

Repeated to Salvador.

WHITEHOUSE

816.00 Revolutions/11 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 4, 1931—noon.

56. Department assumes that you have made it amply clear to leaders of the revolution that the policy of this Government is to be guided by the provisions of the 1923 treaty regarding the non-recognition of governments coming into power through revolution.

For your information, the Government of Guatemala has already advised our Legation there that it will adhere strictly to the terms of the 1923 treaty, and the Department assumes that the other Central American governments will follow a similar course, as was done in the case of the revolution in Guatemala a year ago.⁶

Keep Department fully informed.

STIMSON

816.00 Revolutions/14 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 4, 1931—1 p. m.

[Received 3:55 p. m.]

105. [Paraphrase.] Gomez Zarate informed an American that yesterday afternoon he and Cordova were invited to the revolutionary headquarters, that they knew nothing in advance concerning the revolution, and that they were utterly opposed to such a military govern-

⁶ See *Foreign Relations*, 1930, vol. III, pp. 172 ff.

ment although they felt it necessary to declare their adhesion to it. [End paraphrase.] More and more it appears that the revolution was organized and carried through by a lot of young Army officers dissatisfied because of delays in paying the Army and was merely countenanced by the higher officers; the Directorate now consists of two colonels, a captain and four lieutenants, the active leaders being the two colonels, Joaquín Valdes and Osmin Aguirre, but Generals Martínez and Calderon [*Claramount?*] ⁷ and other higher officers are assisting actively.

CURTIS

816.001 Araujo, Arturo/40 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 4, 1931—4 p. m.

[Received 8:16 p. m.]

65. Minister of Foreign Affairs informs me that President Araujo this morning transferred his Presidential powers to the Third Designate Doctor Maximiliano Olano and crossed the Guatemalan border at 2 this afternoon. He is expected to arrive here about midnight.

Repeated to Salvador.

WHITEHOUSE

816.01/3a : Telegram

*The Secretary of State to the Chargé in Honduras (Higgins)*⁸

WASHINGTON, December 4, 1931—5 p. m.

88. The Department has today advised the Legation at San Salvador that it is the policy of this Government to be guided by the provisions of the 1923 treaty regarding the non-recognition of Governments coming into power through revolution. While the question of recognition has of course not yet been raised in Salvador, nevertheless the Department believes it would be helpful for you to make known its position in conversation with Government officials and other political leaders of the country to which you are accredited.

For your information, the Government of Guatemala has already advised our Legation there that it will adhere strictly to the terms of the 1923 treaty, and the Department assumes that the other Central American Governments will follow a similar course, as was done in the case of the revolution in Guatemala a year ago.

Repeat to Managua as Dept's 213 and San José as Dept's 40.

STIMSON

⁷ See par. 5 of despatch No. 26, December 15, from the Minister in El Salvador, p. 197.

⁸ See last paragraph for instructions to repeat to Nicaragua and Costa Rica.

816.01/3b : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, December 4, 1931—6 p. m.

32. The Department has today advised the Legation at San Salvador that it is the policy of this Government to be guided by the provisions of the 1923 treaty regarding the non-recognition of Governments coming into power through revolution. While the question of recognition has of course not yet been raised in Salvador, nevertheless the Department believes it would be helpful for you to make known its position in conversation with Government officials and other political leaders in the country to which you are accredited.

Reference your 64 [63 bis], December 3, 5 p. m., and [64,] December 4, 11 a. m., second paragraph of both telegrams. The Department is gratified to know this and you may so inform the Minister. The Department assumes that the other Central American Governments will follow a similar course in adhering strictly to the terms of the treaty of 1923, as was done in the case of the revolution in Guatemala a year ago.

STIMSON

816.01/5 : Telegram

The Chargé in Honduras (Higgins) to the Secretary of State

TEGUCIGALPA, December 5, 1931—11 a. m.

[Received 2:10 p. m.]

187. Department's telegram No. 88, December 4, 5 p. m. I have informed the Minister of Foreign Affairs of the Department's position. He replied that his Government was awaiting the action of the United States Government before making a decision with regard to recognition. He added that he personally regarded the recent *coup d'état* as an abominable treason and thought his Government should certainly not recognize the Martínez regime but that he could not decide what action his Government would take until after a meeting of the Council of Ministers.

HIGGINS

816.00 Revolutions/24 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 5, 1931—noon.

[Received 4:33 p. m.]

106. Arrieta Rossi and Colonel Valdes have just brought me the text of a decree by General Martínez as constitutional Vice President of which the following is a summary.

Whereas, the President has left the territory of the Republic without leave of the legislative power and without there being any war, thus violating article 92 of the constitution, therefore in accordance with article 81 of the constitution I now assume the Presidency of the Republic and appoint as Minister of War Colonel Joaquín Valdes; Under-Secretary of War Colonel José A. Menendez; Minister of the Interior General Salvador Castaneda Castro; Under-Secretary of Foreign Affairs in charge Doctor Arturo Ramon Avila; Under-Secretary of Finance et cetera in charge Engineer Pedro Salvador Fonseca; Under-Secretary of Public Instruction Doctor Benjamin Orozco. All other appointments remain unchanged for the present. This was signed last night in the artillery barracks. My callers stated that the Military Directorate by its own vote goes out of existence upon the publication of this decree which takes place today.

CURTIS

816.00 Revolutions/22½ : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 5, 1931—1 p. m.

60. It appears from your telegrams that the revolution was organized and carried out by younger army officers. You also mention, however, that General Martínez, who is presumably identical with Vice President Martínez, is assisting actively in the movement.

Please report fully by telegraph as to part played in the revolution by the Vice President and by the three *designados* and whether any of the latter are still in San Salvador, or whether they accompanied President Araujo to Santa Ana.

STIMSON

816.00 Revolutions/22 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 5, 1931—2 p. m.

61. Press reports indicate that Salvadoran Congress may be called in session at once "to ratify the new military government" and that elections will be called within 48 hours. It is obviously highly desirable that no precipitate action be taken tending to throw the cloak of congressional approval over a government which the other Central American governments and the United States might possibly find themselves unable to recognize under the terms of the 1923 treaty. You should, if you believe such action imminent by the military leaders of the revolt, informally point this out and indicate the wisdom of proceeding with caution and after due study of the situation in the light of the Constitution and the 1923 treaty.

Please telegraph your views and recommendations as to the steps necessary to be taken in Salvador to bring about a government on a constitutional basis which could be recognized under the 1923 treaty. Do not discuss this question with the military leaders.

STIMSON

816.00 Revolutions/26 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 5, 1931—4 p. m.

[Received 8:11 p. m.]

67. As the Minister of Foreign Affairs told me Thursday it had been reported here that the United States was on the side of the revolutionists in Salvador I thought it not only polite but advisable to leave a card on President Araujo at noon today. The Minister of Salvador telephoned me later asking to see me so I went to his Legation and he introduced me to President Araujo.

The latter is naturally bitter against General Martínez whom he considers headed the movement against him; for the rest he talked generalities and said that he counted on the United States to secure justice not for him personally but for Salvador; that the whole affair is nothing but a military coup which will lead to anarchy and that he still has the people with him. He added that he had not resigned the Presidency but merely deposited his powers with Olano as the constitution gave him the right to do. He told me he had sent you a long cable but asked me also to report my conversation with him.

.

Repeated to Salvador.

WHITEHOUSE

816.01/6 : Telegram

The Chargé in Costa Rica (Werlich) to the Secretary of State

SAN JOSÉ, December 5, 1931—6 p. m.

[Received 9:25 p. m.]

56. Department's 40, December 4, 5 p. m.,⁹ received via Tegucigalpa 3:30 p. m. today. Minister for Foreign Affairs of Costa Rica informs me no recognition has been requested of Costa Rica by new Salvadoran authorities but President of Costa Rica has received and not answered telegram from Martínez informing him of assumption of power; also that Costa Rica will take no step in respect of recognition until request has been received. He refused to commit himself

⁹ See footnote 8, p. 173.

to me in respect of eventual Costa Rican attitude but stated his complete knowledge of stipulations 1923 treaty.

Antonio Alvarez Vidachengre, Salvadoran Minister to Costa Rica, has informed me that he has refused to communicate with new Salvadoran authorities. He states he has received assurances from Foreign Minister of Costa Rica that this country will not recognize new authorities.

WERLICH

816.00 Revolutions/35

The Minister in El Salvador (Curtis) to the Secretary of State

No. 21

SAN SALVADOR, December 5, 1931.

[Received December 9.]

SIR: Referring to my telegrams Nos. 97 to 104 of December 3 and 4,¹⁰ I have the honor to inform you that a revolution against the Government of President Araujo broke out in this city on the evening of December 2, and appears at this writing to have been successful.

Firing began at about 10:00 PM on the evening of December 2 and the President left his official residence, directly across the street from the barracks of one of the revolting regiments, almost as soon as the first shot was fired, leaving the city and establishing headquarters in the Government buildings of Santa Tecla, some 7 miles to the west of this city. Those armed forces in this city which had not joined the revolution in the beginning surrendered or adhered to the revolution in the course of the morning of December 3, but no move of any kind was made to attack the forces assembled by President Araujo in Santa Tecla until early in the evening of that day. By the time that the revolutionary forces reached Santa Tecla the President, with practically all of his men, had left that town for Santa Ana. At this place the troops proved loyal to the President to the extent that he was cordially received but on the morning of December 4, the Commanding officer and the President's friends appeared to have persuaded him that his position was hopeless and at about noon of that day he is reported to have left for the Guatemalan frontier.

CAUSES OF THE REVOLUTION

It is even now impossible to state with certainty what were the real reasons for the revolt or who were its real leaders.

An American tells me that he was informed by a young army officer that some ten days ago the army received 15 days pay out of more

¹⁰ Telegrams Nos. 99, 103, and 104 not printed.

than 4 months pay which was due, but that the Government announced that it had been paid up to date, the result being that the life of all the officers was made miserable by their creditors and that a number of the younger officers of the artillery regiment at the fort of "El Zapote," the machine gun unit near that fort, and the first regiment of infantry with barracks across the street from the President's house, organized a revolution which was to break out at midnight of December 2 to 3. This story undoubtedly contains much truth although it is probably not the whole truth. President Araujo had become daily more unpopular with all classes, had shown great lack of capacity, and had neglected the first requisite for a President in such a country as El Salvador, that of seeing that the army was paid promptly. It is reported, none too reliably, that General Martínez, the Vice President and Minister of War, called upon the President on the evening of December 2 for the purpose of urging him to provide promptly all the pay due to the army; that the President was much angered by this and informed General Martínez that he was dismissed from his office as Minister of War and that the Sub-Secretary of War, General Menendez, was promoted to that Cabinet post. It hardly seems possible, however, that this could have had any real influence on the situation. The signal for the revolution was to have been certain shots fired by the different organizations concerned, but a few shots of unknown origin resulted in the revolutionary movement being begun at 10 o'clock.

MILITARY MOVEMENTS

During the night of December 2 to 3 the machine gun unit moved in the Zapote fortress, blank shells were fired from the mountain guns of the fortress, machine guns sprayed certain streets within their reach, there was considerable rifle fire from the barracks of the Infantry regiment and men seem to have gone a short distance out from each of the two centers, but no attempt was made to seize the whole of the city.

Early in the morning of December 3, the members of the National Guard who were outside their barracks on patrol in the ordinary course of their duty joined the revolution; those in the barracks remained for some time loyal to the Constitutional Government. These and the police, who also remained loyal, controlled with rifle fire all movements within the immediate neighborhood of their headquarters. The result of all this was that there were some four different points from which firing radiated while no soldiers, police or guards were to be seen throughout the larger part of the city remote from those centers.

After several unsuccessful attempts made during the night to obtain reliable information by telephone, I made further attempts at dawn and finally succeeded in obtaining communication with the fortress of "El Zapote," where I was informed that Captain Eugenio Palma was the leader of the revolution, and I informed him that I would come to see him at once. I was detained by a call from the Minister for Foreign Affairs, Doctor Arrieta-Rossi, but left the Legation at about 7.00 AM.

Upon arrival at the fort I found that there was no one leader but that the fort was controlled by a Directorate composed of some seven very young officers. I talked with these in the presence of some fifteen other officers, received contradictory answers from half a dozen officers speaking at once and only with much difficulty and after much delay succeeded in learning what were the demands of the revolutionists; all willingly, though not promptly, agreed to my request for an armistice to last until 11.00 AM in order to avoid unnecessary bloodshed. Here I met for a moment General Martínez, who had been made a prisoner the previous evening.

I now proceeded to the police headquarters where I found General Calderón and quickly obtained his assent to the armistice. After taking a messenger almost to the fort for the purpose of notifying them of the acceptance of the armistice, I drove to the barracks of the 1st Infantry which, I found, had no communication with the fort. In the barracks I found the control exercised by a group of officers entirely similar to that in the fort and had the same difficulty in making myself heard and in obtaining an answer; I found also that the infantry's demands were different from those of the artillery, but while I was there a delegation from the artillery arrived. It was now about 8.45 AM and I was promised that I would be given at 10.15 AM the terms of the revolutionists as agreed upon by the two bodies; no urging on my part could obtain a promise of an earlier answer but it was agreed that the truce should continue for two hours after the terms were brought to me.

I now learned also that the statement made to me in the fort that the Cavalry regiment was participating in the revolution was false, so I had to go to the camp of that organization in order to make sure that it also would agree to the armistice; the commanding officer assured me that his regiment was loyal to the President, but there was a marked lack of enthusiasm on his part and that of the several officers with him and I felt that the President could not expect any real assistance from this regiment.

Returning to the Legation, I received one caller after another and prepared my telegram No. 98.¹¹

¹¹ December 3, 11 a. m., p. 169.

Having received no statement of the revolutionists' conditions I, at 11.00 o'clock, obtained with difficulty telephone communication with the fort and then went there. It had now been agreed that the conditions of the revolutionists were three:

1. The immediate resignation of the President.
2. The President's departure from the country within 24 hours.
3. The resignation of all of the members of the Cabinet.

I learned also that it had been agreed that General Maximiliano H. Martínez, the Vice President, should assume the Executive Power, but that Dr. Emeterio O. Salazar, the Rector of the University, should be named his adviser. There is enclosed herewith a copy of a document¹² which had been agreed upon by the delegates of the two regiments showing these decisions.

I was informed also that the police had surrendered to the revolutionists and that the barracks of the national guard and the cavalry regiment had joined the revolution. I was able to obtain reliable confirmation of these statements.

I now drove to Santa Tecla where I had an interview with President Araujo who called in some 25 Generals and other higher military and civil officials, in whose presence he peremptorily rejected the proposals of the revolutionists and made the counter proposals that the rebellious army officers should return to their allegiance and duty and that he would then punish none of them for their actions in this matter, although he would retain full liberty of action as to transfers and changes in command.

Returning to the Legation, I lunched and gave to Consul Carleton (who was most useful to me throughout the entire period) the substance of the message which he incorporated in my telegram No. 100.¹³ After a little delay due to numerous callers, I left for the fort of El Zapote where I reported the President's rejection of their terms and endeavored vainly to obtain agreement to his proposal that neither side should advance against the other until 10.00 AM on December 4. The most I could obtain was a promise that the revolutionary forces would not be advanced that day beyond kilometer 7 in the direction of Santa Tecla unless the President's forces made an attack. Preparations were made at once to send troops by motor truck to that point and I left hastily for the purpose of informing the President that all his proposals had been rejected. While I was in the fort, two men whom I had seen in Santa Tecla among the President's adherents and one of whom the President had spoken of as the best General in the country, came in and talked with the revolu-

¹² Not printed.

¹³ December 3, 4 p. m., p. 170.

tionary leaders, saying casually that they had been adherents of the revolution from the beginning; also a telegram was received and shown to me saying that five more of the President's leaders were coming from Santa Tecla to join the revolution.

At Santa Tecla I learned that President Araujo had left that town at 3.00 PM for Santa Ana, accompanied by motor trucks containing 200 men. The rest of the President's adherents except the police of the town and soldiers to care for the prison were even then preparing to follow him to Santa Ana. As I had been informed by the revolutionists that the troops in Santa Ana had joined the revolution and had obtained confirmation of this statement from a thoroughly reliable source, it seemed certain that some real fighting would take place in the course of the next hour, but it was impossible to do anything to prevent this owing to lack of communications.

Returning to the city, I sent my telegram No. 101¹⁴ and endeavored to obtain further information, finally learning that the commander of the troops in Santa Ana had acknowledged the authority of President Araujo upon the latter's arrival there at 7.30, and I so reported in my telegram No. 102.¹⁵

Early in the morning of December 4, General Calderón came to inform me that the leaders of the revolution had received word that some 200 troops were coming from Ahuachapan and that men were flocking into the town of Santa Ana to join the forces loyal to President Araujo. Although General Calderón insisted that the President could not arm over 900 men with the resources immediately at hand, he exhibited great nervousness regarding the possibility that President Araujo might obtain arms, ammunition and possibly even men from President Ubico of Guatemala who, he said, was a close personal friend of President Araujo. He said that the Directorate desired me to telegraph to the Legation in Guatemala to prevent this, and further desired that I should urge upon President Araujo the impossibility of his resisting successfully and assured me that I would be given telephone communication with Santa Ana for the purpose. This last I absolutely refused to do but I telegraphed the first request to the Legation in Guatemala for its information and for such action as it might see fit to take. (See my telegram No. 103¹⁶).

Later I sent a most unimportant message to the Military Directorate through Mr. Edward Huber, an American citizen, who returned with a message stating that President Araujo had crossed the frontier into Guatemala. Although I felt some doubt as to the accuracy of this

¹⁴ December 3, 7 p. m., p. 171.

¹⁵ December 3, 9 p. m., p. 171.

¹⁶ December 4, 11 a. m., not printed.

statement, I transmitted it in my telegram No. 104.¹⁷ The information appears to have been premature but I learn from a reliable source that President Araujo did in fact leave Santa Ana before noon and that he crossed the frontier into Guatemala at about 1.30 PM.

This Military Directorate has decided that the Vice President, General Max. H. Martínez, shall succeed to the Presidency but it appears that thus far he has been allowed to take no action without its approval. Of such a Government it seems impossible to expect much. Nevertheless, it has made certain statements to me which I include here for what they are worth. These are:

1. That Government expenditures will be reduced immediately to ₡16,000,000. a year (the amount of the revenues anticipated upon the basis of current receipts);

2. That civilians of the highest type will be selected as members of the Cabinet; and,

3. That military control of the Government will be insured by the appointment of army officers as subsecretaries under each Minister.

I limit my comment to the query whether it is likely that any man of the highest caliber will be willing to serve as Minister with a military watch dog constantly at his heels.

CONSTITUTIONAL PROBLEMS CREATED

According to reliable information, President Araujo's resignation received here late in the afternoon of December 4 states that he has resigned for the period of his absence—in order to avoid bloodshed and harm to his fellow citizens; and that, having to leave the country, he places the Presidency in the hands of the third Designate, Maximiliano Olano. Article 81 of the Constitution provides that the President shall be succeeded by the Vice President in case of the death of the President, his resignation, removal or any other impediment; if there is no Vice President, the Executive Power shall be exercised by one of the designates in the order of their appointment. It seems clear therefore that President Araujo could not place the Presidency in the hands of the third designate. Article 92 of the Constitution prohibits the President from leaving the territory of the Republic without leave granted by the Legislative Power unless the necessity of a war requires it. It is to be noted that the Legislative Power has not granted any such permission at the present time, and that President Araujo must therefore be considered to have vacated the Presidency by his action in leaving the country. In other words, his

¹⁷ December 4, noon, not printed.

resignation was unnecessary and may prove more troublesome to the revolutionists than the absence of such a document.

Although the document transmitted as enclosure No. 1¹⁸ states that in order to comply with the provisions of the Constitution the Vice President is called upon to take the oath required by law, the members of the Military Directorate have repeatedly stated to me that he is to be "Provisional" President. According to Article 81, of the Constitution cited above, it would appear that the Vice President becomes President for the unexpired term; consequently, if General Martínez is becoming President in accordance with the provisions of this article, his term will expire only on March 1, 1935. Article 36 of the Constitution, however, provides that the right of insurrection will be limited in its effects to separating from their posts insofar as may be necessary those persons who are governing and to naming temporarily others to take their places until the vacancies are filled in the form established by the Constitution. If General Martínez is Provisional President it is presumably in accord with the provisions contained in this Article and elections will have to be called within an undefined period. As stated in my telegram No. 100,¹⁹ I believe that he will be forced out of the Presidency as quickly as possible and that elections will be called almost as soon as the necessary arrangements for them can be made.

In this connection, it is interesting to note that Article 132 of the Constitution includes in the list of the purposes for which the Army is created that of making effective the guarantees contained in the Constitution. This, of course, means that this revolution has been entirely constitutional!

INTERNATIONAL PROBLEMS CREATED

The Department's telegram No. 56 of December 4, 12 Noon, assumes that I have made clear to the leaders of the revolution the policy of the United States, based upon the provisions of the Treaty of 1923 regarding the non-recognition of Governments coming into power through revolution. This matter was constantly in my mind but I regret to have to report that I did not bring it to the attention of the revolutionary leaders until the success of the revolution was already certain. Anyone who saw the utterly irresponsible youths with whom I had to deal in the beginning, and whose opinions on all subjects except the resignation of President Araujo were as far apart as the two poles, and who saw the almost endless discussion whether an armistice should last for three hours or only two, would

¹⁸ Not printed.

¹⁹ December 3, 4 p. m., p. 170.

appreciate my reasons for forming the opinion that it was futile to mention this subject and that nothing should be mentioned which was not absolutely essential to the obtaining of an agreement on the subject of an armistice.

As to the text of the Treaty, certain comments are pertinent:

1. Apparently a Presidential election must be held before any Government in this country can be recognized. This matter has been discussed above with regard to constitutional problems.

2. Even after such elections, no President, Vice President, nor Chief of State designate may fall under any of certain heads. While my information is at present necessarily incomplete, it would appear that the only person who might readily be expected to be a candidate for the Presidency but is rendered ineligible for recognition as President by the terms of the Treaty is General Martínez; whatever his position may be in the near future, he has been a Secretary of State within six months preceding the revolution. General Claramount, like every other army officer of higher rank, cannot fail to be suspected of complicity or at least of foreknowledge, but he was promptly imprisoned by the police and is not known to have taken any part in the revolutionary movement after his release. There is much talk regarding the formation of a Cabinet composed of men of the highest class and representing the principal political parties. Among those prominently mentioned for such positions are Messrs. Gomez Zarate and Enrique Cordova, but it is already rumored that they will not accept; acceptance would bar them from recognition as having been Secretaries of State within six months preceding the election; I reported in my telegram No. 100, that I had met them at the headquarters of the revolution, but I also reported in my telegram No. 105²¹ their explanation of their presence there and their declaration of their entire lack of participation in the revolutionary movement. Another man whom I met at the revolutionary headquarters was Doctor Emeterio Oscar Salazar, Rector of the University and second designate; he is considered a man of high education and sound judgement, not a politician; whether his acceptance which seems probable, of the position of adviser to the President named by the Military Directorate, a position certainly equivalent to that of Secretary of State, would not bar him from recognition should he be chosen President, is at least open to question. None of the officers who have appeared as leaders of the revolution can have any reasonable expectation of being even a candidate in any Presidential elections held in the near future; so far as I am at present aware, no one of them is closely related

²¹ December 4, 1 p. m., p. 172.

to any person who is likely to be a Presidential candidate, but until the names of these candidates are known it appears useless to study this matter closely.

SUMMARY

President Araujo showed great incompetence, becoming even more unpopular than he deserved to be, and was easily overthrown by a revolution organized by a group of youths of whom many had not yet reached their majority. The Revolutionary Government promises much but there is little reason to suppose that it will be appreciably better than the Government that is overthrown. The Army has once more shown that it is the final arbiter concerning any Salvadoran Government, and it easily expects to control the new Government which it is establishing. Even if there should be any material improvement, there will yet be a decided moral retrogression. Fortunately, though no reliable figures are obtainable, the loss of life appears to have been very small. Finally, a period of some length must probably elapse before the Central American States or our Government recognize a new Government in El Salvador.

Respectfully yours,

C. B. CURTIS

816.00 Revolutions/23 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 6, 1931—9 a. m.

[Received 8:30 p. m.]

108. Your 60, December 5, 1 p. m. My statement that Vice President Martínez took an active part in the revolution was not, I believe, based on unreliable evidence. He must, however, have had some knowledge beforehand and have refrained from action. Wednesday night, December 2, he was arrested and detained in the artillery barracks but was the choice of this regiment for the Presidency. He was well treated and still remains in the barracks. He conversed much with the officers leading the revolution, but I have absolutely no real proof that he advised them. I have been reliably informed that he gave orders Friday morning, December 4, before President Araujo had left the Republic, but when my informant was told that, President Araujo was in Guatemala. I cannot believe him to be innocent, but I have no real proof that he was involved.

The first designate is Salvador Lopez Rochak. He was chief of police. He is a brother-in-law of the President, whom he accompanied throughout these days. He is now in Guatemala.

The second designate, Emeterio Oscar Salazar, is rector of the University. He was chosen by the Military Directorate to be adviser to President Martínez, and he was there when I went to the artillery barracks on the morning of Thursday the 3d. He is now in San Salvador.

The third designate is Maximiliano Olano, President of the Legislative Assembly. He appears to have been, and to be now, out of the city, and to have taken no part whatsoever in the events of this week. According to every report, he has little strength, prominence, or popularity, and could not be expected to maintain himself in office, if he should become President.

CURTIS

816.00 Revolutions/25 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 6, 1931—10 a. m.

[Received 8:50 p. m.]

109. Your 61, December 5, 2 p. m. Yesterday afternoon Martínez informed me that only he as President could call an extra session of the Legislative Assembly; that he had not done so, and that the Assembly will not convene until February as usual, with new members elected about the middle of this month.²²

The treaty of 1923 requires constitutional reorganization of El Salvador by the freely elected representatives of the people. If the elections must be subsequent to the revolution, members of the Legislative Assembly are to be elected in a few days, but they will be unable to meet constitutionally until the first of next February. If Presidential elections must be held, there is no way by which these can be held constitutionally before those for the term beginning March 1, 1935, since the Vice President has succeeded constitutionally for the Presidential term which expires on that date. (This is according to a very positive statement made to me yesterday morning by Arrieta Rossi.)

See summary of decree in my 106, December 5, noon. Apparently, constitutionally, valid Presidential elections could be held earlier, however, by a constitutional amendment; to accomplish this the Legislative Assembly would have to adopt the amendment in two successive years by a two-thirds vote of all its members, after which a Con-

²² In his No. 110, December 7, 2 p. m., the Minister in El Salvador telegraphed: "My telegram 109, December 6, 10 a. m. Please correct last words first paragraph to read about the middle of next month, that is January. The second sentence of the next paragraph should also be corrected accordingly." (816.00 Revolutions/29)

stitutional Assembly would have to meet and approve them. Such an amendment, it will be observed, could not go into effect until March 1933 at the earliest. Article 148 states that the article on the length of the Presidential term cannot be altered, but it seems to be generally agreed that a Constitutional Assembly is supreme and can disregard all existing constitutional provisions and even adopt an entirely new constitution.

The exact meaning of the treaty is not clear to me, and I am not in possession of the text of the reservations which the Government of El Salvador is said to have made when ratifying the same, but I recommend that recognition be delayed because of certain indications that Martínez is as yet little more than a mask for the Military Directorate.

CURTIS

816.01/7 : Telegram

The Chargé in Honduras (Higgins) to the Secretary of State

TEGUCIGALPA, December 7, 1931—noon.
[Received December 7—10 a. m. (p. m.?)]

188. Legation's telegram No. 187, December 5, 11 a. m. Minister of Foreign Affairs has formally requested me that he be advised, as soon as the Department decides, whether it will recognize the Martínez regime in Salvador as he states the action of his Government will be in conformity with that of the United States.

He showed me a telegram from the Minister of Foreign Affairs of the Martínez regime which considerably twisted the facts concerning recent events making it appear that Araujo has resigned voluntarily and that the transfer of Executive power had been effected properly and constitutionally and making a strong bid for Honduran recognition.

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HIGGINS

816.00 Revolutions/31 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

[Paraphrase]

WASHINGTON, December 7, 1931.—5 p. m.

63. Your telegram No. 109, December 6, 10 a. m. Reservations to treaty of 1923 by Salvador at time of ratification have no bearing on this matter. As the Department has previously informed you, this Government has adopted, in accordance with the principles of the

treaty of 1923, the policy of nonrecognition of Central American Governments which come into power by revolution. Please inform the Department of the necessary steps which should be taken by Salvador for the formation of a constitutional government which can be accorded recognition by the United States, and by the other Central American Governments under the provisions of the treaty of 1923.

The question of the constitutionality of the present regime is not affected by the elections for the Legislative Assembly. In this connection the Department does not understand the significance of your statement that these elections will be held in a few days. The Department's understanding is that elections for the Legislative Assembly will be held the second Sunday in January. Please clear up this point.²³

An examination of article 2 of the General Treaty of Peace and Amity of 1923 will make it clear that the treaty does not necessarily require that elections be held subsequent to the revolution.

What the Department now wants to know is the part the Vice President took in the revolution. You are requested to make careful inquiry into this essential point and advise the Department of your conclusions, giving your reasons therefor. This is a matter of importance and should have your very careful attention.

Under the constitution, the Vice President succeeds to the office of President in the President's absence; but if the Vice President was a leader in the *coup d'état* or revolution, under the terms of the treaty of 1923 he could not be recognized.

It is the understanding of the Department that the President did not resign, but left the country after his palace was bombarded. As the Department cannot decide upon a course of action until it has the necessary facts to go on, will you please furnish a detailed statement of the President's departure, including all the facts and actions connected therewith.

If the Vice President is implicated in the revolution and therefore cannot be recognized, what about the designates? It is indicated in your telegram No. 108 of December 6, 9 a. m., that the second designate may have been involved. Inquire into the facts regarding him also.

Was the revolution caused by popular feeling against President Araujo personally or against his administration? If the latter, was the Government actually badly administered, or was it the desire for power of certain of the military leaders?

If it appears that the Vice President was implicated, what obstacles are there, if any, in the way of the Government's being turned over to the First Designate?

²³ See footnote 22, p. 186.

The Department is concerned for fear the situation may get out of control, and requests, in addition to the answers to the above inquiries, that you report in full the results of your efforts, in accordance with instructions in Department's 56, December 4, noon, to make the revolutionary leaders understand its policy in support of the 1923 treaty.

STIMSON

816.00 Revolutions/38

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] December 7, 1931.

The Salvadoran Minister called and showed me telegrams from the Provisional Government in El Salvador asking him to have recognition accorded it. The telegrams stated that President Araujo had resigned and that the Vice President had succeeded to the office in accordance with the Constitution. He also showed me telegrams from Guatemala from Señor Araujo saying that he had not resigned and that the revolutionary movement was really directed by Señor Martínez, who was both Vice President and Minister of War. . . .

The telegram from Señor Araujo referred to paragraph 4 of Article 68 of the Constitution saying that the attributes of the legislative body are to install in office the President and Vice President of the Republic, to administer to them the oath of office, and to take cognizance of their resignations and to accord them permission to leave the country. Señor Araujo therefore maintained that only the Congress could act on a resignation should he present one. The telegram from Salvador referred to paragraph 4 of Article 91 of the Constitution which states that the President is authorized to convoke extraordinary sessions of the legislative body as a Council of Ministers when the supreme interests of the nation demand it, and saying that the Vice President could do this if necessary.

I told the Minister that we were studying the situation most carefully in all its aspects and that I was not yet in a position to tell him what definite course we would take until we have further information regarding the happenings in San Salvador.

F[RANCIS] W[HITE]

816.00 Revolutions/30 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 7, 1931—6 p. m.

[Received 9:05 p. m.]

111. Everything quiet, conditions apparently becoming steadily more settled.

CURTIS

816.01/11: Telegram

The Chargé in Honduras (Higgins) to the Secretary of State

TEGUCIGALPA, December 8, 1931—11 a. m.

[Received 3:35 p. m.]

190. Reference first paragraph my telegram No. 188 of December 6 [7], noon, Minister of Foreign Affairs has twice again requested me to ascertain as soon as possible if Department will recognize present government in Salvador. He is impatient for early information as his Government's action will be in conformity with that of the United States and he is being strongly pressed to announce his Government's decision.

HIGGINS

816.00 Revolutions/36: Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 8, 1931—1 p. m.

[Received December 9—11 a. m.]

113. Your 63, December 7, 5 p. m. The following is a preliminary report. Every day I am assured that the Military Directorate will immediately dissolve. When this takes place I believe the new government will satisfy all the technicalities of the constitution.

The following facts might indicate that Vice President Martínez did participate in the revolution:

1. The revolutionists did not harm him.
2. During the revolution he was in the artillery barracks and still has his office there.
3. He did not fight against the revolutionists.
4. President Araujo had just dismissed him as Minister of War. •

The following information indicates that he did not take part in the revolution:

1. He was confined to the barracks.
2. At 7 a. m. Thursday he was unable to talk privately with me.
3. The leaders of the revolt did not consult him on such important questions as to whether or not there would be an armistice, the duration of the same, or the conditions to be laid down.
4. The leaders of the revolt in the infantry barracks did not want him for President at 8:30 a. m.
5. During the three interviews which I had with the leaders on December 3 he was not present and was not referred to in any way as having a voice in decisions.
6. He was not a member of the Military Directorate.

7. Until almost the last moment he was Minister of War. He would have a high sense of duty and may well have been kept in ignorance of the plot.

All of the above numbered statements except the last are facts verified by my personal observation.

President Araujo was in the Presidential Mansion when, shortly after 10 p. m. of December 2, shots were fired at the Mansion from the infantry barracks across the street. After spending 2 or 3 hours in various places in San Salvador he drove 7 miles to Santa Tecla. I conferred with him there at noon December 3 regarding an armistice and told him the conditions of the revolutionists. These he declined. The principal one was his resignation as President. At 3 p. m. that same day he departed for Santa Ana, about 35 miles distant, accompanied by 200 armed men, where he arrived safely and was received loyally. About 11:30 [a. m.?] on December 4, he left for Guatemala and crossed the frontier at about 1:30 p. m. President Araujo left behind a document depositing the office of President with Third Designate Olano.

The immediate cause of the revolt was the failure for some months to pay the Army, but strong criticism of President Araujo and his immediate entourage had been common for some time. Bankers and others whom he had called in for advice on financial matters had become disgusted with the management of the Government finances. Yesterday the managers of the three local banks emphatically stated to me that if Araujo had remained in office 3 months longer there would have been currency inflation and consequent destruction of Salvadoran credit at home and abroad. His failure to carry out any of his pre-election promises and his lavish personal expenses caused the common people to become severely critical and impatient. It was with difficulty that Government salary certificates could be cashed . . .

Salazar, the Second Designate, was in the artillery barracks when I was there the morning of December 3, on which day he accepted the appointment of civilian adviser to the revolutionary government.

The obstacles to turning the Government over to the First Designate, Salvador Lopez are (1) his absence in Guatemala and (2) as a brother-in-law of President Araujo he would be absolutely unacceptable to the country at the present time.

What effect the recognition of the government of General Martínez would have on future revolutions in El Salvador or other Central American countries I do not know. However, I believe that the great majority of the people of El Salvador want him as President at the present moment. Only after he had been informed that President Araujo had left the country did he assume authority, and it will

probably be impossible to obtain any proof that he participated in the revolution, although I shall continue to investigate this. Unless the Minister of War is "a high military command" or a "Secretary of State", his government can probably be recognized under the treaty of 1923.

My efforts to make clear to the leaders of the revolution the policy of the Government of the United States in support of the treaty of 1923 have resulted in repeated statements that the Directorate will be dissolved immediately. But until its dissolution has been clearly shown to be a fact, I strongly recommend that recognition be not granted.

CURTIS

816.01/17

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] December 8, 1931.

Mr. Jules Henry, Counselor of the French Embassy, called to ask whether we have recognized the present Government in El Salvador. I told him that we have not; that we are still awaiting further information regarding the situation down there, especially the part, if any, played by the Vice President, Mr. Martínez, in the revolution, in order to know whether or not he is debarred from recognition by the provisions of the Treaty of 1923. Mr. Henry said that the French Government of course would like to follow our lead and asked if I would let him know when we had determined upon our course of action. I told him I should be glad to do so.

F[RANCIS] W[HITE]

816.01/11 : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, December 8, 1931—6 p. m.

35. For your information and discreet use.

The Department is giving the most careful consideration to all aspects of the situation in connection with the recent revolution in Salvador, but is not yet in a position to determine its course of action in relation to the present regime until the receipt of further reports which it is now awaiting from Salvador.

As soon as the Department has reached a decision it will instruct you to communicate with the government of the country to which you are accredited, since the Department desires to act in harmony in this

matter with the signatories of the Treaty of Peace and Amity of 1923.

Repeated to Managua [as No.] 214 and San José [as No.] 41.

STIMSON

816.01/11 : Telegram

The Secretary of State to the Chargé in Honduras (Higgins)

WASHINGTON, December 8, 1931—6 p. m.

90. Your 188, December 7, noon, first paragraph, and 190, December 8, 11 a. m. You may assure the Minister for Foreign Affairs that as soon as the Department is in a position to determine the course it will follow it will communicate with the Honduran Government and with the other Central American Governments concerning the matter. The Department is giving the most careful consideration to all aspects of the situation but cannot determine its course of action until the receipt of further reports which it is now awaiting from Salvador.

STIMSON

816.01/13 : Telegram

The Chargé in Honduras (Higgins) to the Secretary of State

TEGUCIGALPA, December 9, 1931—1 p. m.

[Received 4 p. m.]

191. Department's telegram No. 90 of December 8, 6 p. m. On informing the Minister of Foreign Affairs of the sense of the Department's telegram he readily expressed his willingness to await the Department's decision and reiterated that his Government's decision would conform with the Department's. He stated, however, that he could not see how the Department could recognize the present regime as he was positive from the information he had received that Martínez had been in the conspiracy for the *coup d'état* and had betrayed his chief, Araujo. I believe that the majority of officials here, as well as political leaders of both parties, think and feel as he does in this matter.

HIGGINS

816.00 Revolutions/39 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 11, 1931—2 p. m.

[Received December 12—2:16 a. m.]

115. My 113, December 8, 1 p. m. The only additional information of any value I have been able to obtain is the following:

Arrieta Rossi told me that on the night of December 2 General Martínez was fired upon as he approached the artillery barracks and was held in close custody throughout that night. Of course, this comes from a source strongly prejudiced in favor of Martínez. An observer said . . . that it was the original intention of the young organizers of the revolution to shoot General Martínez because he stood in their way as constitutional Vice President. I believe this informant to be wholly reliable and I consider the information to be of value because General Claramount certainly still has Presidential ambitions and cannot be suspected of any desire to strengthen the position of General Martínez. The same person also said that a young lawyer . . . (if desired, I can obtain his name), stated that he had been consulted by a number of young officers who were friends of his and had advised them to follow constitutional forms by putting General Martínez into the Presidency as their puppet. I should add that before I left for the artillery barracks on the morning of December 3 I was told over the telephone from there that the revolutionists proposed to make José María Peralta Lagos President.

All other information obtained with regard to the participation of General Martínez has been of one of three kinds:

1. Absolutely favorable to General Martínez from his friends and adherents.
2. Absolutely unfavorable from the few friends of Señor Araujo.
3. Usually culpatory from persons who, when pressed, admitted that they had no real first-hand knowledge but only hearsay evidence. I believe that he is entitled to a verdict of not guilty of participation in the revolution.

El Salvador is entirely quiet. Practically all of the business and responsible elements exhibit satisfaction, and even pleasure, at the departure of Señor Araujo and confidence in the new government, although without exception all express anxiety for the dissolution of the Military Directorate. The number of dissatisfied in labor circles appears to be extremely small. The press, in order to alienate Araujo's remaining adherents, has made much of Araujo's alleged appeal to the Department of State to return him to the Presidency.

CURTIS

816.01/17a : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

[Paraphrase]

WASHINGTON, December 11, 1931—7 p. m.

67. As you have already been informed, the Department supports the treaty of 1923 concerning the nonrecognition of governments in Central America coming into power through a revolution.

Repeat the position of the Department informally and unofficially to General Martínez, inviting his suggestions as to the manner in which he feels the government of El Salvador can be placed on a basis that will permit its recognition by the United States and the Central American Governments. Telegraph fully General Martínez' views. You are not authorized to make any suggestions as to how a regime which can be recognized can be brought into office because the Department is not prepared as yet to express any opinion on this point. You are merely to hear and report General Martínez' suggestions.

STIMSON

816.01/18: Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 13, 1931—9 a. m.

[Received 1:50 p. m.]

116. Your telegram 67, December 11, 7 p. m. Minister of Foreign Affairs Araujo and Undersecretary Avila called upon me yesterday morning, apparently for the express purpose of making the suggestions desired by you. They said (1st) the Military Directorate has now been dissolved, (2d) martial law has been abolished, and (3d) the Congress at its next ordinary session early in February will be requested to approve the present reorganization of the Government. They added that no steps would be taken to seek recognition until the Congress had acted favorably.

I spoke informally and unofficially with General Martínez in the afternoon and he said that his Government was entirely constitutional and he read to me articles 81 and 92 of the constitution in support of his statement. (Refer to my telegrams Nos. 106²⁵ and 110.²⁶) When I asked again about satisfying the provisions of the treaty of 1923 he began by calling attention to the part of article 2 not ratified by Salvador, and as to the first part of the second paragraph said that the country had been completely reorganized on a constitutional basis now that the Military Directorate has ceased to exist. He made no mention of the Minister of Foreign Affairs' points 2 and 3 above.

[Paraphrase.] Yesterday morning announcement was made that the Military Directorate had on the night of December 11 held its last meeting and dissolved. I believe this dissolution to be genuine, but I shall report later if there is any indication to the contrary.

I think that too early recognition might encourage future revolutionary movements in El Salvador. On the other hand, prolonged delay might result in such weakening of the Martínez government as

²⁵ December 5, noon, p. 174.

²⁶ See footnote 22, p. 186.

to encourage subversive activities by Claramount or some other ambitious politician. [End paraphrase.]

CURTIS

816.01/20 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, December 14, 1931—noon.

[Received 4 p. m.]

196. Legation's telegram No. 191 of December 9, 1 p. m. Having talked with a number of persons here including a very prominent nationalist leader I find that feeling of Government officials and people in general is that present regime in Salvador cannot and should not be recognized in conformity with Washington Treaty of 1923. As the Government of Honduras intends to decide on recognition in conformity with the decision of the Government of the United States it will obviously be placed in a very difficult position if the Department should decide to recognize the present regime and, feeling that the Department has placed it in such a position, will be resentful. Moreover such action will tend to undo the restraining and stabilizing effects of the 1923 treaty at a very unsettled time here and give encouragement to certain unruly elements to overthrow this Government by a *coup d'état* or revolution.

LAY

816.01/19 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 14, 1931—4 p. m.

[Received 6 : 16 p. m.]

71. Minister of Foreign Affairs has just informed me that Doctor José Victor Gonzales has come to Guatemala on an official mission from the Salvadoran Government to request Guatemala to grant recognition of the new regime and to state what conditions it would impose.

The Minister replied that he must have time for reflection as Guatemala intended to be guided entirely by the letter and spirit of the treaties.

Both the President and the Minister of Foreign Affairs are quite firm on this point particularly as they seem to expect trouble in Honduras at any moment.

Repeated to Salvador.

WHITEHOUSE

816.01/20a : Circular telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, December 15, 1931—6 p. m.

The Honduran Minister called at the Department yesterday to say that his Government had received a request for recognition from the regime headed by General Martínez in Salvador, and that before making a reply his Government wished to know what the attitude of the United States Government would be.

The Minister was told that the Department is giving the most careful consideration to the matter but is not yet in receipt of sufficiently complete information on which to base a decision. It was added that the Department will be in a position by the end of this week to advise the other Central American Governments of its views, and the hope was expressed that the Honduran Government might defer giving any reply to the request received from Salvador until the Department has been able to apprise the Honduran Government of its views.

Repeat for information to Guatemala, Managua and San José.

STIMSON

816.00 Revolutions/48

The Minister in El Salvador (Curtis) to the Secretary of State

No. 26

SAN SALVADOR, December 15, 1931.

[Received December 21.]

SIR: Referring to my telegrams regarding the events of the revolution which took place in this country during the first days of the month, I have the honor to make the following corrections of statements contained therein.

In my telegram No. 97 of December 3—7 AM, I stated that the President was bringing troops from Santa Tecla. This statement was based on information given me by telephone from Santa Tecla by Mr. Salvador Godoy, the private secretary of President Araujo. As a matter of fact armed men were sent as outposts approximately one-third of the distance from Santa Tecla to the capital and no advance against the capital was attempted.

My telegram of December 3, 9 [11] a. m., No. 98, stated that the civilian population was apparently decidedly in favor of President Araujo. Even allowing for the fact that in such a country as this nothing succeeds like success and that therefore the vast majority of the people are now more or less enthusiastically on the side of the government of General Martínez, I believe that the loyalty to President Araujo was limited to appearances due to the fact that there was still a possibility that he would be able to reestablish himself as President.

The statement in my telegram No. 100 of December 3—4 p. m., that Messrs. Gomez Zarate and Enrique Cordova and General Claramount were probably back of the revolution and that the last was probably one of the leaders, has been partly contradicted by my telegram No. 105 of December 4—10 a. m. [1 p. m.] I should add, however, that there is now every indication that General Claramount was not concerned in this revolution. A definite statement was made to me by one of President Araujo's intimates to the effect that General Claramount was the organizer and leader of the revolution and, although it soon became clear to me that this statement was inaccurate, I believed at the time of sending my telegram that he had participated in it. Since then I have learned that he has been completely ignored by the leaders of the revolution. I am unreliably informed that he was organizing a revolution of his own and that he is now seeking to place himself in a position to overthrow the Government of General Martínez.

In my telegram No. 105 of December 4—10 AM [1 p. m.], I stated that Generals Martínez and Claramount and other higher officers were assisting actively in the revolution. The statement concerning General Claramount has been dealt with in the preceding paragraph; that concerning General Martínez has been dealt with in some detail in later telegrams. As nearly as I can now learn the only higher officers actively assisting in the revolution were Colonels Joaquín Valdes and Osmin Aguirre, concerning whose activities I have reported in some detail.

Respectfully yours,

C. B. CURTIS

816.01/31

The Minister in El Salvador (Curtis) to the Secretary of State

No. 27

SAN SALVADOR, December 15, 1931.

[Received December 21.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 67 of December 11, 7 PM, instructing me to report to General Martínez its position regarding nonrecognition of Central American governments resulting from a revolution and to invite his suggestions as to the manner in which he feels that the Salvadoran Government can be put on such a basis as to permit its recognition.

Early on the morning of December 12, Mr. Avila telephoned that he wished to bring and present to me Mr. Miguel Angel Araujo, whom General Martínez had recently appointed Minister for Foreign Affairs, and they called upon me at 10.30 that morning. Keeping in mind the instructions contained in the last portion of the Department's

telegram, I made absolutely no suggestion to them but they made the statements reported in my telegram No. 116, of December 13—9 AM, in such a manner as to make it clear that they wished to show me that the government of General Martínez was even now entitled to recognition in conformity with the terms of the Treaty of 1923, notwithstanding their assurance that that government would make no effort to obtain recognition until after the new Legislative Assembly had given its endorsement to it.

In accordance with an appointment obtained through Messrs. Araujo and Avila, I called upon General Martínez at 3 o'clock in the afternoon and, paraphrasing as closely as possible the words of the Department's telegram, invited his suggestions as to the manner in which he felt that the Salvadoran Government could be put on a basis that would permit its recognition by the Central American Governments and the United States in view of the provisions of the Treaty of 1923. General Martínez opened a copy of the Salvadoran Constitution and read to me articles 81 and 92, pointing out that, if there was no President, the Vice President assumed the Presidency and that, the President was forbidden to leave Salvadoran territory without having first obtained the permission of the Legislative Assembly; he stated that President Araujo had left the territory of the Republic without permission of the Legislative Assembly and had thereby vacated the Presidency and that he, as Vice President, had therefore succeeded to the Presidency in strict conformity with the provisions of the Constitution. As he appeared to feel that he had answered me fully, I asked again regarding his suggestions as to steps to be taken for compliance with the provisions of the Treaty of 1923. He at once turned to the copy of this Treaty published in the *Diario Oficial* after its ratification by El Salvador. He began by reading that part of the resolution of the Legislative Assembly ratifying the Treaty with the exception of some of its clauses, especially the parts of Article 2 detailing those classes of persons who should not be recognized as President even if their Government could otherwise be recognized. He then added that the matter of the reorganization of the country on a constitutional basis by the freely elected representatives of the people had been fully complied with inasmuch as he was a duly elected representative of the people and the Military Directorate was no longer in existence. Although I felt that I had had little success in obtaining the suggestions desired by the Department, I refrained from asking any further questions largely because of the caution contained in the last part of the Department's telegraphic instruction.

At his writing there is every indication that the Military Directorate has ceased to exist in fact as well as in name and that the *de facto* government headed by General Martínez complies with all the provisions of the Salvadoran Constitution provided due allowance is

made for the fact that President Araujo's departure from the country can hardly be considered to have been voluntary and the additional fact that article 36 of the Constitution recognizes the "right of insurrection" and provides that when a President is removed by an insurrection his position is to be filled in the form established by the Constitution. It is not my desire to urge early recognition of the Government of General Martínez. I believe that his government represents today the choice of the great majority of the people and that, if he is able to resist the pressure of politicians and grafters, he will give the country a good administration although he will certainly have to confront serious problems of a financial character. On the other hand, I believe that recognition should not be unduly delayed as various disquieting rumors are already afloat, especially one to the effect that General Claramount has obtained control of the recruiting service and that no applicants for enlistment in the army are accepted unless they present a card from him. Messrs. Gómez Zárate and Enrique Cordova and General Claramount and representatives of Dr. Miguel Tomás Molina have signed an agreement to abstain for the present from all political activities except such as are directly concerned with the municipal elections which were to have been held on December 13 and will probably be held on December 20, and the elections of members of the Legislative Assembly which are to be held on January 9 to 11, 1932. If this agreement is adhered to it would appear that no trouble need be expected in the near future except from General Claramount. However, undue delay in granting recognition will inevitably weaken the position of General Martínez and there may be a scramble by all the recent Presidential candidates and even by others to see which can overthrow the existing government before any of the others can do so.

Respectfully yours,

C. B. CURTIS

816.01/21 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 16, 1931—6 p. m.

[Received 8:25 p. m.]

120. General Martínez is showing considerable concern regarding recognition by the United States.

Yesterday evening he called in the Acting Fiscal Agent, assured him loan payments would be continued, asking him to offer freely advice concerning financial and taxation matters, and broached the subject of recognition but desisted when informed that his visitor was not an American citizen.

This morning he called in the American representative of the Panama Mail Line and asked him to get me to urge you to grant recog-

dition. I informed the latter that the decision in this matter was entirely in your hands.

He also called in the manager of the International Railways and asked him to get his home office to recommend that you recognize his Government. [Paraphrase.] General Martínez informed him that he felt that he could continue for a limited time without recognition, and he could maintain an orderly government indefinitely thereafter, but that if recognition were withheld for a protracted period the political leaders would promote troubles which he felt certain he could not suppress. [End paraphrase.]

CURTIS

816.01 Caffery Mission/1 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

[Paraphrase]

WASHINGTON, December 16, 1931—6 p. m.

68. The American Minister in Colombia, Jefferson Caffery, former Minister in El Salvador, who is now in the United States on leave of absence, has kindly consented to go to El Salvador as Special Representative of the Department of State in order to confer with you in a study of the situation and to suggest as to who might constitutionally succeed to office and still not be debarred from recognition by the United States and the Central American Governments by the provisions of the treaty of 1923.

The Department feels that Mr. Caffery, because of his previous service in El Salvador, will be in a particularly favorable position to assist the Department and the Legation in the present situation in El Salvador.

Mr. Caffery will arrive in San Salvador by airplane on the afternoon of December 19. He will be accompanied by Mr. Freeman Matthews, Second Secretary of Legation. Please extend to Mr. Caffery all facilities of the Legation. Please make hotel reservations for them: a sitting room, bedroom and bath for Mr. Caffery and bedroom and bath for Mr. Matthews.

STIMSON

816.01/20b : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 16, 1931—7 p. m.

69. A United Press despatch from San Salvador dated December 14 states that the Mexican Government already has recognized the Martínez regime. Please report by cable.

STIMSON

816.01/22 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 16, 1931—10 p. m.

[Received December 17—12:08 a. m.]

121. Your 69, December 16, 7 p. m. Mexican Minister informs me that in accordance with the Estrada doctrine²⁷ relations between Mexico and El Salvador have not been interrupted but that he has taken no action beyond acknowledging receipt of a note informing him of the change of government.

CURTIS

816.01/25 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 18, 1931—2 p. m.

[Received 5:03 p. m.]

221. Department's 214, December 6 [8], 6 p. m.²⁸ The Minister for Foreign Affairs told me this morning that he would await word from me before arriving at a decision regarding the recognition of the new government in Salvador. He states that he wishes to work in accord with the United States and other signatories in this respect. He told me that the Nicaraguan Consul General had sent him favorable reports of the new government.

BEAULAC

816.01/25a : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 18, 1931—6 p. m.

70. For Caffery. In accordance with our conversations with you we had intended to dispatch tonight a telegram to our missions in Central America reading as follows:

[Here follows text of telegram No. 42, December 20, 1 p. m., to the Chargé in Costa Rica, printed on page 203.]

On further consideration, however, it appears to us that this action, taken before you arrive in Salvador, might seem to tie your hands. We still feel thoroughly convinced of the soundness of the views set forth above, but believe that you should be given entire freedom of action to make such recommendations after your arrival in Salvador

²⁷ Instituto Americano de Derecho y Legislacion Comparada, *La Doctrina Estrada* (Mexico, Publicaciones del Instituto Americano de Derecho y Legislacion Comparada, 1930), and *La Opinion Universal sobre La Doctrina Estrada*, etc. (Mexico, Publicaciones del Instituto Americano de Derecho y Legislacion Comparada, 1931).

²⁸ See last paragraph of telegram No. 35, December 8, 6 p. m., to the Minister in Guatemala, p. 192.

as you judge advisable, and without having your hands tied in respect to any particular aspect of the situation. The Department, therefore, will not send the telegram in question until it has heard from you.

STIMSON

816.01/26 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 19, 1931—10 p. m.

[Received December 20—1:16 a. m.]

122. Your 70, December 18, 6 p. m. From Jefferson Caffery. I suggest that you send your proposed telegram immediately, tomorrow if possible. I find that unfortunately the better elements here are now supporting General Martínez because he offers for the moment a stable government and they greatly fear that any change in the situation might bring renewed disturbances.

It is my feeling that I should proceed as quickly as possible to put into effect the plan we agreed on. [Caffery.]

CURTIS

816.01/27a : Telegram

*The Secretary of State to the Chargé in Costa Rica (Werlich)*²⁹

WASHINGTON, December 20, 1931—1 p. m.

42. After thorough consideration the Department has come to the conclusion that the regime headed by General Martínez is barred from recognition by the terms of Article 2 of the General Treaty of Peace and Amity of 1923. With reference to that Article it is clear (1) that General Martínez has come into power through a revolution and that the country has not been constitutionally reorganized by the freely elected representatives of the people; and (2) that even in the event of such constitutional reorganization General Martínez could not be recognized inasmuch as he held office as Minister of War within 6 months preceding the revolution.

The Department has stated on various occasions that the policy of the Government of the United States in its dealings with the Central American republics is to be guided by the principles established in the Treaty of 1923. The United States Government, therefore, will not recognize General Martínez as President of Salvador.

²⁹ The same on the same date to the diplomatic representatives in Guatemala (No. 36), Honduras (No. 94), and Nicaragua (No. 217).

The Department desires you immediately to advise orally the Government to which you are accredited of the position of the United States Government as set forth above, to say that the action of the Legation of the United States in Salvador will be guided thereby, and to express the hope that the Government to which you are accredited may see its way clear to instruct its diplomatic representative at San Salvador to follow a similar course, in order that the signatories of the 1923 Treaty and the United States may act in harmony and that the principles which the Central American States established in that Treaty may thus be made effective.

Report by cable the attitude of the Government to which you are accredited and repeat to Legation at San Salvador for its information.

STIMSON

816.01/28 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, December 21, 1931—11 a. m.

[Received 2:35 p. m.]

199. Department's telegram No. 94 of December 20, 1 p. m.³⁰ The Minister of Foreign Affairs has formally advised me that by virtue of the terms of article No. 2 of the treaty of 1923 his Government will not recognize General Martínez as President of Salvador and that he will instruct the Honduran Minister at San Salvador so to inform the *de facto* government there. He added that his Government would not recognize the government of Salvador until it is constitutionally reorganized in accordance with the provisions of the treaty. He is making an announcement of his Government's position to the press today.

Repeated to San Salvador.

LAY

816.01/30 : Telegram

The Chargé in Costa Rica (Werlich) to the Secretary of State

SAN JOSÉ, December 21, 1931—11 a. m.

[Received 4:25 p. m.]

58. Referring to Department's telegram No. 42, December 20, 1 p. m., the Minister for Foreign Affairs of Costa Rica has just informed the Legation that the Costa Rican Government has decided not to alter for the time being its policy of non-recognition of present regime in Salvador but will continue discussion of the matter with the other Central American Governments with a view toward

³⁰ See footnote 29, p. 203.

preserving harmony of action. Understand this statement made after consultation with President of the Republic. Above text telegraphed to Legation at San Salvador.

[Paraphrase.] I understand that the local government is considering the reservations of El Salvador to the Treaty of Peace and Amity of 1923 as stated in the Salvadoran *Diario Oficial*, No. 126, June 4, 1925. Are these reservations to be considered effective? See despatch No. 738, May 29, 1925, from the Legation in El Salvador.³¹ [End paraphrase.]

WERLICH

816.01/29 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, December 21, 1931—noon.

[Received 2:30 p. m.]

73. Your 36, December 20, 1 p. m.³² The Guatemalan Government is entirely in agreement with the Department's point of view and the necessary instructions will be given at once to the Guatemalan Minister in Salvador.

Repeated to Salvador.

WHITEHOUSE

816.01/30 : Telegram

The Secretary of State to the Chargé in Costa Rica (Werlich)

WASHINGTON, December 22, 1931—2 p. m.

45. Your 58, December 21, 11 a. m., second paragraph. The reservations made by Salvador in ratifying the 1923 Treaty of Peace and Amity relate to Salvador alone, and do not appear to affect the obligations of the other signatories of the Treaty in regard to the stipulations thereof concerning the non-recognition of Governments coming into power through revolution.

STIMSON

816.01/34 : Telegram

The Chargé in Costa Rica (Werlich) to the Secretary of State

SAN JOSÉ, December 22, 1931—5 p. m.

[Received 7:56 p. m.]

61. Referring to Department's telegram No. 42, December 20, 1 p. m. The Minister for Foreign Affairs has notified me informally that the

³¹ Not printed.

³² See footnote 29, p. 203.

Costa Rican Minister at San Salvador will be instructed tomorrow that Costa Rica has decided not to recognize present regime in Salvador.

Above text telegraphed to Legation at San Salvador December 20, 3 p. m.

WERLICH

816.01 Caffery Mission/7 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 22, 1931—5 p. m.

[Received 9 p. m.]

123. From Jefferson Caffery. Last night I told Martínez categorically that under no circumstances could we recognize him and I explained why. He replied that he was exceedingly sorry to hear this as article 52, paragraph 5, of the constitution precluded him as Vice President from resigning. (This, obviously, is merely an excuse.)

Because of our stand we shall probably be bitterly attacked here as Martínez has won the support of the nation at large.

As there seems to be nothing to be gained by appealing further to Martínez direct, I am now trying to find other means of approach to our problem. As you know, the situation is complicated by the fact that under the constitution of El Salvador there is no impediment to Martínez automatically succeeding to the Presidency. In fact, there is no way under the constitution for him not to succeed. (Of course, he can always resign.)

I am continuing my investigations and I hope to send a definite report in a few days. In the meantime the attention of the Department is invited to two important factors which have already emerged:

1. It appears to be definitely established that it would not be wise to call the present Assembly in extraordinary session because of the number of agitator deputies placed there by Araujo. It is impossible to predict what they may do. Therefore, a new slate of designates can be elected soon after February by the new Assembly.

2. The military element now fully controls the situation, and the country at large is now accepting its control almost with enthusiasm. It is obvious that whoever succeeds Martínez can do so only with its support.

[Caffery]

CURTIS

816.01 Caffery Mission/8 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

[Paraphrase]

SAN SALVADOR, December 23, 1931—6 p. m.

[Received December 24—1:08 a. m.]

124. From Jefferson Caffery. Refer to Legation's 123, December 22, 5 p. m., last two sentences.

Rodolfo Duke³³ told me that the Mexican Minister here has encouraged the military to believe that it should not permit the United States to have any say as to whether or not Martínez remains President. I do not desire the American Embassy in Mexico to take any action on this at present. General Castaneda is the only man now in sight whom the military might accept in place of Martínez. (General Castaneda would also be entirely acceptable to the business and other civilian elements.) He is now Minister of Government, and at the time of the revolution held the rank of brigadier general and was commander at the military school. (There are some 30 generals of division above him.) Just previous to the last Presidential election he was purposely removed from a high military command he held as general in command of one of the important regions of the country and given this relatively unimportant post. I was informed that when ordered to bring his cadets to the Zapote Barracks he refused until two rounds of machine-gun shots were fired at the school.

It would appear, however, that since he now holds a Cabinet office he is debarred from being recognized by the words "or the election" at the end of clause 2 of article 2 of the treaty. If it is the feeling of the Department that my interpretation is wrong and that he could be recognized, please send me instructions as early as possible. It is reported that Martínez and Castaneda now control the situation and that the former is getting stronger every day. Not only has the Military Directorate been dissolved but the young officers have been scattered about the country by Martínez. Incidentally Martínez holds that he dissolved the Directorate because he had been led to believe that if it were dissolved, recognition would follow.

Martínez said that he was willing to deposit the Presidential power in the hands of a new First Designate for some specified period of time. (Under the constitution of El Salvador he could, of course, do this as he is actually President according to their law.) I assume, however, that the Department might construe this to be an implied objectionable bargain. [Caffery.]

CURTIS

³³ Manager of the Banco Agricola Comercial.

816.01/35 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 24, 1931—10 a. m.

[Received 1:05 p. m.]

223. Department's 217, December 20, 1 p. m.³⁴. The Minister for Foreign Affairs has just informed me that the Government of Nicaragua has decided not to recognize the present *de facto* regime in Salvador, in accordance with the clear terms of the Central American treaties of 1923. Repeated to San Salvador.

BEAULAC

816.01/36 : Telegram

The Chargé in Costa Rica (Werlich) to the Secretary of State

SAN JOSÉ, December 24, 1931—11 a. m.

[Received 5:05 p. m.]

62. Referring to Department's telegram No. 42, December 20, 1 p. m., the Minister for Foreign Affairs has just informed me of the decision taken last night by the Costa Rican Government sitting with the President of the Republic not to recognize present regime in Salvador, and that Costa Rican diplomatic representatives at San Salvador, Guatemala City and at Washington informed by telegraph thereof this morning. Decision based on obligations of Costa Rica through 1923 treaty. Statement by the Foreign Minister to the press makes no mention of the United States but cites cooperation of Costa Rica with Guatemala and Honduras in the matter.

Above text telegraphed to the Legation at San Salvador.

WERLICH

816.01/37 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 24, 1931—4 p. m.

[Received 9:55 p. m.]

125. A noon newspaper today published a statement signed Ministry for Foreign Affairs to the effect that press reports from Guatemala that the United States does not recognize the present Salvadoran Government are lacking in truth since the diplomatic representative of the United States has not yet said anything on this subject. Until last night the local press contained absolutely nothing indicative of our position and then published only telegrams from Guatemala.

³⁴ See footnote 29, p. 203.

After considering the matter fully with Caffery and in complete agreement with him I went this afternoon to the Minister for Foreign Affairs of the *de facto* government and read to him part of your telegram No. 71 [70], December 18, 6 p. m. concerning non-recognition of General Martínez.

CURTIS

816.01 Caffery Mission/10 : Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 28, 1931—noon.

[Received 2:40 p. m.]

127. From Caffery. Legation's telegram No. 124, December 23, 6 p. m., first two sentences of second paragraph. Castaneda insistently desires that I consult the Department regarding his somewhat original thesis that the word "election" refers only to popular elections for President and not to elections by the Assembly.

The military remain in complete control of the situation and firmly back up Martínez and Castaneda. [Caffery.]

CURTIS

816.01 Caffery Mission/11 : Telegram

The Secretary of State to the Minister in El Salvador (Curtis)

WASHINGTON, December 29, 1931—5 p. m.

75. For Caffery. Your 124, December 23, 6 p. m., and 127, December 28, noon. The Department has been giving careful consideration to the question of whether, if Castaneda were appointed First Designate by the Congress, he would be eligible for recognition following the resignation of Martínez. While the Department desires to take the most scrupulous care not to assume a position which would result in refusing recognition to anyone who might, under any reasonable interpretation of the Treaty of 1923, claim recognition as President of Salvador, it nevertheless cannot escape the conclusion that if General Castaneda were elected Designate by the Congress and this election should take place within 6 months of the time in which he had held the office of Minister of Interior, he would clearly be debarred from recognition under Article 2 of the Treaty.

The Department recognizes that an argument could be put forward that Castaneda was not barred because of the phrase "high military command" in subparagraph 2 of Article II, inasmuch as the rank of Brigadier General might conceivably be held as not being necessarily a "high military command". The Department also assumes

that Castaneda was not implicated in the revolution and that while he brought his cadets to the revolutionary headquarters he did so under duress and only after two rounds of machine gun shots had been fired at the military school.

It might be thought that the argument could be advanced that the "appointment" of a First Designate was not an "election" in the sense of Article II. The Constitution in fact does appear to make a verbal distinction between the "appointment" of designates by the Congress and the "election" of President and Vice President by popular vote. The Department, however, after thorough consideration, feels that to adopt this argument would be to give sanction to a mere play on words and that there can be no reasonable doubt that the appointment of designates by Congress is in fact an election coming within the purview of the provisions of Article II, and that Castaneda would be debarred from recognition due to the fact that he had held the office of Secretary of the Interior within the 6 months preceding such election.

The Department would be glad to have you, if you perceive no objection, explain the foregoing fully to Martínez and Castaneda, impressing upon them the care with which the Department has examined into the matter and our desire to fulfill scrupulously the obligations incumbent upon us in view of our decision made in 1923 to be guided by the Treaty in our relations with the Central American States. We have no animus against any individual and our fervent hope is that someone may legally assume the presidency of Salvador who can be recognized consistently with the provisions of the 1923 Treaty. There is of course absolutely no personal feeling against Castaneda who, if he resigned now to become eligible for election as designate 6 months later, could apparently then be recognized if the incumbent of the Presidency in the interim—who might be the present third designate or anyone else not debarred by the treaty—should then resign that office.

STIMSON

816.01 Caffery Mission/12: Telegram

The Minister in El Salvador (Curtis) to the Secretary of State

SAN SALVADOR, December 30, 1931—6 p. m.

[Received 9:23 p. m.]

128. From Caffery. Last night I had an informal conference with the youthful leaders of the revolution. I explained to them at length why we could not recognize Martínez. They then expressed a decided preference for Castaneda to succeed him. I explained the difficulties in his case (they are now discussing the names of other officers not

debarred by the treaty as possible candidates). I received the impression that these young officers are sincerely interested in attempting to put an end to the corruption which has hitherto been characteristic of the government and determined to fight the communistic propaganda which has been spreading here during recent years. They emphasized that they put Martínez in the Presidency because it was the only constitutional course to follow. Their attitude was very friendly and they demonstrated an apparent desire to be conciliatory. I told them that the Department of State would be glad to recognize anyone not debarred by the treaty whom the Assembly might designate as First Designate to succeed Martínez. (They implied that it might be easier to persuade Martínez "to deposit power" in the hands of a newly elected First Designate than it would be to force him to resign). During the discussion they brought up tactfully the well known charges regarding the United States forcing its will on the smaller Latin American countries. I explained to them we had not the slightest desire of doing anything of the kind; "we are backing no candidates" (they are aware or conjecture that the various civilian political groups here have been urging me to back their respective candidates). I described in some detail the reasons for the policy of the Department of State in Latin America in general and especially in the present instance.

I have been endeavoring among the public in general to have the idea accepted that the only way out of the existing situation is to have the Assembly designate a new slate of designates (men not debarred by the treaty) and for Martínez then to step aside. I believe that the public are coming to see that there is no other way of solving the problem.

As I have stated before, Martínez' assumption of the Presidency was exceedingly well received by the nation at large and was of course entirely in accord with the Salvadoran Constitution. There is consequently considerable ill feeling against us as a result of our stand against him. Everyone here feels too that the Salvadoran reservations to the 1923 treaty were meant especially to cover a case of this kind and that we are forcing our will on them in spite of that fact; although I am of course doing my best to refute their thesis.

I am in accord with the leaders of the regime that it is not practicable to call an extraordinary session of the Araujo Assembly for even violent measures might not succeed in persuading that body to be reasonable.

With the excited state of public feeling existing here now the only practicable plan is this: In accordance with the constitution elections for Deputies for the new Assembly will be held beginning the second Sunday in January; the new Assembly will meet between the 1st

and 15th of February and will designate three new Designates; and Martínez then would step aside and the First Designate would assume the Presidency (Martínez emphasizes his constitutional succession to the Presidency and it is only through pressure from the leaders of the revolution with whom I talked last night that he can be persuaded to step aside in February).

There is nothing more to be done here until the Assembly meets in February and therefore we plan to leave here next Sunday or Monday for Washington unless of course the Department desires otherwise.

I shall have additional recommendations to make upon my arrival at Washington. [Caffery.]

CURTIS

BURGLARY AND ASSAULT COMMITTED AT THE SALVADORAN
LEGATION ON MAY 13, 1931

701.1611/188a

The Secretary of State to the Salvadoran Chargé (Leiva)

WASHINGTON, May 13, 1931.

MY DEAR MR. CHARGÉ D'AFFAIRES: I was shocked to learn of the injuries which you suffered last night and I hasten to extend to you an expression of my regret. I assure you that the police will make every effort to apprehend the offenders.

I trust that you will recover promptly and I want you to know that you have my deepest sympathy.

I am [etc.]

HENRY L. STIMSON

701.1611/189

The Salvadoran Chargé (Leiva) to the Secretary of State

[Translation]

WASHINGTON, May 14, 1931.

MR. SECRETARY: I have had the honor to receive Your Excellency's kind note in which you are good enough to show your sympathy in connection with the attack of which I was the victim on the 13th of this month, and express your desire that those guilty of the criminal act—breaking into the Legation and attacking the undersigned with a weapon—may soon be caught and brought to justice.

Permit me, Excellency, to express to you in return my deep gratitude for the note to which I am replying, and the fine courtesy towards myself which inspired it.

I beg [etc.]

C. LEIVA

701.1611/199

*The Salvadoran Minister for Foreign Affairs (Castro) to the
Secretary of State*³⁵

[Translation]

L. D. No. 730

SAN SALVADOR, May 27, 1931.

MR. SECRETARY: I have the honor to write to Your Excellency with reference to the events which occurred in the Legation of El Salvador at Washington during the night of May 13 instant.

It is known to Your Excellency that on that occasion Dr. Carlos Leiva, Chargé d'Affaires ad interim of El Salvador, suffered serious blows, which endangered his life, as a consequence of having taken by surprise a thief who, certainly in association with others, had entered the Legation building with the obvious intention of robbing it. Dr. Leiva resisted the thief and during the struggle received the blows to which I refer and which still keep him in the hospital, where he has already undergone a delicate operation. One of the blows caused the fracture of a comparatively benign character of a bone of the skull.

It is my duty first of all to express to Your Excellency the gratitude of my Government for the delicate manifestations of courtesy which Dr. Leiva received on this unfortunate occasion from His Excellency the President of the United States, Your Excellency and other high officials of the Government, as well as from society in general.

At the same time I cannot help referring to a paragraph of the report presented by Dr. Leiva regarding these events, it being in full agreement with previous information obtained by my Government. The literal tenor of this paragraph is as follows:

"Upon my return from El Salvador I was informed that thieves had entered the Legation during the night of Holy Wednesday and stolen not only several articles of personal use but also 6 cases of wines, liquors and liqueurs. The door of the room in which these were located had been broken. In order to avoid annoying publicity the police was confidentially notified at the time. Toward the end of April, upon returning to the Legation about 11 o'clock p. m., I found the street door open. I called the police and a search of the house was made with three officers, but no one was found. I gave the police to understand that I was sleeping entirely alone in the building without any kind of weapons, and asked them to keep watch and accord me personal protection. The police then offered to establish a special guard for the Legation, but notwithstanding this it was invaded by thieves again in the early morning of May 13. After attending a meeting of friends, I returned home at 2 o'clock a. m. I entered without any mistrust and when in the vestibule a man appeared and, confronting me, said: 'Stand

³⁵ Delivered to the Department by the Second Secretary of Legation, June 3, 1931.

still, hands up,' while at the same time pointing a 45-caliber pistol at me. I quickly threw myself on the bandit, grasping his right hand in which he held the weapon, and a fierce struggle began. The thief succeeded in firing one shot, but fortunately without hitting me. We rolled on the floor; he struck me heavily on the head with an electric lantern; I struck him with my right hand and at a certain moment succeeded in biting the fingers of his left hand and seized the electric lantern, with which I in turn dealt him blows on the head. The man was weakening and seemed to me to be fainting. I then took advantage of the moment and hurried out into the street to call for help. Some policemen came about 10 or 15 minutes later. We entered the house. The thief had disappeared, leaving a metal bar such as his craft use with which to break in doors; also the electric lantern and the frame of a pair of spectacles without glasses. This man was the lookout instructed to watch so that no one would interrupt the task his accomplices were performing in the cellar of the Legation. It is probable that these accomplices fled on hearing the noise of the struggle and the shot. In the garden were found some cases of wines and liquors ready to be taken away; in the cellar others are missing which had been doubtless taken out before."

In the paragraph copied from the report to which I refer it appears evident that the *Chargé d'Affaires ad interim* of El Salvador applied to the police on two distinct occasions with short intervening intervals and reported the incursions of persons into the Legation for the evident purpose of stealing goods, pointing out the personal danger he incurred owing to the fact that he slept entirely alone in the Legation building. It is to be noted that, owing to the alarm which such occurrences naturally produce and the necessity of acting immediately in order to obtain the requisite protection, the action of Dr. Leiva in applying directly to the police was quite justified. I do not doubt that Your Excellency will appreciate these circumstances and that you will moreover consider that the action of Dr. Leiva should have resulted in adequate protection by the police for both his person and the building of the Salvadoran Diplomatic Mission.

I therefore take the liberty to make the foregoing statement to Your Excellency in the most friendly and courteous spirit, while requesting an investigation of the events to which I refer in order to determine the responsibility of the police for having failed adequately to protect the person of the Salvadoran *Chargé d'Affaires* and for failing to keep guard near the Legation Building notwithstanding its knowledge of previous incursions of thieves therein. At the same time I venture to hope that the protection to which I refer will be as efficient as possible in future in order to prevent such disagreeable occurrences as those which I find myself called upon to bring to Your Excellency's official knowledge.

I reiterate [etc.]

HÉCTOR DAVID CASTRO

701.1611/214b

The Secretary of State to the Salvadoran Acting Minister for Foreign Affairs (Jiménez)

WASHINGTON, June 18, 1931.

EXCELLENCY: I have had the honor of receiving the esteemed note of the Salvadoran Minister for Foreign Affairs dated May 27, 1931, in which your Government has been so gracious as to assure me of its gratitude for the acts of courtesy which, fulfilling alike their duty and the dictates of their personal esteem for Dr. Carlos Leiva, the Chargé d'Affaires of El Salvador, the members of this Government extended to him in connection with the assault of which he was the victim in the Legation of El Salvador in this Capital. Likewise a request is made that an investigation of the events associated with the assault be made with particular reference to what you consider to be the lack of adequate protection afforded the person of your Government's representative by the local police, and you ask that adequate protection be extended in the future.

I hasten to assure you that the Government of the United States deploras sincerely that the representative of the Government of El Salvador should have been the victim of such an unfortunate accident in this Capital. I am advised that an investigation is being made into all phases of this occurrence, that the appropriate authorities are making every effort to apprehend and punish those guilty of the assault on Dr. Leiva,³⁰ and that every measure will be taken to extend adequate protection to him and to the Legation of El Salvador.

I may add that as an act of courtesy and grace the Government of the United States intends to defray the expenses to which Dr. Leiva has been put consequent to the assault upon his person, and with that in view Dr. Leiva is being requested to send the bills covering those expenses to the Department of State for payment.

Accept [etc.]

HENRY L. STIMSON

³⁰ In his note of July 24, 1936, to the Salvadoran Minister (Castro) the Secretary of State wrote:

"... I am advised by the appropriate authority of this Government that the evidence now available is not considered to constitute a sufficient basis upon which to institute criminal proceedings against any known person in connection with the burglary and assault committed at the Legation." (701.1611/320)

701.1611/216

*The Salvadoran Second Secretary in Charge of Legation (Meléndez)
to the Acting Secretary of State*

[Translation]

WASHINGTON, July 15, 1931.

MR. SECRETARY: I have the honor to transmit herewith to Your Excellency a note sent to you by the Minister of Foreign Affairs of El Salvador.

I reiterate [etc.]

ROBERTO D. MELÉNDEZ

[Enclosure—Translation]

*The Salvadoran Minister for Foreign Affairs (Rossi) to the Acting
Secretary of State*³⁷

L. D./957

SAN SALVADOR, July 7, 1931.

YOUR EXCELLENCY: It is a high honor to me to refer to Your Excellency's kind note under date of June 18 ultimo, in which you saw fit to answer that which this Ministry sent to you on the 27th of last May in regard to the assault made upon Dr. Carlos Leiva, Minister [*Chargé*] of El Salvador.

I am sincerely pleased that Your Excellency's Government should have deigned to consider in their true light the points set forth by this Ministry in the note to which I refer, and my Government takes pleasure in noting that Your Excellency's Government, while deploring what occurred to Dr. Leiva, is interesting itself in the prompt capture and punishment of the guilty parties and offers adequate guarantees to the Salvadoran Legation to prevent assaults of this kind. This is a measure which my Government appreciates at its full value, in as much as it will make for the tranquillity of our Legation at Washington with regard to the persons who compose it and their property.

The good intentions so kindly shown by Your Excellency's Government in this matter are still further confirmed by its exquisite courtesy in assuming the expenses occasioned by the assault upon Dr. Leiva, which courtesy I am glad to state will further win the gratitude of my Government.

Please accept [etc.]

R. ARRIETA ROSSI

³⁷ Note acknowledged July 27, 1931.

ETHIOPIA

PROPOSED REVISION OF BASIC TREATY GOVERNING ETHIOPIAN RELATIONS WITH FOREIGN POWERS

684.003/8 : Telegram

*The Secretary of State to the Ambassador in France (Edge)*¹

WASHINGTON, April 22, 1931—1 p. m.

156. The Minister Resident at Addis Ababa has reported that he learns on excellent authority that the Ethiopian Government contemplates denouncing in the near future the Franco-Ethiopian Treaty of January 10, 1908,² Article 7 of which grants to France the privilege of extraterritorial jurisdiction. The United States and several other Powers receive similar privileges by virtue of most-favored-nation clauses of their treaties,³ but the whole extraterritorial structure is based upon the French Treaty. Although the Ethiopians are apparently desirous of freeing themselves from extraterritorial privileges they are even more anxious, for fiscal reasons, to regain freedom of action in customs matters, in which they are now restricted by Article 3 of the Treaty. The Department is inclined to the opinion that there is no objection to granting the Ethiopians freedom of action in customs matters so far as the United States is concerned, provided, of course, that American trade receives treatment not less favorable than that accorded to any third country. In view, however, of the present inadequacy of the judicial system in Ethiopia, the Department considers that it would be highly undesirable for the Powers enjoying extraterritorial jurisdiction to relinquish their rights in this respect.

Please discuss this question with the Foreign Office with a view to determining what, if any, steps the French Government proposes to take, in the event that the Treaty is denounced, to secure the continuance of such extraterritorial rights for French nationals in Ethiopia as may be considered necessary for their protection. If the opportunity is offered during the course of your conversation at the Foreign Office you may intimate that this Government would be disposed to

¹ See penultimate paragraph for instructions to repeat to London and Rome.

² Treaty of friendship and commerce, signed at Addis Ababa (known also as the Klobukowsky Treaty), *British and Foreign State Papers*, vol. **cx**, p. 997.

³ For treaty of commerce between the United States and Ethiopia, signed at Addis Ababa, June 27, 1914, see *Foreign Relations*, 1920, vol. **ii**, p. 243.

consider favorably the possibility of consulting with the French Government and with the Governments of other Powers now enjoying extraterritorial rights with a view to seeing what action might be possible and desirable in order to safeguard such rights.

Please repeat to London and Rome with the request that the Embassies in those capitals similarly consult with the British and Italian Foreign Offices, respectively.

Please transmit copy of this telegram by mail to Addis Ababa. Also transmit copy of your reply and request similar action by Rome and London.

STIMSON

684.003/9 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, April 23, 1931—6 p. m.

[Received April 24—11:30 a. m.]

208. Your 156, April 22, 2 [1] p. m. In a conversation with the Chief of the African and Levant Section of the Foreign Office this afternoon a member of the Embassy staff was informed that France also understands Ethiopia contemplates denouncement of the treaty and that France neither approves of Ethiopia's freedom of action in customs matters nor of its withdrawal of the privileges of extraterritorial jurisdiction. The French Government however might favor an increase in the maximum duties from present rate of 10 percent to perhaps 15 percent provided Ethiopia would at the same time agree to putting article 7 in more modern form. The replacement of an Abyssinian jurisdiction by a responsible foreigner under the second paragraph of that article is one of the alterations France would like to make. The Foreign Office representative said that no formal representations have been made by France in the above sense but it is understood the Ethiopian Government knows this to be French attitude. In case the treaty is denounced the French Government would make energetic protest. Regarding your suggestion of joint consideration of the question the Foreign Office understands that at Addis Ababa the diplomatic representatives of the various interested Governments are now consulting with each other regarding the matter.

[Paraphrase.] The Foreign Office official expressed the opinion that the American Financial Adviser to Ethiopia ⁴ is partly responsible for the desire of the Ethiopian Government for freedom of action in customs matters and is also making it difficult for French interests to negotiate some important contracts with that Government.

⁴ Everett A. Colson.

Repeated to the missions at Addis Ababa, London, and Rome.
[End paraphrase.]

EDGE

684.003/10 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, April 25, 1931—3 p. m.

[Received April 25—9:35 a. m.]

121. Department's 156, April 22, 2 [1] p. m. to Paris.⁵ The Foreign Office states informally that its view is precisely that of the State Department as expressed in the telegram under reference, but considers that on account of developments in Addis Ababa the probability that the treaty will be denounced has diminished. The Foreign Office understands that conversations there between the diplomatic representatives of the interested Governments are now going on and is inclined to believe that a way can be found to meet the wishes of the Ethiopians for freedom of action in customs matters without involving any change in the much more important question of extraterritorial jurisdiction. The number of British nationals in the country is such that the Foreign Office would certainly take steps if the treaty were denounced but is not at present disposed to say what they might be.

This message is being repeated by mail to Paris, Rome and Addis Ababa.

DAWES

684.003/11 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

[Paraphrase]

ROME, May 1, 1931—5 p. m.

[Received May 1—4:18 p. m.]

68. Department's 156, April 22, 2 [1] p. m., to Paris.⁵ The Foreign Office agrees generally with your view, and the Italian Minister in Ethiopia, I understand, has been instructed to collaborate with the American Minister Resident at Addis Ababa. However, the Italian Government objects to changes regarding customs matters which are brought about unilaterally by the Ethiopian Government's action and wishes to oppose the putting into effect of such a decree which, I am told by the head of the African Section of the Italian Foreign Office, has been promulgated already by the Ethiopian Government. The hope of American collaboration regarding this point is expressed by the Foreign Office here. I am assured by the Minister for Foreign

⁵ See footnote 1, p. 217.

Affairs that Italy will go along in whatever action the other powers may agree upon.

Sent by mail to other missions interested.

GARRETT

884.04416/1

The Minister in Ethiopia (Southard) to the Secretary of State

No. 708

ADDIS ABABA, May 2, 1931.

[Received June 3.]

SIR: I have the honor to report that at a meeting of the local Diplomatic Corps which took place in December, 1930, and at which I was not present, notice was taken of a Municipal Decree published October 22nd, 1930, by the Addis Ababa City Government, entitled "Disturbance of the Peace."

The Diplomatic Corps considered that this Decree in its application to foreigners was a violation of Article 7 of the Franco-Ethiopian Klobukowsky Treaty. On behalf of the Corps as represented at that meeting the Dean addressed a Note of Protest to the Foreign Office.

There are enclosed herewith as of possible interest to the Department (1) a copy of the Decree above mentioned; (2) a copy of the Note addressed on December 20th, 1930, to the Ministry of Foreign Affairs; (3) a copy of the Foreign Office reply of March 30th, 1931, to the Dean of the Diplomatic Corps; and (4) a copy of the latter's reply of April 22nd, 1931, to the Foreign Office.⁷

This office has taken no active part in the discussion of the Municipal Decree and will continue only an academic interest in the question unless instructed to the contrary by the Department. The protest is, however, of special interest just now in connection with the threatened denouncing by the Ethiopian Government—as previously reported from the Legation—of the Klobukowsky Treaty of which Article 7 has been invoked by the Dean of the Diplomatic Corps in the attached copies of correspondence.

Respectfully yours,

ADDISON E. SOUTHARD

884.512 Consumption/7 : Telegram

The Secretary of State to the Minister in Ethiopia (Southard)

WASHINGTON, May 7, 1931—4 p. m.

8. Your despatches Nos. 677, 678 and 679 of April 1 and April 2, 1931.⁸ On the basis of the information communicated in your des-

⁷ Enclosures not printed.

⁸ None printed; they reported a new excise tax decree.

patches, the Department is not disposed to regard the Decree of March 30, 1931, as a violation of the Franco-Ethiopian Treaty of 1908, and it concurs in your view that you should not support any further protests against the Decree which may be made by the diplomatic body.

The Department also approves your recommendation that you act in accord with your colleagues in any steps which may be taken to liberalize Article III of the Franco-Ethiopian Treaty. In this latter connection please see the Department's telegram No. 156 of April 22 to the Embassy at Paris and the replies thereto from Paris, London and Rome. All of these telegrams have been repeated to you by telegraph or by mail.

STIMSON

751.842/19

*The British Secretary of State for Foreign Affairs (Henderson) to the American Chargé in Great Britain (Atherton)*⁹

No. J 1768/983/1

[London,] 10 June, 1931.

SIR: An *aide-mémoire* dated the 25th April,¹⁰ which Mr. Thaw¹¹ communicated to this Department enquired what steps His Majesty's Government in the United Kingdom proposed to take to secure the continuance of extraterritorial rights at present enjoyed by British subjects and protected persons in Abyssinia in view of the rumoured intention of the Ethiopian Government to denounce the Franco-Abyssinian Treaty of January 10th, 1908. Attention was also drawn to the Ethiopian Government's desire to secure freedom of action in customs matters which is at present restricted by Article 3 of the above-mentioned Treaty.

2. I am happy to inform you in reply that His Majesty's Government in the United Kingdom share the view of the United States Government that there is no objection to the modification of Article 3 of the Franco-Ethiopian Treaty in such a manner as to permit the exercise by the Ethiopian Government of full fiscal autonomy provided naturally that the United Kingdom receives treatment not less favourable than that accorded to any third country.

3. His Majesty's Government also agree that it would be highly undesirable for the Powers enjoying extraterritorial jurisdiction to relinquish their rights in this regard. As you are aware, the extraterritorial rights at present enjoyed by foreigners in Abyssinia rest on an insecure foundation, since the only international treaty providing for their existence is the Franco-Ethiopian Treaty of 1908,

⁹ Copy transmitted to the Department by the Chargé in his despatch No. 2011, June 11, 1931; received June 20.

¹⁰ Not printed.

¹¹ Benjamin Thaw, Jr., First Secretary of Embassy.

which is subject to denunciation at twelve months' notice. Foreign nationals in general either by virtue of a treaty right to "most-favoured-nation" treatment or by custom and usage, enjoy the advantages granted to French nationals under Article 7 of this Treaty. If, however, the Ethiopian Government were to exercise their right to denounce it foreign subjects in Abyssinia would be left without any treaty foundation for the extraterritorial rights which they at present enjoy.

4. In these circumstances it seems to His Majesty's Government that the retention of the existing extraterritorial rights would best be secured by the signature of a protocol by the foreign representatives at Addis Ababa and the Ethiopian Government providing on the one hand for the modification of Article 3 of the Franco-Ethiopian Treaty so as to permit the exercise of full fiscal autonomy by the Ethiopian Government, and stipulating on the other hand that the provisions of Article 7 of the Franco-Ethiopian Treaty shall remain in force for a period of ten years subject to such modifications as may be agreed upon. His Majesty's Government are prepared to leave to His Majesty's Minister at Addis Ababa in consultation with his Colleagues of the Diplomatic Corps the decision as to what these modifications should be. It is understood that the Emperor of Abyssinia wishes to secure some treaty provision for appeals from the judgement of the Mixed Courts in cases where both the Abyssinian judge and the foreign consul are in agreement; at present no such provision exists. The diplomatic body at Addis Ababa, on the other hand, are anxious to secure the right of the foreign representative concerned to be present and take part in appeals heard by the Emperor so as to ensure that the mixed jurisdiction is not in practice eliminated in cases of appeal; they also desire that provisions should be made for the application of the law of the defendant in appeals as is the practice in cases before the Mixed Courts.

5. The amendments referred to above have been cited rather as an indication of the lines on which His Majesty's Government would like to see Article 7 of the Franco-Ethiopian treaty revised than as amendments on which they would necessarily wish to insist; nor do they desire to exclude any other amendments which might be thought desirable so long as an agreement is reached which will secure the continued operation to the benefit of all foreigners of the article in question for a period of at least ten years.

6. I shall be glad to learn whether the United States Government would be disposed to agree to a solution of this question on the lines indicated above and to instruct their Minister at Addis Ababa accordingly. I am instructing His Majesty's Representatives at Athens,¹²

¹² The British Foreign Office on June 18 informed the American Embassy that it had decided not to approach the Greek Government in this matter (751.842/20).

Berlin, Brussels, Paris and Rome to address a similar enquiry to the Governments to which they are accredited.

I have [etc.]

(For the Secretary of State)

JOHN MURRAY

884.512 Consumption/19

The Minister in Ethiopia (Southard) to the Secretary of State

No. 746

ADDIS ABABA, June 17, 1931.

[Received July 16.]

SIR: I have the honor to refer to the general subject of the new Ethiopian excise tax law which was promulgated at the end of last March, and which provoked a great deal of discussion in the local Diplomatic Corps with the development of opinion on the part of some of my colleagues that the law should be protested as a violation of the Franco-Ethiopian (Klobukowsky) Treaty of 1908.

All of my colleagues have since received instructions from their respective governments which are in summary to the effect that the excise tax law should not be protested as a violation of the Klobukowsky Treaty, and that they should enter into any arrangement decided upon by the local Diplomatic Corps which would lead to a liberalization of Article 3 of the Treaty as to customs duties in return for concessions by the Ethiopians which would lead to a better organization and administration of the judicial privileges obtained under Article 7 of the Treaty.

Since the receipt by all of my colleagues of their instructions along the above lines there has been no meeting of the Diplomatic Corps to discuss them and to decide upon what approach is to be made to the Ethiopian Government. . . .

Three days ago I asked the Minister of Foreign Affairs confidentially whether he had had anything on this subject from any of my colleagues individually or otherwise and he replied that he had not. There has been no renewal of the threats of the Ethiopians to denounce the Klobukowsky Treaty, although I suspect that their interest in that direction may be revived if and when the Diplomatic Corps proposes a more liberal judicial organization and procedure under Article 7 of the Treaty. Even the present special court privileges enjoyed by foreigners are distinctly resented by the Ethiopians, and I doubt whether they would yield in any substantial way to a request for revision in the direction of foreign favor or convenience. It is, therefore, probably just as well that the Diplomatic Corps is inactive and dilatory in the matter of any proposed discussion of a revision of Articles 3 and 7.

Further report will promptly be made in this matter as soon as there are developments.¹³

Respectfully yours,

ADDISON E. SOUTHARD

684.003/15

The Second Secretary of the French Embassy (Bousquet) to the Acting Chief of the Division of Near Eastern Affairs (Alling)

WASHINGTON, July 8, 1931.

MY DEAR MR. ALLING: Pursuant to the conversation we had today about the French viewpoint concerning the tentative new statute for foreigners and the tariff modifications in Ethiopia, I take much pleasure in enclosing herewith for your information a memorandum summing up the French viewpoint in the matter.

Believe me [etc.]

RAYMOND BOUSQUET

[Enclosure—Translation ¹⁴]

Memorandum by the Second Secretary of the French Embassy (Bousquet)

[WASHINGTON,] July 8, 1931.

On this date I called on Mr. Alling, "Acting Chief of the Near Eastern Division" at the Department of State, and stated to him the viewpoint of the French Government as concerns tariff and jurisdiction reforms to be established in Ethiopia.

The French Minister for Foreign Affairs has been informed by the British Ambassador in Paris that the American and British Governments had agreed:

1st—To recognize the liberty of the Ethiopian Government in tariff matters;

2nd—To improve and consolidate at least for ten years the jurisdictional status of foreigners in Ethiopia.

The British Ambassador stated that the British and American Governments would consider it advantageous to combine the settlement of the two questions.

While sharing the opinion of the British and the American Governments concerning this last point, the French Government considers that it would be very dangerous to foreign trade to recognize full liberty in tariff matters of a country with the administrative methods and political instability of Ethiopia.

¹³ A revised excise tax law, dated July 16, 1931, was reported by the Minister in his despatch No. 774, July 28, 1931 (884.512 Consumption/26).

¹⁴ File translation revised.

A—Tariff questions.

(1) The French Government considers in this matter that the Ethiopian Decree of March 30, 1931, by which there were established excessive consumption taxes involving discrimination according to whether the merchandise is of native or foreign production, and also according to the various classes of foreign commodities, is in violation of the letter and the spirit of Article 3 of the Treaty of Klobukowski, which guarantees moderation and equality of fiscal charges applying to merchandise imported into Ethiopia.

The French Government therefore asks of the Ethiopian Government the immediate repeal of the said decree.

(2) However, in consideration of the financial difficulties of the Ethiopian Government, the French Government declares that it is willing to assent to an extension of the time limit provided in Article 3 of the Treaty of Klobukowski.

Thus, the present duties could be increased by 50%, it being understood on the one hand, that the equilibrium of duties on wines, champagnes, beers, and non-alcoholic beverages would be maintained (which would raise these duties to 15% and 12% respectively); on the other hand, that the contemplated increases would apply equally to all foreign imported products, without the possibility of granting special advantages to any country. Article 4 of the Treaty of Klobukowski could be invoked in this respect.

(3) The French Government considers that Ethiopia should undertake, for the future, not to establish consumption taxes on commodities imported into its territory unless the same commodities are produced within the nation. On the other hand, the said taxes should represent at the most only a small percentage of the value of the product taxed, for instance, 0.12%, or 0.15%.

B—Reorganization of the special jurisdiction applying to foreigners.

The French Government considers that, in view of the consent in principle that it is willing to give for the revision of Article 3 of the Treaty of Klobukowski, a reorganization of the special jurisdiction applying to foreigners established by Article 7 of the same document should be taken up without delay.

884.04416/4

The Acting Secretary of State to the Minister in Ethiopia (Southard)

No. 197

WASHINGTON, July 15, 1931.

SIR: The receipt is acknowledged of your despatch No. 708 of May 2, 1931, with regard to a protest of the Diplomatic Corps against a

Municipal Decree published October 22, 1930, by the Addis Ababa City Government providing for the trial in an Ethiopian Tribunal of certain cases affecting extraterritorial nationals.

After a careful consideration of this matter the Department has come to the conclusion that the purpose and effect of the final paragraph of Article 7 of the Franco-Ethiopian Treaty of January 10, 1908, was to exempt French nationals or protégés accused of crimes or delicts from the laws of Ethiopia and, except as otherwise provided in the preceding paragraphs of Article 7, from the jurisdiction of Ethiopia. The Department is, therefore, of the opinion that the Municipal Decree published by the Addis Ababa City Government on October 22, 1930, contravenes the treaty provision mentioned and consequently that it is in contravention of the rights of American nationals in Ethiopia which are derived from the Franco-Ethiopian Treaty through the treaty concluded between the United States and Ethiopia on June 27, 1914.

The Department desires that you associate yourself with the action of the Diplomatic Corps at Addis Ababa in protesting the application of that part of the Decree which subjects extraterritorial nationals to its provisions.

Very truly yours,

W. R. CASTLE, JR.

684.003/15

*The Acting Chief of the Division of Near Eastern Affairs (Alling)
to the Second Secretary of the French Embassy (Bousquet)*

WASHINGTON, July 20, 1931.

MY DEAR MR. BOUSQUET: Please accept my thanks for your letter of July 8, 1931, enclosing a memorandum setting forth the viewpoint of your Government regarding tariff modification and judicial privileges for foreigners in Ethiopia.

I believe that our Embassy at Paris has given your Foreign Office our general views on these questions which briefly are as follows:

1. We are disposed to give the Ethiopians freedom of action in the matter of customs tariffs provided that our trade receives treatment not less favorable than that accorded to any third country.

2. In view of the undeveloped state of the present judicial system in Ethiopia we think that suitable provision should be made for the continuance of extraterritorial jurisdiction.

We are authorizing our Minister Resident at Addis Ababa to join with his colleagues of the Diplomatic Corps in discussing the means by which some general agreement on this question may be worked out.

Very sincerely yours,

PAUL H. ALLING

751.842/24

The Acting Secretary of State to the Minister in Ethiopia (Southard)

No. 201

WASHINGTON, July 28, 1931.

SIR: The Department has been informed that the Embassy at London has transmitted to you a copy of its despatch No. 2011 of June 11, 1931,¹⁵ together with a copy of its enclosure, a note dated June 10, 1931, from the British Foreign Office with regard to the proposed modification of Articles three and seven of the Franco-Ethiopian Treaty of January 10, 1908. For your convenience a copy of the above mentioned despatch and a copy of its enclosure are attached hereto.

The Department is in agreement with the Foreign Office that it would be desirable to amend Article three of the treaty in question so as to permit the exercise by the Ethiopian Government of full fiscal autonomy, provided that the United States receives treatment not less favorable than that accorded to any third country. It is also of the opinion that it would be desirable to clarify and expand the text of Article seven of the treaty along the lines suggested in paragraph numbered four of the Foreign Office note.

You are, therefore, authorized to join with your colleagues of the Diplomatic Corps in discussing the character of the modifications in question and the means by which they may be accomplished. The Department is prepared to leave to your discretion and judgment the details of these modifications which it believes should be along the general lines suggested in the Foreign Office note.

Before authorizing you to accept definitely any arrangements that may be agreed upon by the Diplomatic Corps the Department would wish to receive a complete text of the protocol or other instrument by which the arrangements are made. In this connection it may be necessary, depending upon the character of the agreement which may be concluded, to furnish you with full powers to sign on behalf of this Government. In this connection the Department would also have to consider whether any agreement which may be made was of such a nature as to require the advice and consent of the Senate to ratification.

Very truly yours,

W. R. CASTLE, JR.

¹⁵ See footnote 9, p. 221.

751.842/24

The Acting Secretary of State to the Chargé in Great Britain
(Atherton)

No. 875

WASHINGTON, July 28, 1931.

SIR: The receipt is acknowledged of your despatch No. 2011 of June 11, 1931,¹⁶ enclosing a copy of a note dated June 10, 1931, from the British Foreign Office with regard to the proposed modification of Articles three and seven of the Franco-Ethiopian Treaty of January 10, 1908.

You may inform the Foreign Office that the Department concurs in its views with respect to the desirability of modifying the treaty along the lines suggested in its note of June 10, 1931, and that appropriate instructions to that end have been issued to the American Minister Resident at Addis Ababa.

For your information there is enclosed a copy of the Department's instruction of this date to the Minister Resident.¹⁷

Very truly yours,

W. R. CASTLE, JR.

884.512 Consumption/24

The Acting Secretary of State to the Chargé in Great Britain
(Atherton)

No. 880

WASHINGTON, August 1, 1931.

The Acting Secretary of State refers to the Embassy's despatch No. 2011 of June 11, 1931,¹⁶ transmitting a copy of a note dated June 10, 1931, from the Foreign Office with regard to the proposed modification of the Franco-Ethiopian Treaty of January 10, 1908, and encloses a copy of despatch No. 748 of June 22, 1931, from the American Minister Resident at Addis Ababa¹⁸ in further reference to this subject.

It will be observed from the last mentioned despatch that the British Minister at Addis Ababa has informed the Minister Resident that his Government has adopted a new attitude toward this matter, which in some respects appears to be inconsistent with its position as set forth in the Foreign Office note of June 10, 1931. The Acting Secretary of State would be glad to receive any information which may be available regarding the new attitude which the British Government is reported to have adopted.

[File copy not signed]

¹⁶ See footnote 9, p. 221.

¹⁷ *Supra*.

¹⁸ Not printed.

884.512 Consumption/29

*The Minister in Ethiopia (Southard) to the Acting Secretary
of State*

No. 776

ADDIS ABABA, August 1, 1931.

[Received September 2.]

SIR: I have the honor to refer to the intention of the British, French and Italian Legations in Addis Ababa to protest to the Ethiopian Government against the recently promulgated excise tax law as a violation of the Franco-Ethiopian (Klobukowsky) Treaty of January 10th, 1908. Various reports have been made to the Department on this general subject.

My three colleagues have now decided upon the form of a note to be addressed to the Ethiopian Government by the Diplomatic Corps as a body if agreement to that end can be procured. If agreement is not possible the three propose to send the note over their own signatures.

Various meetings of the Diplomatic Corps have occurred and my German and Belgian colleagues have reluctantly agreed to adhere to the note. My five colleagues have urged upon me to join and I have informed them that my instructions are (Department's telegram No. 8 of May 7th, 1931) not to protest the excise tax law. However, as a result of their urging, and as a usual courtesy to their wishes, I am sending herewith a copy of the proposed note of protest¹⁹ with a request for either a confirmation of my original instructions or for such amended instructions as the Department may desire to give. The note has, for purposes of greater accuracy, been left in the French as originally drafted.

I may say that my British, French and Italian colleagues are the most active in this movement. The German and Belgian representatives are not enthusiastic, but appear to have instructions permitting them in their discretion to join in a protest should the majority of the Corps be in favor. These two have been now persuaded at least temporarily to adhere to the note, although I am of the opinion that the Belgian at least will withdraw unless I am authorized to join in the protest.

In a previous report the Legation indicated that the British, French and Italian Ministers proposed to procure authorization from their respective governments to threaten reprisals in the event of a rebuff from the Ethiopians in response to the protest. My British colleague says that his Government has declined to promise such authorization. My Italian and French colleagues say that their respective Governments have reserved decision until developments require it to be made.

¹⁹ Not printed.

The attached project of note includes reference to the Anglo-Ethiopian Gambella Agreement²¹ which was forwarded, with comment, in the Legation's No. 775 of July 29th, 1931.²²

In my opinion there exists no particularly sound reason for a change in my original instructions not to protest the excise tax law as a violation of the Klobukowsky Treaty. I fear such protest may cause the Ethiopians again, and perhaps definitely, to consider denouncing the Klobukowsky Treaty which would result seriously in taking away the judicial privileges which we now have under Article Seven of the Treaty. I have been unable to find in Ethiopian official circles any inclination to consider more liberal or better defined privileges than are at present permitted by Article Seven. On the contrary I find an inclination to consider either greatly restricting or abolishing the privileges should Article Seven be brought to an issue by the Diplomatic Corps.

The excise tax law does seem a violation of the Anglo-Ethiopian Gambella Agreement and we might adhere to a protest on that basis alone. Whether or not the excise tax law is a violation of the Klobukowsky Treaty, and that seems debatable at least, we have nothing definite to gain by joining in the proposed protest and there is much that we might lose particularly in connection with the above mentioned Article Seven.

I would greatly appreciate it if the Department would upon receipt of this despatch telegraph me, either confirming my original instructions not to protest or indicating such amended instructions as may seem to it desirable. My colleagues have asked me to bring this proposed note before the Department by telegraph but the considerable expense does not under prevailing circumstances seem justified. I am, therefore, sending it by mail with a request for telegraphic reply which I assume can be brief.

Respectfully yours,

ADDISON E. SOUTHARD

884.512 Consumption/34

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] August 25, 1931.

Count Marchetti, Counselor of the Italian Embassy, came to see me on July 30th, stating that the Embassy had been instructed to as-

²¹ Regarding the custom duties to be collected by the customhouses between the Government of Ethiopia and the Sudan, signed at Addis Ababa, March 3, 1928 (884.512 Consumption /27).

²² Not printed.

certain whether this Government intended to make any protest to the Ethiopian Government as a result of the new excise tax which has recently been enforced in Ethiopia. I told Count Marchetti that the Department had no such intention and had so informed our Minister at Addis Ababa.

Count Marchetti then inquired as to this Government's attitude with respect to the possible denunciation of the Klobukowski Treaty, which is the basis of foreign capitulatory rights in Ethiopia. I told Count Marchetti that we were disposed to show every leniency to the Ethiopians in fiscal matters and that therefore we would be prepared to agree to any modification of Article 3 of the above-mentioned Treaty which limits the freedom of action of Ethiopia in tariff matters. It seemed to us wise, I said, to make the above concessions to the Ethiopians in order to preserve as far as possible the rest of the Klobukowski Treaty covering the Capitulations. I reminded him that the position of the Powers disposed to protest the new excise duties on the ground that they were in violation of the Klobukowski Treaty, was very weak inasmuch as provision is made in the Treaty itself for denunciation on twelve months' notice; therefore, any protest made by the Powers to the Ethiopians might, instead of accomplishing the objective of the Powers, merely result in the denunciation of the Treaty as a whole, which would leave us all without any specified capitulatory rights in the country.

Count Marchetti said that his Government's views with regard to the Capitulations in Ethiopia coincided entirely with our own, but that his Government was now apparently in agreement with the French that it would be inconsistent to discuss with the Ethiopians a modification of Article 3 of the Klobukowski Treaty without protesting a violation of that Article, which had already taken place. I remarked that in my opinion there would be little satisfaction in having made a protest in this matter if by doing so all of us lose the benefits of the Treaty as a whole in case of denunciation.

WALLACE MURRAY

884.512 Consumption/41 : Telegram

The Secretary of State to the Minister in Ethiopia (Southard)

[Paraphrase]

WASHINGTON, September 30, 1931—5 p. m.

22. Your mail despatch No. 776, August 1. The Department perceives no reason, from the information available, to alter its instruction in telegram 8, May 7, 4 p. m.

The plan which the American financial adviser in Ethiopia suggested in his memorandum ²³ (see enclosure in your despatch No. 789, August 15 ²⁴) is considered by the Department to offer a reasonable basis for discussion. A plan such as this would be acceptable to the American Government on condition that suitable assurances are given by Ethiopia that Article 7 of the Klobukowsky Treaty of 1908 be continued in force, either in its present form or after amendment in agreement with the Powers interested, for a definite term of years not to be less than 10.

STIMSON

884.512 Consumption/45

The Minister in Ethiopia (Southard) to the Secretary of State

No. 827

ADDIS ABABA, October 3, 1931.

[Received November 5.]

SIR: I have the honor to refer to the Legation's No. 822 of September 28th, 1931,²⁴ reporting that the local British, French and Italian representatives had presented to the Ethiopian Government a protest against the excise tax law and to enclose herewith in the original French a copy of their actual note.²⁴ An English translation will be prepared and forwarded later.

This note is based upon the draft ²⁴ forwarded with the Legation's No. 776 of August 1st, 1931, which was at the time proposed by my British, French and Italian colleagues for signature by the Diplomatic Corps as a body. The Department is familiar from the Legation's various reports with the reasons which prevented agreement of the Diplomatic body as a whole. After consideration my British, French and Italian colleagues decided to make the note of protest their own and submitted it in the form of the attached document. It does not, in effect at least, differ greatly from the original draft mentioned in the opening sentence of this paragraph.

The Ethiopian Government has already replied to this note of the three powers and the Legation expects shortly to have a copy of that reply to forward to the Department. The reply is understood to have been very unsatisfactory to my three colleagues.

Respectfully yours,

ADDISON E. SOUTHARD

²³ Namely, repeal of the excise taxes by Ethiopia on condition that the powers amend article 3 of the Franco-Ethiopian treaty so as to accord Ethiopia freedom of action in customs matters.

²⁴ Not printed.

884.512 Consumption/49

The Minister in Ethiopia (Southard) to the Secretary of State

[Extract]

No. 835

ADDIS ABABA, October 12, 1931.

[Received November 13.]

SIR: I have the honor to refer to the Legation's No. 831 of October 8th, 1931 enclosing copy of the reply made by the Ethiopian Government to the recent British-French-Italian note of protest on the excise tax law.²⁵

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The next and latest step taken was a reply two days ago (on October 10th, 1931) by the British, French and Italian representatives, to the Ethiopian communication referred to in the opening paragraph of this despatch. This reply was brief (the Legation has not yet a copy) and stated merely that the three representatives could not negotiate on the basis of the Ethiopian proposal. The next step is presumably up to the Ethiopians.

My three colleagues a few days ago approached me with a request that I visit the Emperor and discuss with him the negotiations as to Articles three and seven of the Klobukowsky Treaty, hoping that I could thereby find some way out of the impasse into which they had apparently gotten themselves. I declined to take up any such discussion in a formal way, but promised to mention the matter informally to the Emperor at the first opportunity and discover, if possible, what he might be actually thinking in the connection. I had occasion on October 9th, 1931, to see the Emperor on other business, and mentioned the excise tax law protest. His Majesty thereupon gave me a sketch of his negotiations with the British, French and Italians (with which I was already familiar from other sources) and confessed that he was in considerable doubt as to what he should finally do. He thought that perhaps he ought to insist on the cancellation of Article three of the Treaty, and had been so advised by Messrs. Colson, Kolmodin, and others. But he didn't feel at all sure about insisting, and thereupon asked my advice. Naturally I evaded any definite reply to this request. I did, however, suggest that he might find assistance in making up his mind by an informal discussion with all the heads of Legation assembled with him for that purpose. He appeared to favor this suggestion but didn't say definitely that he would follow it. I am inclined to think, however, that he may shortly act on it.

I also obtained the impression from my conversation with His Majesty that he resented being approached by the three powers alone

²⁵ None printed.

for the negotiations already reported upon. He appears to have the opinion that negotiations in connection with the Klobukowsky Treaty should be taken up with the Ethiopian Government either by the Diplomatic Corps as a whole or by only the French interest as signatory of the Treaty. I informally communicated this impression of the Emperor's opinion to my British, French and Italian colleagues. They thereupon called a meeting of the Diplomatic Corps and proposed that decision as to the next step in the negotiations be taken by that body as a whole. The decision arrived at was that we had best wait a while and find out whether the Ethiopians would make any reply, or otherwise give an opening for resumption of negotiations, to the three-power note of October 10th, 1931, mentioned in the third paragraph of this despatch.²⁹

On the occasion of my informal conversation with His Majesty I took opportunity to indicate to him that the American Government would expect some definite statement in connection with Article seven of the Klobukowsky Treaty should we become party to any modification in connection with Article three. I intimated that there would be expected from him a definite statement that Article seven, or an at least equally favorable arrangement in place thereof, would continue in force for the next several (perhaps ten) years. He replied that he had as yet no intention of changing Article seven until he should have prepared an arrangement mutually satisfactory to the Ethiopian Government and the foreign powers concerned. He did not indicate that he had in mind any definite plan either as to the time or as to the substance of a new arrangement under Article seven.

Respectfully yours,

ADDISON E. SOUTHARD

LACK OF JURISDICTION BY AMERICAN CONSULAR COURT IN ETHIOPIA OVER ALIENS IN BEHALF OF WHOM THE UNITED STATES EXTENDS ITS GOOD OFFICES

384.00/4

The Acting Secretary of State to the Minister in Ethiopia (Southard)

No. 196

WASHINGTON, July 7, 1931.

SIR: The receipt is acknowledged of your despatch No. 709 of May 4, 1931, enclosing a list of the countries whose nationals are under the protection of each of the foreign legations and consulates in Ethio-

²⁹ A new excise tax law, modifying previous laws, was decreed by Ethiopia on August 3, 1933, further reducing taxes.

pia.³⁰ From the second paragraph of this despatch the Department has obtained the impression that you may consider that you are authorized to accord the facilities of your consular court to nationals of Chile to whom you were authorized to extend your good offices by the Department's telegraphic instruction of July 1, 1930.³⁰ In order that there may be no misconception of your authority in your judicial capacity to take cognizance of matters in which the sole interests involved are those of Chilean or of other foreign nationals, it is considered desirable to set forth the legal bases upon which rest the extraterritorial jurisdiction of American consular officers in Ethiopia.

The pertinent provision of the Act of Congress which confers judicial authority on American consular officers in certain foreign countries (including Ethiopia by virtue of Section 4129 of the Revised Statutes and the treaty concluded with Ethiopia in 1914³¹) reads as follows:

"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 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. . . ." (R. S. Section 4086; Title 22, Section 145, U. S. Code.)

By virtue of the quoted provision of law, American consular officers may exercise jurisdiction over persons other than American citizens to the extent that the terms of the treaties, respectively, justify or require.

The underscored words clearly refer to protégés whom the United States was specifically authorized by certain treaties to protect. It is clear, therefore, that they would not be effective to confer jurisdiction on the American Consul General in Ethiopia over non-nationals unless the United States is entitled by treaty to exercise jurisdiction over other than American citizens. The treaties on which the United States relies for its extra-territorial jurisdiction in Ethiopia are Article VII of the Franco-Ethiopian Treaty of 1908³² and Article III of the treaty concluded between the United States and Ethiopia in 1914. By the former treaty France is entitled to exercise jurisdiction in Ethiopia over French nationals and "protégés" but the jurisdictional

³⁰ Not printed.

³¹ Treaty of commerce, signed at Addis Ababa, June 27, 1914, *Foreign Relations*, 1920, vol. II, p. 243.

³² Treaty of friendship and commerce, signed at Addis Ababa, January 10, 1908, *British and Foreign State Papers*, vol. CI, p. 997.

rights granted to the United States are restricted to citizens of the United States as appears from the text of Article III of the United States-Ethiopian Treaty of 1914 which reads as follows:

"The two contracting Governments shall reciprocally grant to all citizens of the United States of America and to the citizens of Ethiopia, all the advantages which they shall accord to the most favored Power in respect to customs duties, imposts and jurisdiction."

It appears to be clear, therefore, that the good offices which the Legation and Consulate General at Addis Ababa was authorized to exercise in behalf of Chilean nationals in Ethiopia could not and did not confer any authority on the Minister Resident and Consul General to exercise judicial authority over Chilean citizens.

In view of the foregoing the Department is of the opinion that it would be improper for you to assume jurisdiction in your consular court in any case in which none of the parties involved is a citizen of the United States.

While the Department desires to avoid any discussion of the question with the Ethiopian Government, it considers that the words "all citizens of the United States of America" as used in the treaty provision above quoted should be interpreted to include citizens of the territorial possessions of the United States as well as those having the legal status of "citizens of the United States".

Very truly yours,

W. R. CASTLE, JR.

FRANCE

VISIT OF PIERRE LAVAL, PRESIDENT OF THE FRENCH COUNCIL OF MINISTERS, TO THE UNITED STATES, OCTOBER 22-26, 1931

033.5111 Laval, Pierre/1 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 19, 1931—noon.

[Received September 19—8:40 a. m.]

584. *L'Information*, evening financial organ, printed last night an article signed by Fernand de Brinon who had arranged for an interview on Wednesday between James MacDonald, Chairman of the Foreign Policy Association, and the Prime Minister. The article set forth the possibility and desirability of an interview between President Hoover and Prime Minister Laval and indicated the French Government would not be impossible and that it would be desirable.¹ It would merely be an effort for mutual explanations and understanding.

[Paraphrase.] The conversation between Laval and MacDonald on Wednesday during which the Chairman of the Foreign Policy Association informally and on his own behalf suggested the desirability of such a meeting (see my letter of 18th of September²) is the immediate basis for this article. According to MacDonald, the Prime Minister seemed receptive but he did not definitely commit himself.

According to information which the press here has received from the Prime Minister's office, there is the suggestion that if such a voyage could be arranged before the meeting of the French Parliament in October, Laval's office was merely awaiting some official word of invitation in order to make a decision on the matter.

I have not conversed with any of the French officials on this subject. I shall be very glad to learn your attitude in order that I might speak with Laval before his departure for Berlin next week. [End paraphrase.]

EDGE

¹ This sentence is apparently garbled.

² Not printed.

033.5111 Laval, Pierre/2 : Telegram

The Secretary of State to the Ambassador in France (Edge)

[Paraphrase]

WASHINGTON, September 19, 1931—4 p. m.

455. Embassy's 584, noon, 19th of September. You are to see Laval and to tell him that if the newspaper reports to which you have referred correctly indicate a sentiment in France favorable to a visit by him to the United States, you have authority to state that President Hoover would be most happy if the Prime Minister found it convenient to make this visit; and that the President is of the opinion that such an opportunity for a personal acquaintance and discussion would be of inestimable value.

STIMSON

033.5111 Laval, Pierre/3 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, September 21, 1931—noon.

[Received September 21—8:40 a. m.]

588. Department's No. 455, 19th of September, 4 p. m. I conferred this morning with the Prime Minister. Last night, Laval had issued a statement, which, however, did not appear in the Paris English language newspapers. According to this statement, it would be impossible for Laval to visit the United States at this time. My engagement with Laval was arranged for 9:30 this morning and prior to the time that the Embassy was aware of the publication of this statement. I took advantage of the opportunity, however, to express to the Prime Minister how happy Mr. Hoover would be if the newspaper reports were true and the visit could be arranged. The President was of the opinion, I continued, that such an opportunity for personal acquaintance and discussion would be of the greatest value. Supplementing the statement which he had issued to the press, the Prime Minister explained in detail how impossible it was from a practical standpoint to leave at this time. The circumstances involved are: the general situation in France; his visit to Berlin at the end of this week; the preparations for the convening of Parliament toward the end of October; and the necessity of his being here during the cantonal elections which take place about October 18. He expressed himself as "deeply touched" with the sentiments of the President. The Prime Minister understood, of course, why I did not extend a formal invitation.

Since I have dictated the preceding statements, the Embassy has received a personal telephone call from Laval who requested that you not be notified of any final decision of his until he has an opportunity to confer with President Doumer. Laval stated that he will communicate with me further tomorrow or tonight. He has requested, too, that, in the meantime, nothing be given to the press.

EDGE

033.5111 Laval, Pierre/4 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, September 21, 1931—6 p. m.

[Received September 21—5 p. m.³]

591. Department's 455, 4 p. m., September 19; the Embassy's No. 588, September 21, noon. As I pointed out in the final paragraph of telegram No. 588, the Prime Minister telephoned me this afternoon and stated that he had had a conference with the President of France following my visit to Laval this morning. Notwithstanding Laval's many duties President Doumer advised him to go to the United States. Laval stated that the matter would be decided at the meeting of the Cabinet on Friday. In view of the public interest he later gave the following statement to the press:⁴

"Monsieur Pierre Laval received Mr. Walter Edge the American Ambassador this morning who transmitted to the President of the Council of Ministers an invitation from President Hoover to visit Washington.

Monsieur Pierre Laval begged Mr. Walter Edge to express to President Hoover his thanks for his cordial invitation.

He agreed with the President of the United States that an interview of this nature was desirable and would lend itself to the examination of all the grave problems whose solution at the present time must be facilitated by direct conversations.

Although at the present juncture Monsieur Pierre Laval did not feel himself at liberty to give a final reply, he took the occasion to stress the satisfaction with which French opinion would learn of President Hoover's invitation."

With reference to the Embassy's telegram No. 588, when the Prime Minister expressed his belief that he could not visit the United States at this time, I did not extend a formal invitation; but I merely stated how pleased the President would have been if he had learned that the visit could be arranged. This was repeating the substance of your telegram No. 455. In view of the possibility now that the Prime Min-

³ Telegram in three sections.

⁴ Quotation not paraphrased.

ister may visit the United States and in view of my qualified conversation with Laval based mostly upon newspaper gossip, it might be in order if the Department extended an official invitation before the meeting of the Council of Ministers on Friday.

EDGE

033.5111 Laval, Pierre/26

Memorandum by the Secretary of State

[WASHINGTON,] September 24, 1931.

During the call of the German Ambassador,⁵ he asked me about M. Laval's visit. I told him we were waiting to hear on Friday whether he would come. I said that I had formed a high opinion of Laval when I was in Europe this summer and I felt that it was very fortunate in the present situation that two men like Bruening⁶ and Laval were occupying their respective positions. I told him, with a smile, that I could think of many men who would be less satisfactory occupants of those positions. He said that Laval was going over to see Bruening next Sunday and that he hoped that progress would be made in their discussions. I joined in this and told him that after Laval's visit it would be Bruening's turn and I hoped he might come over here some time. The Ambassador said that he was sure Bruening would enjoy it if he could ever find a chance to get away.

H[ENRY] L. S[TIMSON]

033.5111 Laval, Pierre/27

Memorandum by the Secretary of State

[WASHINGTON,] September 24, 1931.

During the call of the Italian Ambassador⁷ he asked me about the visit of M. Laval and whether that was going to undo all our policy of disarmament. I told the Ambassador, by no means, and I spoke of the good opinion I had formed of Laval during my visit to Europe and said that I thought his influence was for moderation in French policy. I called the Ambassador's attention to my appointment of Wilson⁸ as a member of the Committee on the Grandi holiday proposal⁹ as evidence of my sincere desire to back them up.

H[ENRY] L. S[TIMSON]

⁵ Friedrich W. von Prittwitz und Gaffron.

⁶ Heinrich Bruening, German Chancellor.

⁷ Nobile Giacomo de Martino.

⁸ Hugh R. Wilson, Minister in Switzerland.

⁹ See vol. I, pp. 440 ff.

033.5111 Laval, Pierre/15 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, September 25, 1931—3 p. m.

[Received 6:55 p. m.¹⁰]

599. The British Ambassador to France, Lord Tyrrell, called on me Thursday night and outlined his conversation with Laval the day before in which he had discussed with the Prime Minister the latter's proposed visit to the United States.

Tyrrell stated that he had advised Laval that he, the Prime Minister, should utilize the opportunity for frank discussion and endeavor to reach some possible common ground on the important questions such as armament limitation, rather than to confine the discussions to subjects of a non-controversial nature. The latter course appears to be the plan for the impending visit of Laval and Briand¹¹ to Germany. The Ambassador pointed out that the Prime Minister had approved of his advice. Tyrrell was of the opinion that Laval would make some useful suggestion.

It was emphasized to me by the Ambassador, who heartily approves of Laval's visit, that some advance understanding between the United States, Great Britain, and France is necessary if the Geneva Conference is destined to avoid complete failure.¹²

At considerable length the British Ambassador then reviewed the several possibilities upon which he thought France might be induced to join in a real limitation of armament program. These were:

1. An enlargement of a general suggestion, offered by Briand and supplemented by Madariaga¹³ in their speeches at Geneva on September 11,¹⁴ that in the event a nation violated the Kellogg-Briand Pact,¹⁵ the United States together with other nations of the world should assume a position of neutrality. During the effort to reason with or punish the aggressor state, they should consider the situation as it was. Tyrrell did not make clear who would decide as to the culpability of the offending state but the Ambassador understands clearly that the United States could not allow the deciding agency to be the League of Nations.

¹⁰ Telegram in five sections.

¹¹ Aristide Briand, French Minister for Foreign Affairs.

¹² For correspondence on preparations for the General Disarmament Conference see vol. I, pp. 471 ff.

¹³ Spanish representative at meetings of the 12th Assembly of the League of Nations.

¹⁴ League of Nations, *Official Journal*, Special Supp. No. 93 (Geneva, 1931), pp. 69 and 77.

¹⁵ *Foreign Relations*, 1928, vol. I, p. 153.

2. The British Ambassador also discussed the possibility of a consultative pact added to the Briand-Kellogg treaty, as well as an agreement of some equitable form of budgetary finances and appropriations for national defense, among the three nations of Great Britain, France, and the United States. In this connection, Tyrrell may be familiar with the American position on budgetary finances for national defense as advanced a year ago in Geneva at the Preparatory Disarmament Commission.¹⁶ He agreed that the percentage budgetary reductions must of necessity be based upon the expenditures of each country, rather than upon a comparison of the totals between countries.

I asked the Ambassador how far along the lines of these possibilities he had carried on his discussions with Laval. Tyrrell replied that he had not come to the details, beyond discussing the necessity of a common ground as a derivative beginning between the three Governments. He had stated to the French Premier that the latter's visit ought to greatly improve the possibility of such an understanding.

Another interesting bit of information was given to me by Tyrrell. He had recently talked to Berthelot, who ranks under Briand in the French Foreign Office,¹⁷ with regard to the possibilities of the forthcoming Franco-German conversations. Berthelot told the Ambassador that, during the past 2 or 3 weeks, it had appeared as if the proposed visit to Germany had probably been a mistake because of the recent antagonistic attitude there. Berthelot thought that everybody realized that very little could be accomplished in Germany, but that since Laval's visit to the United States had been publicly announced, the German situation had undergone a decided change. According to Tyrrell, it seemed to be Berthelot's opinion (and I have also heard the sentiment expressed in other Government quarters) that Germany had recently assumed the position that France, because of various attitudes, was being criticized if not isolated by all the major nations and it would be just as well to ignore her for the present. It appears, however, that a different or more receptive state of mind in Germany has developed as a result of the possibilities inherent in the Laval conversations scheduled in Washington.

EDGE

¹⁶ See *Foreign Relations*, 1930, vol. 1, pp. 187 ff. For previous correspondence concerning the work of the Preparatory Commission for the Disarmament Conference, see *ibid.*, 1926, vol. 1, pp. 40 ff.; *ibid.*, 1927, vol. 1, pp. 159 ff.; *ibid.*, 1928, vol. 1, pp. 235 ff.; *ibid.*, 1929, vol. 1, pp. 65 ff.

¹⁷ Philippe Berthelot, Secretary General of the Ministry for Foreign Affairs.

033.5111 Laval, Pierre/14 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 25, 1931—4 p. m.
[Received September 25—12:15 p. m.]

600. Our 591, September 21, 6 p. m. The Council of Ministers met this morning and I was informed at the conclusion of the session at half past 12 that it had unanimously decided in favor of Prime Minister Laval's visit to the United States. I delivered the invitation for the Prime Minister in the following terms:

"Acting under instructions of the Secretary of State I have the honor to inform you that the President would be most happy if it were convenient for you to visit him and that the President feels that such an opportunity for a personal acquaintance and discussion would be of the greatest value".

Under cover of a note to Monsieur Briand as follows:

"I have the honor to enclose a copy of the invitation to visit the United States which on the instruction of my Government I shall present today to His Excellency the Prime Minister.

I avail myself of this occasion to express the hope that the visit of the President of the Council of Ministers will furnish a further constructive link in the long and historic chain of Franco-American understanding and I renew to Your Excellency the assurance of my highest consideration".

EDGE

033.5111 Laval, Pierre/18 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 26, 1931—noon.
[Received 2:40 p. m.]

606. Prime Minister Laval transmitted to the Embassy this morning the following note in formal reply to the invitation of the President which I personally handed him yesterday (see my telegram 601, September 25, 6 p. m.¹⁸).

"I should be very grateful if you would transmit to the Secretary of State my thanks for the invitation which he so kindly conveyed to me on behalf of the President of the United States of America.

I shall be very happy to proceed shortly to Washington to confer with President Hoover".

EDGE

¹⁸ Not printed.

462.00R296/5150 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, October 1, 1931—3 p. m.

[Received October 1—2:25 p. m.¹⁹]

622. I received Flandin, French Minister of Finance, at his request yesterday afternoon at the Embassy residence. Flandin had previously indicated that as soon as opportunity afforded, he would like to have an opportunity to discuss with me, informally but uninterruptedly, various problems which mutually concern France and the United States. He made it clear upon his arrival that the discussion would be most informal and unofficial, merely representing his personal view, although the influence of Flandin is universally admitted and recognized in French administrative circles. Anything which he might say unofficially can be reasonably construed as representing policies he would endorse officially.

The Minister of Finance began with a very gloomy picture of what had already happened financially and said he feared still greater financial catastrophe to come unless some dramatic move to restore confidence was initiated and carried out and that apparently the United States and France were the only two nations able and equipped to lead such a movement. Flandin's first concrete suggestion was that Germany must be still further relieved and that Germany could not be expected to continue full payments under the Young Plan ²⁰ at the end of the present moratorium period, and that in order to exert helpful influence on existing conditions, it was necessary that something should be done as soon as possible rather than by delay and lack of action to continue to encourage uncertainty. He proposed that it was his belief that the elimination of the conditional reparation payments from Germany would be favorably considered by France, retaining only the unconditional payments—which, as you know, are placed by France in a distinct and separate class—provided the United States would grant to France a substantial reduction in the French war debt. Continuing, he repeated the old argument that when the war debt agreement sponsored by the United States had been ratified by the French Parliament, it had been coincident with the passing of a resolution that any reduction in German reparations would be contingent on a reduction of the war debt of France.

In my reply to Flandin, also entirely unofficially and informally, which I took care to emphasize, I expressed it as my personal judg-

¹⁹ Telegram in six sections.

²⁰ See Great Britain, Cmd. 3343 (1929) : *Report of the Committee of Experts on Reparations*; also vol. I, pp. 332 ff.

ment that his proposal was completely impossible; that in effect it would simply mean next summer the German debt to France would be transferred to the United States, something which the American people would never countenance. I repeated that unless France had something attractive and very definite to connect with such a proposition which would insure substantial budgetary reductions both abroad and at home, a proposal such as Flandin had made would merely add to the uncertainties rather than accomplish anything in the way of begetting the confidence which he stated was so important. Our familiar argument, that it was a great mistake for the French people not to realize that these war debts were as just and valid as the loans being made to Germany, England, or other countries at the present time, was repeated by me; that France always seemed to forget that every dollar of the amount agreed upon in the debt settlement had been loaned to her after the Armistice. After this old threadbare argument had been threshed out on both sides and I had further indicated to the Minister of Finance that if he was going to save the world he would have to dig a great deal deeper, he brought up the subject of the security France demanded if she were to consider favourably armament limitation. Flandin admitted frankly that he understood perfectly that no agreement or alliance would be entered into by the United States Government to defend any country in case of attack but he wondered in connection with the Kellogg-Briand Pact if some type of understanding could not be arrived at through which in case of violation of the Pact the United States at least would agree to offer no help and would refuse to trade with an aggressor nation. His conversation at this point was very similar to Lord Tyrrell's conversation (refer to Embassy's telegram No. 599, 3 p. m., September 25). Moreover, he pointed out that if an arrangement of this sort could be reached, he believed so far as he was concerned that it could be made a part of a general plan for definite limitation of armaments and a readjustment of war debts and reparations. The Finance Minister stated that he realized fully that the United States must determine the aggressor and violator of the Pact. Indeed, Flandin went further in these directions than any other French official to whom I have previously talked. Flandin discussed the fact that the reduction of appropriation for national defense on the percentage basis would be quite possible, provided (this point was repeatedly emphasized) satisfactory assurance could be given that Germany too would not beat the devil around the bush and would also maintain at a low level all appropriations that might lead to military development such as police organizations, etc.

We then talked about a method by which the German reparations situation might be approached and Flandin clearly admitted that in

his opinion the Young Plan could not be maintained in its entirety, which has been referred to earlier in this telegram. The Finance Minister favored some sort of plan which would fix a final sum of indebtedness due from Germany and to the United States on account of war debts and accepting from Germany government bonds covering their complete indebtedness which should be distributed according to plans that might be fairly drawn up. Put in another way, he seemed to favor the transferral of reparation payments to bonded indebtedness again with a proviso that if a further revision was made in Germany's favor there would be no further repudiation and that Germany would pay. Naturally, this brought up the question of possible methods of guarantees beyond those which the Young Plan provides. The Finance Minister was not ready to suggest a method but he repeated his opinion that after a third revision Germany must be compelled to pay and a method must be devised to make this clear. Throughout the conversations Flandin emphasized his conviction that the situation was so serious that it was necessary for both the United States and France to reach common ground upon which to proceed and that it was by no means impossible on the part of France to agree to limitation of armaments and that France in common with all other countries was facing great budgetary difficulties. I asked the Finance Minister whether Laval, when he arrived in the United States proposed to discuss these questions as comprehensively as had been done by Flandin. It was Flandin's view that he hoped he would, but that Laval might need some encouragement to go so far, as he was a cautious man. It was my endeavor to impress him with the urgency of making Laval realize that he should put all the cards on the table as things were in a state of impasse.

I indicated to Flandin at various times during the conversation that while naturally the United States was very much interested and desirous of being of any possible help throughout the world, still if France or other nations were not prepared to meet the well-known policy of the United States at home, we, of course, could continue along as we had done in the past and, although, like everybody else, we had our own economic troubles we had no fear but that we would in the end come through with a bank balance on hand. The Finance Minister endeavored to meet these indications of possible isolation with the usual plea that he was positive the United States would not take this position and that the United States had too much at stake financially not to take a real interest in the world's affairs and to adopt an isolation policy. I believe my conversation with Flandin will interest the Department in view of Laval's visit, and it is my personal opinion that Flandin made this visit to me for the sole purpose of opening up these possibilities in an unofficial manner.

EDGE

033.5111 Laval, Pierre/48

Memorandum by the Secretary of State

[WASHINGTON,] October 1, 1931.

During the call of the Bulgarian Minister,²¹ he congratulated me on the results of my trip to Europe last summer,²² and said that everyone was looking forward to the great importance of M. Laval's visit. I replied that we were trying to do all in our power to make that visit a success; that I had been myself greatly encouraged by the fact that this summer the statesmen representing France, Germany, England and Italy were beginning to meet and talk in a friendly spirit about subjects they would not have dared to discuss a year or two ago. He said that was so and he thought it was the beginning of a new era. He commented on the influence of America in this situation. I told him that while our people would not intrude into local problems of Europe, they were interested in one large aspect of the European situation: namely, that these local questions should be settled without war and in a peaceful and reasonable way which would not lead to war.

The Minister spoke of reparations and said that Europe had always had a "hypnos"; that at one time it was alliances, then it was war, and now it was reparations. I pointed out that the burden of reparations, even financially, was not at all the largest burden bearing on Europe. He said that that was so but this "hypnos" gave it an additional importance and he hoped that America could help clear away that "hypnos". I told him he must remember that that meant the burden of payments of the War should be entirely shifted over to America. He laughed and went out.

H[ENRY] L. S[TIMSON]

033.5111 Laval, Pierre/83 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, October 9, 1931—8 p. m.

[Received October 9—10:06 p. m.]

654. Department's number 482, 8th of October.²³ This afternoon when I saw Laval he told me that Reading²⁴ had offered no definite suggestions with regard to the Prime Minister's visit to the United

²¹ Simeon Radeff.²² See vol. I, pp. 536 ff.²³ Not printed.²⁴ British Secretary of State for Foreign Affairs.

States. Reading had only expressed his strong desire that some basis of an accord could be reached on the questions of reparations, debts, security, and armament. Laval stated that in the provisional state of the British Government, Reading had come to Paris only to acquaint himself with the prospects of the American visit, from which he hoped much, and with the results of the Berlin conversations.

It was indicated by Laval that he had gathered from the press that the President might be considering some detailed moratorium proposal. Taking the opportunity which was thus presented, I reassured him in accordance with the Department's telegram number 482, 4 p. m., October 8, to say that it was my hope that he, too, was not going to the United States with limited or definite prospects in mind. It is his intention, he stated, to have the fullest and freest exchange of views possible. Laval did not seem to be disturbed by the speculations and rumors in the press. Throughout the conversation he manifested the most pleasurable anticipation of his visit.

With further reference to the Department's telegram 482 and following the line of your explanation to newspaper men in the United States that "the Laval discussions will be a natural interchange of views and suggestions", I personally met at lunch yesterday, as the guest of Lawrence Hills, editor of the Paris *Herald*, 25 French newspaper men, including those who will accompany the Laval party to the United States. I employed this occasion to impress upon them the wide opportunity for a comprehensive exchange of views which the Laval visit would afford. Articles throughout the French press today, copies of which will be forwarded by pouch in the usual way, furnish very good evidence that this objective was accepted.

EDGE

033.5111 Laval, Pierre/115 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, October 17, 1931—9 p. m.

[Received October 18—1:45 p. m.]

670. *Le Matin* publishes today an alleged summary of the conclusions of memoranda prepared by Laval's experts for his use in Washington but not as rigid solutions from which no departure can be made; the principal points are:

1. All inter-governmental debts to be reduced 50 percent. No moratorium but some payments might be left in marks at the B. I. S.²⁵

2. Progressive disarmament by budget reductions, not by equalization of armaments, subject to the completion of the Kellogg Pact by article stipulating that the United States should concert with other

²⁵ Bank for International Settlements.

powers without delay in case of existing or threatening conflict and that the aggressor once recognized and denounced should receive no help of any kind.

3. France's unconditional share of reparations cannot be given up but will be taken in services or deliveries in kind.

4. Bimetallism and redistribution of gold are rejected. On a sound gold policy moneys should be based on a stock of gold instead of notes being considered as gold and likewise the basis of an inflation. France will not take over any of the credits frozen in Germany or South America but would open the Paris market to an issue of a government, especially the United States Government, wishing to obtain thereby liquid capital to aid its banks.

[Paraphrase.] Since *Le Matin* is considered to have access to governmental information, and since the aforementioned points are so similar to the suggestions made to me by the Minister of Finance, Flandin (see the Embassy's number 622, 3 p. m., October 1) I lean toward the belief that the above is very close to the program of the French. The Finance Minister has asked me for an engagement for another confidential conference before I sail on Wednesday. I assume naturally that this is for further development of the French point of view. My appointment with Flandin is scheduled for Tuesday afternoon at the Embassy. [End paraphrase.]

EDGE

033.5111 Laval, Pierre/124 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, October 21, 1931—9:00 a. m.

[Received 10:45 a. m.²⁶]

673. Last night, Flandin, Minister of Finance, called at the Embassy. He was anxious, he stated, that I should know the position which the Bank of France had taken in cooperating with the French Government to assist in circumventing the raid on the dollar. Approximately \$600,000,000 now on deposit in the Federal Reserve Bank and various American private institutions would not, Flandin assured me, be withdrawn in any part by the Bank of France. His decision had not, Flandin wanted me to know, been reached without considerable difficulty. The Minister stated that a number of the directors of the Bank of France had insisted upon withdrawals in order that the Bank should not be caught as they were with 2 billion francs invested in sterling when Great Britain went off the gold standard. Withdrawals by private banks or individuals could not be prevented by them, Flandin

²⁶ Telegram in four sections.

said. Every effort, however, had likewise been made by him and his associates to minimize these withdrawals. Flandin stated that Moret²⁷ had consulted with him and indicated that it would be difficult for him (Moret) to withstand the pressure of his directors unless the French Government would back him in his determination not to withdraw French credits because the directors have naturally been disturbed by the loss of 20 percent in their investment in sterling.

Of course, it was obvious that the Finance Minister wanted me to have this story in detail in order that the United States might be impressed with his friendliness. Although I accepted his overtures I could not avoid the suggestion that there would not have been much chance for the franc if the organized group had been successful in their raid on the dollar as they had been in Great Britain with sterling. Even though Flandin admitted this possibility, he, nevertheless, insisted that a great many French bankers felt that the franc was beyond successful attack and that they did not look that far ahead.

The Finance Minister was especially hopeful that a public announcement would be made following the conversations at Washington stressing the determination of France and the United States to maintain the gold standard (see Embassy's No. 671, 5 p. m., 19th of October²⁸).

Taking a line very much the same as in his previous talk with me, Flandin then reopened the discussion of the possible result of the conversations at Washington on the subjects of disarmament, reparations, war debts, and security (Embassy's telegram 622 of October 1, 3 p. m.). The previous interview which I had with him, he stated, had been discussed in detail with Laval but they did not feel that it would be possible or practical for any understanding to be concluded in Washington beyond the publicly expressed desire to continue the conversations in Paris and Washington after the two Governmental heads had freely exchanged views and had made a frank presentation of domestic political limitations. The world should be assured, Flandin felt, that common objectives had been agreed upon but that details or methods to put them into effect must necessarily await further conferences. A statement along this line in Flandin's opinion would be absolutely necessary from a political standpoint. He also expressed the opinion that naturally when Laval returned to France, Parliament, which will convene shortly, will ask for a report on the results of the conversations and that in order to continue the conversations it will be necessary for Laval to secure a vote of confidence. Therefore, if any decision had been reached in advance, the vote of confidence from a political point of view would probably be impossible or perhaps greatly circumscribed

²⁷ Clément Moret, Governor of the Bank of France.

²⁸ Not printed.

with conditions. That a similar situation might exist in the United States was assumed by Flandin.

Flandin stated quite emphatically during the conversation that while France would be willing to explore thoroughly different methods of achieving an agreement as indicated in his previous conversation, France would nevertheless never agree to give up all unconditional annuities from Germany although quite willing to accept payments in kind. Germany's favorable balance of trade was frequently pointed out by Flandin. Furthermore, he averred that his Government would not, under any circumstances, agree to continue the existing moratorium after July. In answer to my query as to what France's position would be if the moratorium should not be extended and yet Germany failed to pay the unconditional reparations, the Minister replied by indicating that if Germany repudiated the Young Plan, France had a number of ways along which she could proceed if she were left to her own resources. France could, for example, renounce the commercial treaty which had been negotiated a few years ago and could go back practically to the position they had occupied before the negotiation of the Young Plan. I inferred that this was an unsatisfactory position for France but this brought forth no response. I personally doubt very much whether France would hold out to such an extreme.

Flandin's desire to present these views to me was, I deduct, first, an attempt to show the obligation which he believes we should feel because of the French position in connection with the raid on the dollar; second, an endeavor to follow this up with an effort to stiffen the position of the French for whatever effect it might have on the conversations in Washington.

EDGE

033.5111 Laval, Pierre/151

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] October 21, 1931.

The British Ambassador²⁹ called to give me the substance of a telegram he had received from Lord Reading as to the hopes of the world concerning the Laval visit. Lord Reading said that since France and the United States by force of circumstances had become the two strongest nations in the world, the rest of the world looked at this visit of the French Premier with keen anticipation and hoped for great results. Lord Reading said that it was hoped not only that a good understanding might be reached between France and the

²⁹ Sir Ronald Lindsay.

United States, but that plans might be made looking toward the improvement of economic conditions through disarmament, settlement of war debts, etc., and that he hoped these plans might be very concrete.

I told the Ambassador that I thought it was very unfortunate that any such expectations as to the visit should be held. I remarked that M. Laval was going to be here three days only, that you can not settle world affairs in three days, and that there were many things which could not be settled between the United States and France in any case, because they concerned other nations.

I said that I hoped earnestly that this visit would bring a better understanding and that the President and M. Laval would have time to explore the possibilities of useful cooperation in the future, but that as to reaching many concrete decisions, this seemed to me extremely unlikely and probably unwise.

The Ambassador left after a short discussion of world affairs.

033.5111 Laval, Pierre/215

Joint Statement by President Hoover and Prime Minister Laval

[WASHINGTON,] October 25, 1931.

The traditional friendship between the United States and France, the absence of all controversy between our two Governments, a record of many events in collaboration toward peace of the world, embracing among its recent phases the adoption of the Kellogg-Briand Pact, render it possible and opportune for the representatives of our Governments to explore every aspect of the many problems in which we are mutually interested.

Indeed the duty of statesmen is not to overlook any means of practical cooperation for the common good. This is particularly true at a time when the world looks for leadership in relief from a depression which reaches into countless homes in every land. Relations of mutual confidence between governments have the most important bearing upon speeding the recovery which we seek. We have engaged upon that mission with entire frankness. We have made real progress.

We canvassed the economic situation in the world, the trends in international relations bearing upon it; the problems of the forthcoming conference for limitation and reduction of armaments; the effect of the depression on payments under intergovernmental debts; the stabilization of international exchanges and other financial and economic subjects.

An informal and cordial discussion has served to outline with greater precision the nature of the problems. It has not been the purpose of either of us to engage in commitments binding our governments, but rather, through development of fact, to enable each country to act more effectively in its own field.

It is our joint purpose that the conference for limitation of armaments will not fail to take advantage of the great opportunity which presents itself and that it will be capable of meeting what is in reality its true mission, that is the organization on a firm foundation of permanent peace.

Insofar as intergovernmental obligations are concerned we recognize that prior to the expiration of the Hoover year of postponement, some agreement regarding them may be necessary covering the period of business depression, as to the terms and conditions of which the two governments make all reservations. The initiative in this matter should be taken³⁰ by the European powers principally concerned within the framework of the agreements existing prior to July 1, 1931.

Our especial emphasis has been upon the more important means through which the efforts of our governments could be exerted toward restoration of economic stability and confidence. Particularly we are convinced of the importance of monetary stability as an essential factor in the restoration of normal economic life in the world in which the maintenance of the gold standard in France and the United States will serve as a major influence.

It is our intent to continue to study methods for the maintenance of stability in international exchanges.

While in the short time at our disposal it has not been possible to formulate definite programs, we find that we view the nature of these financial and economic problems in the same light and that this understanding on our part should serve to pave the way for helpful action by our respective governments.

033.5111 Laval, Pierre/168

Memorandum by the Secretary of State

[WASHINGTON,] October 26, 1931.

The British Ambassador came in to ask about the Laval conversations, and I gave him a summary of the main points of the discus-

³⁰ Here the original English text of the joint statement included the phrase "at an early date". Upon comparison with the original French text, which did not contain the phrase, it was deleted. The comparison of texts was made by Jean Jacques Bizot, Director of the Movement of Funds of the French Ministry of Finance, and J. Theodore Marriner, Counselor of the American Embassy in Paris.

sion and asked him to send it to Mr. MacDonald and Lord Reading. I told him in substance—

1. That the result of the personal contact had been extremely good; that the President had the same impression of Laval that I had, and that was the main thing.

2. That on the financial conversations, we had found the two governments rather surprisingly in accord on the topics discussed, which was encouraging. I told him what the plan was as to reparations and debts. I told him of the broader aspect of the monetary conference which included not only the maintenance of the gold standard ourselves but the contemplation of possible help to stabilization of the exchanges of those nations which had gone off it;³¹ that we had not liked to speak especially of any of these nations publicly because it would seem patronizing, but that both of us felt desirous to help Great Britain.

3. That as to disarmament and the consideration of any adjustment of the political instability of Europe, the results had been disappointing, Laval standing on the conventional attitude of France in those respects. I told him, however, that there had been some very frank talk in regard to these matters and that it might bear fruit eventually. I told him among other things of the interchange on the Franco-Italian naval agreement.³²

H[ENRY] L. S[TIMSON]

462.00R296a/2 : Telegram

The Secretary of State to the Ambassador in Great Britain (Darves)

[Paraphrase]

WASHINGTON, October 28, 1931—6 p. m.

312. The joint statement of President Hoover and Prime Minister Laval has doubtless come to your attention. Before his departure, Laval told the German Ambassador in Washington that upon his (Laval's) arrival in France, he would call in the German Ambassador to France. The Premier would suggest to the official that the German Government should request a commission of inquiry under the Young Plan. The President has the idea that when a report has been rendered by such a commission, and when the Allied Governments have

³¹ By October 26, 1931, gold payments had been suspended or restricted by the following countries: Austria, Bolivia, Bulgaria, Canada, Colombia, Czechoslovakia, Denmark, England, Finland, Greece, Iceland, India, Irish Free State, Italy, Latvia, Norway, Portugal, Sweden, Yugoslavia (*Moratorium on Foreign Debts: Hearings before the Committee on Ways and Means, House of Representatives, 72d Cong., 1st sess., on H. J. Res. 123, etc. (Washington, Government Printing Office, 1931), pp. 8 ff.*)

³² See vol. I, pp. 358 ff.

come to a decision upon what they are able to do in respect to the German Government, the United States can then consider what its course should be in respect to the debts.

President Hoover is unalterably opposed to the calling of a conference for the purpose of dealing with debts and reparations. He expressed this opinion to Laval. During the period of its sessions, such a conference would greatly disturb the entire economic and political world. It could only resolve itself into disagreements at the finish. In so far as the American Government is concerned, the only way in which to manage this problem is by direct negotiation between the United States and its individual debtors. This, the President proposes, should be the course pursued by the American Government.

While the conversations with the French Prime Minister were under way and prior to the development of the above method of handling debt and reparations, the British suggestion for a monetary conference came up for discussion. The President learned from Laval that Lord Reading had proposed such a conference upon his visit to Paris. Laval was not clear as to what the British proposed or whether they proposed to take up debts and reparations at such a conference or not. Our belief, based upon other evidence, is that the British were proposing to introduce this on the premise that it was a weighty factor in international exchange. From the point of view that such a conference would include reparations and debt, President Hoover stressed his opposition to such a conference.

With the formula for dealing with debts and reparations now established, however, on the basis for which we have argued, and not by a monetary or international conference, more consideration can now be given to the British suggestion of such a monetary conference. Since the departure of Laval, we have given it such consideration. Nevertheless, before we come to any conclusion, the Department desires to learn what sort of program or proposal they have in mind. We would be pleased to have you explore this issue and to let us know your impression.

We will need this information before we again take it up with the French Premier.

STIMSON

033.5111 Laval, Pierre/192

Memorandum by the Secretary of State

[Extract]

[WASHINGTON,] October 29, 1931.

The Netherlands Minister ³⁴ asked me about the Laval negotiations and first spoke of the consultative pact. I told him that the French brought it up in exactly the same way as it had been brought up in London at the Naval Conference: ³⁵ namely, that they desired a security pact as a condition of disarmament and that the consultative pact was merely a gesture, and that therefore a consultative pact would not produce disarmament and would have been likely to produce misunderstanding. He then asked about reparations, and I told him that the method by which those could be approached had been agreed upon: namely, through the initiative of Europe through the boundaries of the Young Plan. He asked whether that was our view as well as Laval's, and I told him yes.

H[ENRY] L. S[TIMSON]

500.A15a3/1659

Memorandum by the Secretary of State

[WASHINGTON,] November 4, 1931.

The French Ambassador ³⁶ then brought up the subject of the discussions with Monsieur Laval and read from a paper indicating that I had suggested in the course of those discussions that we should enter into a four power naval pact. I told him that there must be some misunderstanding because I had never made any such suggestion. I told him that in the course of the discussions I had told Monsieur Laval that I thought the Franco-Italian negotiations had brought those two countries so close to an agreement that they ought to be able now to agree and that I had urged such an agreement. I told him that when Laval had suggested that the fault of disagreement was with Italy, I had told him frankly that I did not think so, basing my opinion upon my close acquaintance with the negotiations at London and subsequently. I told him also that during the course of our talk with Laval somebody had suggested that the escalator clause might be used to facilitate agreement but that I did not recollect anybody suggesting a four power treaty.

H[ENRY] L. S[TIMSON]

³⁴ Dr. Jan Herman van Roijen.³⁵ See *Foreign Relations*, 1930, vol. I, pp. 1 ff.³⁶ Paul Claudel.

800.51W89France/816

*Senator David A. Reed to the Secretary of State*³⁷

[WASHINGTON,] January 5, 1933.

MY DEAR MR. SECRETARY: You may have noticed in the Congressional Record of January 4, 1933, at pages 1355 et seq.,³⁸ the statement by Senator Borah that in the conversations between President Hoover and Mr. Laval the latter was given to understand that if France cancelled German Reparations, she would receive some readjustment of debts on the part of the United States.

I have been told that you were present throughout the entire conversation between the President and Mr. Laval. If you feel free to give the information, I should be obliged to you if you would tell me whether there is any warrant for this statement by Senator Borah. In other words, was anything said to Mr. Laval which would justify his understanding that France might expect debt reduction from us if she reduced or cancelled German Reparations?

Faithfully yours,

D. A. REED

800.51W89France/816

The Secretary of State to Senator David A. Reed

WASHINGTON, January 5, 1933.

MY DEAR SENATOR REED: I have received your inquiry as to the discussions which took place last year between President Hoover and Monsieur Laval. According to my recollection, and that is quite clear, so far as these discussions touched upon the subject of debts and reparations they were limited entirely to temporary steps which might be taken to offset the effects of the depression. Monsieur Laval's position was that any such step if taken by France as to reparations should be limited entirely to steps taken within the provisions of the Young Plan, which he insisted must continue in full force and effect. This in itself indicated that any remedial proposals would be of a temporary nature.

The President based his own position upon the long-established American position that the payments of our war debts were not in any way contingent upon German reparations but were based solely on the capacity of each individual debtor to pay as it might be affected by the depression.

³⁷ Senator Reed also directed a letter of inquiry to Ogden L. Mills, Secretary of the Treasury, who stated that he was present at all of the meetings between President Hoover and Premier Laval. The reply of the Secretary of the Treasury was similar to that of the Secretary of State. For text of the letter from Mr. Mills, see *Congressional Record*, vol. 76, pt. 2, pp. 1402 ff.

³⁸ See *Congressional Record*, vol. 76, pt. 2, pp. 1291 ff. (Bound volume).

No cancellation or revision of either debts or reparations was proposed by either side. No assurances or commitments on such subjects were either asked for or given. Nothing was said which could be in the remotest way a justification for a subsequent default on the war debt agreements. The communiqué given out at the close of these discussions was an accurate statement of the discussion in all these respects.

Sincerely yours,

HENRY L. STIMSON

**INFORMAL REPRESENTATIONS TO THE FRENCH GOVERNMENT WITH
RESPECT TO DISCRIMINATORY RESTRICTIONS ON THE IMPORTA-
TION OF NITRATES**

651.116 Nitrate/15 : Telegram

The Secretary of State to the Ambassador in France (Edge)

WASHINGTON, May 12, 1931—6 p. m.

200. The Barrett Company, a subsidiary of Allied Chemicals, has shipped to France several cargoes of Arcadian Nitrate of Soda, which is manufactured by the Atmospheric Nitrogen Corporation at Hopewell, Virginia. This company has been producing for 2 years and has only recently entered the export field. While exports have been small the Company states it is prepared to export to France large quantities of Arcadian Nitrate of Soda.

According to a letter from the Barrett Company a French decree was issued May 5 providing that certain products including nitrate of soda may be imported into France only under license issued by the Minister of Agriculture. While the Company raises no objection to the licensing system it is anxious to obtain a part of the trade in order to maintain as well as possible the trade lines it has already established through French commission merchants. As occasion presents itself please discuss this matter informally with the appropriate authorities bringing to their attention the existence of this trade and express the hope that favorable consideration can be given to the interests of this American company.

STIMSON

651.116 Nitrate/16 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, May 16, 1931—1 p. m.

[Received May 16—10:25 a. m.]

261. Your 200, May 12, 6 p. m. I am advised by Acting Commercial Attaché that the decree referred to was issued May 7. For details

and text see Acting Commercial Attaché's cables to his Department numbers 256, 260, and 261.³⁹

Mr. Reagan has the assurance of Minister of Agriculture that there will be absolutely no discrimination. I assume therefore that if the Barrett Company apply along the lines detailed Commercial Attaché's cable No. 260 they will be given every opportunity to continue in the market.

There is no indication that the measure is aimed at American imports but is designed to give the French a stronger hand in nitrogen negotiations now under way in Paris.

EDGE

651.116 Nitrate/5 : Telegram

The Acting Secretary of State to the Ambassador in France (Edge)

WASHINGTON, September 5, 1931—3 p. m.

435. Department's 427, August 31, 6 p. m.⁴⁰ Barrett Company advises Department that new regulations governing issuance nitrate licenses under French Ministry of Agriculture place their product at a disadvantage as compared with German and Chilean nitrates. Company fears further that contemplated French tax will be credited to Reparations where German nitrates are concerned and will thus constitute a discrimination against American nitrates. Company states that large stocks of Chilean nitrates in France will not be affected comparably to American nitrates. Company fears that failure to protest French action before September 8 will prejudice company's chance of obtaining effective diplomatic protection in event of discrimination alleged. Embassy should investigate promptly question of discrimination and if Barrett Company's allegations are substantiated should make representations with a view to securing equality of treatment for the American product with respect to the imposition of French taxation.

ROGERS

651.116 Nitrate/6 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 8, 1931—6 p. m.

[Received September 8—5:39 p. m.]

667. Your 435, September 5, 3 p. m. The Acting Commercial Attaché furnishes me with the following information: New regulations governing the issuance of nitrate licenses have not yet been

³⁹ No copies found in Department files.

⁴⁰ Not printed.

formulated. It is understood that they will be completed by the end of the week and the method employed will probably be based in general upon the annual importation for 1930 and other previous years. The French contend that it is only reasonable that the major portion of the present nitrate requirements of the country should be supplied from those countries which have filled their needs in the past. This method has been used often by France in establishing quotas and was employed several days ago regarding timber. Unfortunately the United States has not exported nitrate shipments to France within the past few years. The Barrett Company have requested a contingent of 25,000 tons which the French say will not be granted but the Acting Commercial Attaché has been assured that a small contingent will be granted to the United States.

The Nitrate Commission which will award quotas is now studying the possibility of levying a tax on nitrate imports roughly equivalent to the difference between nitrate prices in France and Belgium. Nitrate prices in Belgium, a free market, are appreciably lower than in France on account of the fact that prices here are artificially maintained by the Government in order to encourage the domestic industry. The method of assessment and use of the proceeds of this tax are not yet decided upon but there is no indication that the tax would be used as a discrimination in favor of Germany.

Both the Commission and the French Department of Agriculture, under which the Commission acts, are aware that the American Government is watching this question with much interest. The Acting Commercial Attaché has personally taken the matter up with the appropriate French authorities on several occasions and has been in constant touch with the representatives of the Barrett Company.

I have also informally told the Foreign Office of our interest. Unless Department has some other method to suggest for establishing quotas in this case which I doubt would be favorably considered by France it is my opinion, in which the Acting Commercial Attaché concurs, that further action on our part at this time might prejudice instead of help the case of the Barrett Company and that until the terms for fixing the contingents have been decided upon it is not only unwise but impracticable for the Embassy to do anything further.

EDGE

651.116 Nitrate/9 : Telegram

The Secretary of State to the Ambassador in France (Edge)

WASHINGTON, September 15, 1931—5 p. m.

452. Your 667, September 8, 6 p. m. Barrett Company advises Department that Chairman of Nitrates Commission had indicated to

their agent that French domestic corporation which will be formed to monopolize the import of nitrates will not call for tenders but will distribute licenses on the basis of an annual quota of 350,000 tons, including 60,000 tons already licensed. Receivers of licenses must guarantee to retain one-third of the material licensed as permanent stock in France and to contribute 18 francs per 100 kilos on remaining two-thirds, to the French corporation. This contribution will be passed on by the corporation to French nitrogen producers and to French agricultural interests, thus in effect requiring foreign producers to subscribe to a fund for the direct benefit of their French competitors.

Barrett Company further advised that quotas have been assigned as follows: Germany 100,000 tons, Norway 50,000 tons and the balance to Chile and to Arcadian nitrates. Intimation was that Arcadian quota was 10,000 tons. Barrett Company states further that German and Chilean producers have large stocks of nitrates already in France which are exempt from this new regulation.

Embassy is directed to inquire as to substantial accuracy of proposed method of assigning licenses and in particular as to whether it is proposed that the French nitrogen producers shall be the direct beneficiary of the contribution suggested from foreign producers. As this allegation raises the question of a principle entirely apart from the American interests directly affected Department desires fullest details with a view to considering vigorous protest if method outlined is confirmed by French officials.

STIMSON

651.116 Nitrate/10 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 17, 1931—5 p. m.
[Received September 17—1:55 p. m.]

582. Your 452, September 15, 5 p. m. According to information just received by the Acting Commercial Attaché no decision has yet been taken by the Nitrate Commission in regard to question of licenses because the Commission does not appear to have found a method which it considers satisfactory. The most recent plan which has been contemplated would do away with the establishment of quotas. See Acting Commercial Attaché's telegram No. 82 of September 12 to the Department of Commerce.⁴¹ I understand the next meeting to consider the matter will be on October 1st. Consideration has been given and may be given again to a plan whereby the 18 francs per 100 kilos

⁴¹ No copy found in Department files.

would be used as a subsidy for the French nitrate industry. Although the interested nitrate importers' opinions have been invited neither Barrett Company's representative nor the other important importers have made definite objection to the Commission regarding such a plan. In this connection you will be no doubt interested to know that a tax of 30 francs per 100 kilos on rubber and 1 franc per 100 kilos on cotton, I understand are collected by the customs authorities without discrimination against any importing country together with the regular customs duties and the proceeds used by the French Government as subsidies for rubber and cotton growing. These subsidies were established in 1931 and 1927, respectively, and others of a similar nature exist. If a plan were adopted such as that suggested in your telegram it would probably be accomplished as above outlined and since there is a possibility of its being adopted I should appreciate your telegraphing me whether you consider the procedure protestable and if so on what basis in order that I may inform the French authorities before the meeting, on October 1st.

EDGE

651.116 Nitrate/29 : Telegram

The Secretary of State to the Ambassador in France (Edge)

WASHINGTON, September 22, 1931—noon.

457. Your No. 582, September 17, 6 [5] p. m. The Department regards existing contributions on imports of rubber and cotton, as well as proposed contributions on imports of nitrates, for the direct benefit of the appropriate French interests competing with the foreign interests from whom such contributions are exacted as the price of the privilege of continuing to conduct their previously established businesses in France, as being intrinsically vicious in principle and, when coupled with quotas, as incompatible with equitable practice in international commerce as hitherto conducted.

Whether or not such proposals could obtain legislative sanction if submitted to Parliament in specific cases, and irrespective of whether this diversion of revenue from the State to the benefit of private French industrialists and producers by governmental decree could be sustained in the French Courts, or constitutes a clear discrimination against American interests, the Department does not desire the French Government to rest under any misapprehension with respect to our attitude in the premises.

You may, in your discretion, say frankly to the appropriate French officials that this Government regards the proposed special regime for nitrates, as well as the quotas for lumber, as being part and parcel of a general policy of intricate and oppressive restriction, which is at

variance with the whole spirit of international economic cooperation advocated by the International Chamber of Commerce, promoted through the agency of the League of Nations, and incorporated in various treaties, agreements and proposals for economic solidarity, to which the French Government has been a party and to the formulation of which French diplomacy has largely contributed.

It is highly probable that serious pressure will be brought to bear upon this Government to institute retaliatory measures or to create special regimes which would adversely affect characteristic French products. You may, in your discretion, represent these considerations to the appropriate French authorities, with a view to restoring equitable and non-discriminatory conditions of trade between the two countries as soon as possible.

Barrett Company states that it was advised that Nitrate Commission informally justified the small quota assigned Arcadian Nitrates by the fact that this Government does not accord special facilities to French products. In this connection, it is pertinent to observe that our tariff is entirely non-discriminatory.

STIMSON

651.116 Nitrate/32 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, September 28, 1931—3 p. m.

[Received September 28—12: 15 p. m.]

616. Your 457, September 22, noon. The Foreign Office was promptly informed by a member of my staff of the substance of your telegram under reference and it was left under no doubt as to our attitude about contributions and quotas. My representative was told that it was extremely doubtful whether the plan of contributions would be adopted by the Nitrate Commission. Under existing economic conditions in Europe particularly since the general application of the export and import prohibitions convention⁴² has failed, there does not seem any likelihood of the French Government undertaking to refrain from establishing quotas in cases of emergency. Were France still judicially bound by that agreement, the impression is gained that as the nitrates unit quota would be defended by France on the basis of a government controlled monopoly and as to lumber on a basis of anti-dumping, neither of which appears to be contrary to this convention. In the French Government's proposals made at

⁴² International Convention and Protocol for the Abolition of Import and Export Prohibitions and Restrictions, signed at Geneva, November 8, 1927, *Foreign Relations*, 1928, vol. 1, p. 336.

Geneva in May 1931 great reliance was put on quotas as a substitute for high tariffs in reorganizing European economy.

Regarding the question of nitrates, my representative discussed at length the necessity of protecting trade which is just beginning in a country, such as American nitrates shipped to France, and the point was stressed that in all fairness to such new business, a reasonable quota should be granted regardless of the amounts allowed to other countries based on previous importations. The Foreign Office was told that it was understood that the American nitrate interests had requested a quota of 50,000 metric tons but that the Nitrate Commission contemplated allowing only 10,000; that the latter figure seemed too small and that we should be allowed a very much larger quantity. The Foreign Office has promised to do what it can to obtain an increased amount for the United States.

EDGE

651.116 Nitrate/38 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 23, 1931—5 p. m.

[Received 6:33 p. m.]

785. Embassy's 652 [616?], September 28, 3 p. m., and Commercial Attaché's 165, November 21.⁴³ It seems fairly certain now that it will be necessary for the American, Chilean and Norwegian nitrate interests to pay contributions or be excluded from the French market. Strenuous informal representations made again by the Embassy within last 48 hours based upon your 457, September 22, noon, appear [not?] to have been successful and it is doubtful whether formal protest would be effective. The Norwegian Minister states that he is making formal protest today on the ground that the contemplated action is contrary to article 7 of the Franco-Norwegian Commercial Agreement of December 30, 1881,⁴⁴ and that the French decree imposing limitations on nitrate imports does not authorize any contribution. The Chilean Minister says that the plan of contributions is equivalent to a tariff increase, the latter being prohibited by the Franco-Chilean *modus vivendi*⁴⁵ and he has, therefore, asked his Government for authority to make formal protest. He expects an answer tomorrow from Portuguese [*sic*]. The German interests are reported to have agreed to the plan of contributions. Although the Chilean, Norwegian and American nitrate interests thus far maintain that they would

⁴³ Latter not found in Department files.

⁴⁴ *British and Foreign State Papers*, vol. LXXII, p. 325.

⁴⁵ *Modus vivendi* effected by exchange of notes between Chile and France, May 22, 1931, League of Nations Treaty Series, vol. CXXIV, p. 33.

rather be excluded from the French market than pay the contributions it is quite possible that some of them may agree at the last moment to pay. It is understood that the nitrate interests must give a definite answer to the Minister of Agriculture by 3 o'clock tomorrow afternoon; that is, they must either agree to pay the contributions or be excluded from the French market. Do you wish formal protest made along the lines of the first and fourth paragraphs of your telegram No. 457, September 22, noon, as a matter of principle and regardless of whether the American interests agree to pay the contribution?

SHAW

651.116 Nitrate/41 : Telegram

The Secretary of State to the Chargé in France (Shaw)

WASHINGTON, November 23, 1931—9 p. m.

590. Your 785, November 23, 5 p. m. Do not make formal protest.

STIMSON

651.116 Nitrate/40 : Telegram

The Chargé in France (Shaw) to the Secretary of State

PARIS, November 25, 1931—7 p. m.

[Received November 25—3 p. m.]

802. Embassy's 785, November 23, 5 p. m. On yesterday afternoon the representatives of the American and Chilean nitrate interests informed the Minister of Agriculture that they declined to pay contribution, whereupon they were told by him that they would receive no import licenses. The Embassy has confirmed at the Foreign Office that the above is the attitude of the Ministry of Agriculture. Although not present at the meeting, it is reported that the Norwegians understand that they also are to receive no licenses. The Embassy is still working informally upon the matter.

SHAW

651.116 Nitrate/44 : Telegram

The Acting Secretary of State to the Ambassador in France (Edge)

WASHINGTON, December 30, 1931—6 p. m.

671. Department's 590, November 23, 9 p. m. I am advised by the Barrett Company that recent accord between French Ministry of Agriculture and German nitrate producers has led, after prolonged negotiations, to execution of contract for purchase from Germany of 150,000 tons, not subject to license. Company feels that it has not

received equality of treatment, as it was given opportunity to bid on only relatively small tonnage on terms which required almost immediate acceptance, and that accordingly it was unable to negotiate. Company understands that French authorities are likely to purchase additional 100,000 to 150,000 tons, early in January, and desires opportunity to submit bids for a substantial portion, if not all, of this next purchase, on terms of complete equality with other producers. You should endeavor to obtain opportunity for company to negotiate with appropriate French purchasing agency on fair commercial basis.

CARR

651.116 Nitrate/45 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, December 31, 1931—4 p. m.

[Received December 31—3:25 p. m.]

914. Reference Department's telegraphic instruction 671, December 30, 6 p. m. Department's understanding is correct that contract given to Germany, precise amount not definitely known but presumed to be about 150,000 tons nitrate, for agricultural use with rumored option for some 100,000 tons additional.

As to Barrett Company's feeling that "it has not received equality of treatment as it was given opportunity to bid on only relatively small tonnage on terms which required almost immediate acceptance and that accordingly it was unable to negotiate", following are facts.

Regarding "immediate acceptance" the market opportunity was known and negotiations in progress since September. On December 22 at 10 a. m. French Comptoir da Zote [*de l'Azote*] offered to buy from Barrett 50,000 tons at 85 francs f. o. b. cars French ports with option for additional 50,000 tons for acceptance by 2 p. m. same day. Due to intervention of Embassy and Commercial Attaché several progressive extensions of time limit were obtained, first to morning December 23, then to 7 p. m. that day, provided German acceptance not received before that time and again to 4 p. m., December 24 and finally to 7 p. m. that date. As a matter of fact German acceptance was not received until December 26.

Referring to Barrett Company's complaint of "relatively small tonnage" permitted them the Embassy had previously reported that nitrate imports are controlled entirely by the French quota system and as no imports had been received from the United States in recent years any tonnage permitted was just that much additional concession to the United States.

We are informed that Barrett Company had no definite objections to condition offer but it was said to be necessary for the offer to be

studied by several committees of the company although the general problem had been under consideration for some 3 months. Furthermore, the local representative of the Barrett Company had stated to the Embassy that a decision should be possible within an ordinary business day.

Conditions offered to Germany of 83 francs c. i. f. French ports were no more favorable than those of offer to American company and in neither case did question of direct assessment figure so that responsibility would seem to rest directly with the company.

Relative to possible additional purchases Barrett Company's representative here is already negotiating with regard thereto. The Embassy will continue to cooperate in every possible way.

EDGE

**EXTENSION OF CUSTOMS IMMUNITIES TO AMERICAN RELIGIOUS AND
PHILANTHROPIC INSTITUTIONS IN SYRIA AND THE LEBANON**

690d.11241/9

*The American Consul General at Beirut (Knabenschue) to the Chief of
the Diplomatic Bureau of the French High Commission at Beirut
(Hoppenot)*⁴⁶

[Extract]

[BEIRUT,] August 30, 1928.

DEAR MR. HOPPENOT:

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If I am correct in my summing up, and a review of the correspondence and of my conversations with you, M. De Reffye, and others of the High Commission lead me to believe that my summing up is correct, I believe that I can now, after a further intensive study of the question, offer a solution of the problem which will reconcile our respective points of view and provide a *modus operandi* for its execution. I, therefore, propose:

1st. That the institutions in question be permitted unlimited customs exemption on all articles necessary for their installation, maintenance and development.

2nd. That each institution benefiting by this privilege shall pay an ad valorem tax of 1% on all articles imported free of duty.

3rd. That the tax so collected shall be devoted to the maintenance of a Bureau of Control, to be established for the purpose of investigating all importations on which customs exemption is claimed, with the object of preventing a fraudulent abuse of the privilege.

⁴⁶ Copy transmitted to the Department by the Consul General as one of the enclosures in his despatch No. 2763, September 25, 1928; received October 18, 1928.

4th. That each demand for customs exemption be accompanied by a deposit equal to the amount of customs duty, which deposit shall be refunded, less the 1% tax, when the importation is finally approved by the Bureau of Control as being entitled to customs exemption.

5th. That it shall be obligatory for the institutions enjoying the privilege of customs immunity to furnish any explanations with regard to their importations which may be demanded by the Bureau of Control, and to submit to inspection, by the Bureau of Control, of their books and such of their operations as may be necessary, in order to determine whether any articles imported by them free of duty are necessary, both in respect to kind and quantity, for the installation, maintenance or operation of the institutions.

6th. That appropriate penalties be imposed upon any institution against which fraudulent abuse of the privilege is established by the Bureau of Control after its findings shall have been examined and approved by the High Commission.

7th. That any disputes, arising between the Bureau of Control and the institutions which do not involve fraudulent abuse of the privilege, but merely covering questions involving a determination as to whether a certain kind of article or quantity of articles imported free of duty are necessary for the installation, maintenance or operation of the institutions, shall form the subject of discussion between representatives of the High Commission, the Bureau of Control, the American Consulate General and the institution involved. But the final decision, after such discussion, shall rest with the representative of the High Commission.

Yours sincerely,

P. KNABENSHUE

690d.11241/9

The Secretary of State to the Chargé in France (Armour)

No. 2994

WASHINGTON, December 11, 1928.

SIR: The Department refers to its instruction No. 1648 of August 6, 1925,⁴⁷ to which it appears that no reply has been received from the Embassy, and to previous correspondence regarding the customs franchise extended to American religious and philanthropic institutions in Syria and the Lebanon, and in this connection transmits a copy of despatch No. 2763 dated September 25, 1928, together with copies of its enclosures, from the Consulate General at Beirut.⁴⁸

From these various enclosures it will be noted that the French Authorities in Syria recently submitted to the Consul General the draft of a new ordinance regulating the entire question of customs immunity for philanthropic institutions and their personnel. Apparently the proposed ordinance did not change in principle the former regulations

⁴⁷ Not printed.

⁴⁸ See footnote 46, p. 267.

concerning importations by these institutions but it did provide for a limited customs immunity for the personnel, who, though entitled to such immunity under the terms of M. Poincaré's note to the Embassy of November 2, 1923,⁴⁹ have never received it in practice. After consultation with the heads of the American institutions affected the Consul General submitted a counter plan which apparently was acceptable to the Mandatory Authorities provided the Italian Government was also agreeable. It is understood that Mr. Knabenshue, the Consul General at Beirut, discussed this entire question with a member of the Embassy staff at the time of his recent passage through France.

In the opinion of the Department the plan suggested has much to commend it, chiefly because it would tend to regularize the situation in respect to the customs immunities enjoyed by American institutions in Syria and at the same time would remove a source of irritation.

It is therefore desired that you seek an early occasion to discuss this matter with the French Foreign Office; at that time you may intimate that this Government would be willing to consider the acceptance of a plan similar to that suggested by Mr. Knabenshue, provided that the Italian Government is also agreeable. The necessary steps to bring this matter to the attention of the Italian Government are naturally to be taken by the French Foreign Office.

You will of course inform the Department promptly of the result of your interview; at the same time it is desired that a report be made as to what, if any, action was taken by the Foreign Office as a result of the representations made by the Embassy in accordance with the Department's instruction No. 1648 of August 6, 1925.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

690d.11241/11

*The French Ministry for Foreign Affairs to the American Embassy in France*⁵⁰

[Translation⁵¹]

The Embassy of the United States was good enough to submit to the Ministry for Foreign Affairs the objections which occurred to it in connection with the régime applied to the importation of goods intended for American philanthropic and educational institutions in the Levant states under French mandate. In the opinion of the United States Embassy, the texts regulating this question (Ordinance 1734

⁴⁹ *Foreign Relations*, 1923, vol. II, p. 4.

⁵⁰ Copy transmitted to the Department by the Chargé in France in his despatch No. 9793, August 27, 1929; received September 4, 1929.

⁵¹ File translation revised.

of December 22, 1922, and Ordinance 1711 of December 20, 1927), inasmuch as they limit strictly the quantity of goods permitted to enter free of duty into Syria and the Lebanon, restrict the advantages which the United States considers it has a right to claim for the institutions in question, on the basis of the assurances transmitted by M. Poincaré to Mr. Myron T. Herrick on November 22 [?], 1923.^{51a}

The Ministry for Foreign Affairs has the honor to inform the Embassy of the United States that it does not believe that the provisions of Ordinances 1734 and 1711 can be considered as incompatible with the assurances referred to above.

M. Poincaré's letter, dated November 22 [?], 1923, made anticipatory reference to article 2 of the Franco-American Convention which was then in course of negotiation and which was effectively signed on the 4th day of the following April.⁵² This article assures that the United States and its nationals "shall have and enjoy all the rights and benefits secured under the terms of the mandate to members of the League of Nations, and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations".

Now, it does not seem that the regime to which the importation of goods intended for American institutions is subject can be considered as an infringement of this text, the object of which is to assure to the United States and to their nationals coming within the framework of the mandate the advantages of the most favored nation. The institutions of the United States cannot indeed complain that, as a result of the application of the ordinances 1734 and 1711, they have been placed in a position of inferiority as compared with the institutions of any other nation whatsoever, since it is a question of provisions applied impartially to all States susceptible of taking advantage of article 11 of the Mandate.⁵³

Besides, the Ministry for Foreign Affairs feels that it should add that the contingent system is applied in a general manner to charitable and educational institutions in all the territories of the Levant under mandate. As in Syria and the Lebanon, it is in force in Palestine, and the British authorities have not considered that the application of this regime is in contradiction to the obligations they have assumed in the premises vis-à-vis states which are members of the League of Nations and the United States and which result from conventional texts similar to those which bind the French Government.

[PARIS,] August 22, 1929.

^{51a} *Foreign Relations*, 1923, vol. II, p. 4.

⁵² Convention regarding rights in Syria and the Lebanon, signed at Paris, April 4, 1924, *ibid.*, 1924, vol. I, p. 741.

⁵³ *Ibid.*, p. 743.

690d.11241/12

The Chargé in France (Armour) to the Secretary of State

No. 9819

PARIS, September 6, 1929.

[Received September 16.]

SIR: With further reference to my despatch No. 9793 of August 27, 1929,⁵⁴ and to previous correspondence concerning customs franchise extended to American religious and philanthropic institutions in Syria and the Lebanon, I have the honor to inform the Department that, in a conversation which I had with M. Corbin⁵⁵ at the Foreign Office on September 3 last, I had occasion to refer once more to this matter.

I called M. Corbin's attention to the Foreign Office note of August 22, 1929, adding that from its wording it appeared to be in reply to the Embassy's note No. 5620 of August 19, 1925, (based upon the Department's Instruction No. 1648 of August 6, 1925⁵⁶), rather than to the proposal submitted by Mr. Knabenshue to M. Hoppenot now almost a year ago. I reminded M. Corbin that on January 11 last I called upon him and explained to him Mr. Knabenshue's proposals, as contained in Mr. Knabenshue's letter to M. Hoppenot of August 30, 1928, with which proposals M. Hoppenot appeared to be in accord as stated in his reply to Mr. Knabenshue of September 1928;⁵⁷ that M. Corbin had made notes of the points raised in Mr. Knabenshue's letter and had promised to have the matter taken up with the High Commission with a view to seeing what could be done to meet our Government's desires.

M. Corbin replied that he remembered very distinctly the conversation but that the records of the Foreign Office did not appear to contain a complete draft of Mr. Knabenshue's proposals as M. Hoppenot had apparently not submitted a full report on the question. I accordingly handed to M. Corbin the Embassy's file copy of Mr. Knabenshue's letter to M. Hoppenot of August 30, 1928, as well as a copy of M. Hoppenot's reply. I remarked that he would notice from M. Hoppenot's letter that the latter made the definite statement that if Mr. Knabenshue succeeded in obtaining the Italian Government's consent to the proposal, the adoption of the project would immediately be made possible.

M. Corbin seemed to be somewhat embarrassed by this definite commitment on the part of M. Hoppenot, but remarked that it was a conditional rather than a definite agreement and that the Italian Government's consent had, so far as he knew, never been obtained. He then went on to say that, as he understood it, our original request was based

⁵⁴ Not printed; for its enclosure, see *supra*.

⁵⁵ Chief of the Political and Commercial Division, French Foreign Office.

⁵⁶ Not printed.

⁵⁷ M. Hoppenot's reply not printed.

upon France's agreement with Italy; that the promises contained in M. Poincaré's letter to Mr. Herrick of November 2, 1923, referred to this agreement and that, as the American institutions in Syria were receiving treatment similar to that accorded Italian institutions, he did not see that our Government could very well complain. He reiterated what he had said in our previous talk—a similar statement is made in the Foreign Office note—that the system at present in force in Syria is the same as that in effect in all the territories in the Levant under mandate and is the same as that applied by the British in Palestine. M. Corbin also said that American institutions in Syria and the Levant were on a very large scale; that their requirements had been steadily increasing and that to permit free entry on all articles would probably be objected to by the local population, to say nothing of the fact that similar courtesies would then have to be extended to institutions of other nationalities, including French philanthropic institutions. (Remembering the statement contained in Mr. Knabenshue's despatch to the Department No. 1606 of October 1, 1924,⁵⁹ Page 5, Paragraph 2, that "French institutions, surreptitiously if not almost openly, receive free entry of all goods imported by them" I was tempted to ask M. Corbin whether the same restrictions were applied to French institutions as to those of the United States and other countries, but I contented myself with remarking that I hoped that, in spite of the objections brought out by him, the French Government would be willing to give further study to the matter with a view to the acceptance of a plan similar to that suggested by Mr. Knabenshue).

I have [etc.]

NORMAN ARMOUR

690d.11241/12

The Secretary of State to the Chargé in France (Armour)

No. 4258

WASHINGTON, September 24, 1929.

SIR: The Department has received your despatches No. 9793 of August 27, 1929⁵⁹ and No. 9819 of September 6, 1929, with regard to the customs immunity of American philanthropic and educational institutions in Syria and the Lebanon.

In view of the fact that the Foreign Office Note of August 22, 1929,⁶⁰ enclosed with the despatch first mentioned above, fails to give consideration to the proposal submitted to the French High Commission in Beirut by Mr. Knabenshue on August 30, 1928, the Department

⁵⁹ Not printed.

⁶⁰ *Ante*, p. 269.

would be glad to have you take opportunity again to express to the Foreign Office the hope that it may be found possible to give further study to Mr. Knabenshue's proposal.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

690d.11241/13

The Consul at Beirut (Brandt) to the Secretary of State

No. 469

BEIRUT, June 6, 1930.

[Received June 24.]

SIR: I have the honor to report, for the information of the Department and of the American Embassy at Paris, that I had a conversation a few days ago with M. Jean Chauvel, Chief of the Diplomatic Bureau of the High Commission here, regarding the matter of the exemption of the American religious, educational and philanthropic institutions in Syria and the Lebanon from the payment of customs duties on material imported by them, during which M. Chauvel informed me that the High Commission had recently received instructions in the matter from the French Foreign Office but that they were not clear to the High Commission and the Foreign Office had been asked to explain them. M. Chauvel went on to say that he did not expect to receive a reply from the Foreign Office before he left for Paris, on June 6th, and that he hoped to be able to bring the matter personally to a definite settlement in Paris with the Foreign Office. He also told me that he thought it likely that Consul General Knabenshue's plan of having each institution privileged to import articles free of duty pay an ad valorem tax of one per cent on all articles, without restriction as to kind or amount, for the maintenance of a Bureau of Control, would be adopted, for American and other foreign institutions and also for the native institutions, so that there would be no discrimination. However, as the wants of the native and some of the foreign institutions might be so small that they would prefer to have the existing privilege whereby they enjoy free entry of material within limits as to kind and amount fixed by decree of the High Commission and as it would be burdensome to follow out the procedure to control their importations as contemplated by Mr. Knabenshue's plan, all institutions would be given the choice of limited exemption without payment of any tax or of unlimited exemption with payment of the one per cent tax for the Bureau of Control. I made no comment to M. Chauvel upon this contemplated change in the plan but I can see no objection thereto, although it may happen that the American institutions will be the only ones to pay the tax. I have consulted with the heads of the American Uni-

versity and Mission here and they say that they will state their preference for unlimited exemption.

In this connection the Department is respectfully referred to Consul General Knabenshue's despatch No. 2763 of September 25, 1928,⁶¹ and other despatches, and to despatch No. 9818 [9819] of September 6, 1929, and other despatches from the American Embassy at Paris.

According to statements I have obtained from the American Mission and the American University here, the American institutions importing the greatest quantity of material, the importations of the first mentioned institution have amounted to a total of approximately \$20,000 for the past three calendar years and the Mission treasurer says his office has no recollection of having exceeded the limit allowed by the decree of the High Commission during that time but according to the records of the Consulate General the Mission exceeded the limit in 1926 and had to pay Customs duties amounting to approximately \$102.00 on the excess. The University has imported a total of approximately \$87,200 worth of material during the past four years, not including material and equipment for new buildings which is exempt under a decree of the High Commission of general application. The University's imports exceeded the fixed amounts during three of the four years and in 1926 it paid approximately \$1,250 customs duties on the excess, in 1927, \$2,950, and in 1929, \$2,500. Following the arrangement made by Consul General Knabenshue with the High Commission, these amounts are supposed to be held in the name of this Consulate General pending settlement of the question as to the right of the American institutions to unlimited customs exemption under the Poincaré-Herrick agreement.

I have [etc.]

GEORGE L. BRANDT

690d.11241/17

The Consul at Beirut (Keeley) to the Secretary of State

No. 153

BEIRUT, March 12, 1931.

[Received March 28.]

SIR: I have the honor to transmit herewith a copy and translation of a personal note dated March 4, 1931,⁶² from Mr. Périer, the Chief of the Diplomatic Bureau of the High Commission, in response to my inquiry as to the present status of the question of customs immunities for American institutions in Syria which has been pending for some years and which has more recently been the subject of discussions at Paris between our Embassy and the French Foreign Office.

⁶¹ See footnote 46, p. 267.

⁶² Not printed.

In this connection, reference is made to Ambassador Edge's telegram to the Department, No. 79 of February 20th, 5:00 p. m.,⁶² which was repeated to this office.

During the interview to which Mr. Périér refers in his note he informed me unofficially that according to instructions already received from Paris the French government has accepted the American point of view with regard to unlimited customs exemption for articles imported for our institutions here under the Poincaré-Herrick agreement, but that there is yet to be overcome the difficulty of drawing up suitable regulations for giving effect to this agreement in a manner which will safeguard the interests of the mandated states without proving too irksome to the institutions concerned. He said that the Bureau of Control proposed by Mr. Knabenshue, for the maintenance of which all institutions which enjoy customs exemption were to pay a tax of 1% on their importations, was found unacceptable as many of the institutions, including Italian institutions, are satisfied with the restrictions imposed by the government and would be opposed to any arrangement which would cause them to pay anything for the privilege they enjoy. He thought that the question therefore resolved itself into one as to how to control, without limiting, importations for American institutions and he suggested that this might be done by requiring each institution yearly in advance to give the authorities some indication as to the extent of its work and an estimate of the type and quantity of goods to be imported so that the Customs Authorities might have some basis upon which to judge whether or not the actual importations were in reality necessary for the installation, maintenance or operation of the institutions. He added that the matter would be handled in a liberal spirit and that any differences that might arise could be adjusted by negotiations between the Consulate General and the High Commission.

During our talk, automobiles were mentioned. Whereupon he said that the High Commission had always taken the stand that automobiles could not be imported by these institutions free of duty, and he was of the opinion that the acceptance of the American Government's interpretation of the Poincaré-Herrick agreement could not be taken to include automobiles. I remarked that the agreement (M. Poincaré's letter to Mr. Herrick dated November 2, 1923^{63a}) provides that American religious, educational and philanthropic institutions, of a non-commercial character, in Syria and the Lebanon, are entitled to customs immunity, unlimited either in respect to the kind or class of articles or to the quantity imported, provided such articles are necessary for the installation, maintenance or development of those institutions, and

⁶² Not printed.

^{63a} *Foreign Relations*, 1923, vol. II, p. 4.

that if one or more automobiles were necessary in order for an institution properly to carry on its work I was inclined to believe that my government would not consent to an exception in this respect. He replied that an auto-ambulance for a hospital might be admitted but not ordinary automobiles. I reiterated my argument and expressed the hope that the decision as to whether this or any other kind of article might be imported free of duty would be based on a determination as to whether the article in question is in fact necessary for the installation, maintenance or operation of the institution. He promised to discuss the matter further after hearing from Paris and before promulgating any new regulations on the subject.

A phase of this question which it appears has not yet been fully decided is that of the amount of goods that may be imported free of duty for the personal use of the members of institutions which themselves enjoy unlimited customs franchise. The issue has recently again been raised by the customs in Latakia refusing to grant any immunity in this respect as regards goods imported for the personal use of members of our medical mission there. After discussing the matter informally with the High Commission it was decided that the individuals in question should pay the duty under protest pending a solution of the general question. This temporary expedient has previously been resorted to during the past few years in the case of certain individuals while others appear to have been granted exemption without question on small shipments destined for their personal use. As regards the personnel of the American University, however, I am informed that none of them has ever been granted any exemption whatsoever on goods imported for their personal use, the official attitude of the University during the discussions of the past years apparently being that unlimited exemption for the institution was the important issue, and it was not deemed advisable to jeopardize this issue, for which very good arguments existed, by placing any emphasis on the lesser issue for which much less justification was felt to exist. The University still takes the attitude officially that while it would be glad to have its members enjoy any exemption that may properly be granted them it feels that as they are well paid in comparison to natives of the country and are already, as teachers, exempted from tax on their incomes, it seems hardly equitable that they should enjoy customs exemption. However, the University does not wish voluntarily to relinquish any right that may be guaranteed its American personnel as a result of our Convention with France accepting the Mandate.

The Chief of the Diplomatic Bureau expressed the opinion that the amount of 2000 Syrian gold piasters (about \$77.20), as the value of goods that might be imported free of duty per person per annum,

which had previously been suggested by the High Commission and tentatively approved by Mr. Knabenshue might serve as the basis of further study in connection with the regulations that must be drawn up to give effect to this part of the Poincaré-Herrick agreement.

I suggested to Mr. Périer that members of our institutions who have not been enjoying customs immunity during the years that this matter has been under discussion would appear now to be entitled to a refund of the amount of duty which they may have paid on any goods imported within the limit to be determined. He replied that while this might be true in principle it would scarcely be practicable and he felt that the limited exemption to which they may be found entitled could feasibly be granted them only from a more recent date. The practical difficulties involved in determining the correct amounts of the refunds to which members of our institutions may be entitled cannot be gainsaid, but it seems to me that these difficulties might be largely overcome and the principle maintained if it were agreed that exemption within a specified limit has been the privilege of the members of our institutions from July 13, 1924, the date of the exchange of ratifications of our Convention with France accepting the Mandate, and that refunds will be made to anyone who can present a customs receipt for duty paid on goods imported within this limit for his or her personal use during this period. I have suggested to the University of Missions that the duty on any importations for the personal use of their members be paid under protest and that copies of the invoices and customs receipts be kept for possible future use should it finally be determined that they are entitled to a refund of all or any part of the duty so paid. I have also suggested that each institution attempt to draw up a memorandum of the amounts of duty paid by the various members of their establishments since July 13, 1924, for the Consulate General's information and possible use.

As the discussions in this matter have recently been carried on at Paris, the High Commission apparently feels that they should be continued there, and I presume therefore that the Department will furnish our Embassy at Paris with its views on these matters. In order that this office may know what progress is being made and what its attitude on these controversial points should be, it is hoped that the Department and the Embassy will likewise continue to keep this office informed and to furnish it such instructions for its guidance as may be necessary.

In the meantime, effect is being given to the part of the agreement respecting the institutions themselves and steps are being taken to refund duties heretofore paid by such institutions on importations in excess of the exemptions previously allowed by the authorities under their old interpretation of the Poincaré-Herrick agreement. I

am informed by the President of the American University of Beirut, which is the only American institution in Syria now exceeding the limit on importations previously fixed by the High Commission and observed by other foreign institutions, that no restriction is now being made on the University's importations (aside from those for the personal use of the members of its staff) and that the authorities have granted the University every facility in this respect as well as in connection with importations for the new medical buildings, the materials and equipment for which are exempt under a decree of the High Commission of general application.

Respectfully yours,

J. H. KEELEY, JR.

690d.11241/18

The Chargé in France (Armour) to the Secretary of State

No. 1336

PARIS, March 13, 1931.

[Received April 15.]

SIR: With reference to the Department's Instruction No. 484 of February 9, 1931,⁶⁵ (File No. 690D.11241/15[14]), regarding customs immunities for American educational and philanthropic institutions in Syria and the Lebanon, I have the honor to transmit herewith a copy and translation of a note from the Ministry for Foreign Affairs, dated March 10, 1931,⁶⁵ on this question.

It will be noted from this communication that, on November 4, 1930, the Directorate General of the Customs at Beirut was instructed to grant exemptions from customs duties on imports effected into the Levant States under French mandate by American charitable institutions, without the quota being fixed annually and under the sole reservation of proof of their destination and use. It will also be noted that the sums blocked for several years past in the account of the Consul General of the United States at Beirut, as a guarantee for unpaid duties on goods imported in excess of the quantities fixed by decree 1734 of December 22, 1922, have also been released.

A copy of this despatch is being sent to the Consulate General at Beirut.

Respectfully yours,

NORMAN ARMOUR

⁶⁵ Not printed.

690d.11241/18

The Secretary of State to the Consul General at Beirut (Goold)

WASHINGTON, April 20, 1931.

SIR: There is enclosed a copy of despatch No. 1336 of March 13, 1931, from the Embassy at Paris,⁶⁶ as well as a copy of a note from the French Foreign Office⁶⁷ enclosed therewith, regarding the customs exemptions which have been accorded to American educational and philanthropic institutions in the Levant States under French Mandate.

The information contained in this despatch corresponds in large measure with that contained in despatch No. 153 of March 12, 1931, from your Consulate General. So far as the Department is able to determine, the general principle governing customs immunities to be accorded to American educational and philanthropic institutions has now been settled in accordance with the views of this Government. Although it appears from the Consulate General's despatch under reference that questions of procedure are likely to arise from time to time, such as the matter of the importation of automobiles for the use of these institutions, it is probable that these questions can generally be settled by negotiation between the Consulate General and the French High Commission. However, if a question should arise which proves impossible of settlement in this manner, you should request the Department for instructions.

In the copy of the note from the French Foreign Office, which accompanied the above mentioned despatch from the Embassy at Paris, it is noted that the statement is made that the excess sums which had been paid during recent years by American institutions as import duties, and which had been set aside to the credit of the Consulate General, have now been released. It is requested that you inform the Department whether these funds have actually been turned over to the Consulate General, and, if so, whether they have been distributed to the institutions in question.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

⁶⁶ *Supra*.⁶⁷ Not printed.

GERMANY

MORATORIUM ON GERMAN PAYMENTS UNDER THE GERMAN-AMERICAN DEBT AGREEMENT OF JUNE 23, 1930¹

462.00R296/4468c : Telegram

*The Acting Secretary of State to the Ambassador in Great Britain
(Dawes)*

WASHINGTON, July 16, 1931—7 p. m.

214. For Gibson.² The German Government is obligated to pay the United States during this year \$6,000,000 on account of the Army of Occupation. It is clear that this payment falls clearly within the President's proposal for postponement.³ The American Debt Agreement seems to fall under a different category. Under this agreement the German Government is obligated to pay to the United States during the fiscal year 1932, on account of awards of the Mixed Claims Commission, approximately \$9,700,000, one-half on September 30, 1931 and the other half on March 31, 1932. It appears certain that the War Claims Arbiter will complete his work on account of the claims of German nationals against the United States for ships, patents, and a radio station by September 1, 1931. In this case there becomes immediately available to the German claimants one-half the amount of such awards less the \$50,000,000 appropriated in 1928. It has been estimated that the total amount of these awards will approximate \$86,000,000, of which there remains \$36,000,000 in claims which form the basis of further payments. One-half this sum, or \$18,000,000, will be immediately paid to the German nations [*nationals*], this being almost twice the amount which Germany is called upon to pay to the United States under the German-American Debt Agreement. In addition there is a possibility that if the Mixed Claims Commission sustains its deci-

¹ Agreement providing for the discharge of Germany's war indebtedness to the United States; for text, see *Annual Report of the Secretary of the Treasury, 1930*, p. 341, or League of Nations Treaty Series, vol. cvi, p. 121. See also *Foreign Relations, 1929*, vol. ii, pp. 1083 ff.; and *ibid.*, 1930, vol. iii, pp. 106 ff.

² Hugh S. Gibson, Ambassador to Belgium, was in London as American observer at the London Conference of Experts, held July 17–August 11, 1931; for correspondence concerning this Conference, see vol. i, pp. 164 ff.

³ For correspondence concerning President Hoover's moratorium proposal, see vol. i, pp. 1 ff.; for text of the proposal, see telegram No. 262, June 20, 8 p. m., to the Ambassador in France, *ibid.*, p. 33.

sion in denying Germany's liability in connection with the sabotage claims, a further sum of approximately \$13,000,000 will be available to German nationals. This, of course, depends entirely on the final decision of the Commission.

The Treasury feels that in principle there is no difference between the character of claims covered by the payments received from Germany under the debt agreement and the payments made by the United States to German nationals on account of the awards of the Arbitrator. They are both claims of private individuals and it is felt that they do not come within the provisions of the President's moratorium proposal. In view of the foregoing and the further fact that the amount which the United States in any event will pay to German nationals is far in excess of the amount which the United States will receive on behalf of its nationals under the German debt agreement, it is felt that there should be no objection offered on the part of the creditor governments to the continuation of these two classes of payments.

At the appropriate time you should bring this matter to the attention of the Committee of Experts, with a view to obtaining their consent to the continuance of the payments during the next year on the conditions above outlined.

CASTLE

462.00R296/4769 : Telegram

The Ambassador in Great Britain (Dawes) to the Acting Secretary of State

[Paraphrase]

LONDON, July 30, 1931—11 a. m.

[Received 10 p. m.]

281. From Gibson. Reference is made to the Department's telegram of 6 p. m. July 29th, No. 243.⁴ This matter was taken up by me with Leith-Ross,⁵ who said that he had no objection. I also approached the French representative on the subject; and he stated that he did not object personally, but that he would prefer that the matter not be brought up before the committee until Friday, as he wished to have time enough to talk to Flandin⁶ on the telephone. Leith-Ross and the French representative both felt that an attempt might be made to use this as a precedent or for bargaining purposes.

Evidence has been given by the Germans of their desire to cooperate in reaching a solution.

DAWES

⁴Not printed; it called attention to Department's telegram No. 214, July 16.

⁵British representative on the Committee of Experts.

⁶French Minister of Finance.

462.00R296/4795 : Telegram

The Ambassador in Great Britain (Dawes) to the Acting Secretary of State

LONDON, August 3, 1931—8 p. m.

[Received 8:25 p. m.]

291. My 289, August 3, 11 a. m.⁷ Following is the text of an undated and unsigned statement sent the Committee August 1st when delegations refused to take any action on an oral statement. The Secretariat circulated it as "memorandum by the American Delegation". On first presentation of the matter it had been especially decided to treat it as strictly confidential so far as the Committee was concerned.

"London Committee of Experts 1931.

Memorandum by the American Delegation. The German-American Agreement of June 23, 1930.

1. The Agreement of June 23rd, 1930, provides for the payment by Germany of 12,650,000 marks on September 30th, 1931, and of the same amount on March 31st, 1932, on account of the costs of the United States Army of Occupation. The Government of the United States contemplates that these payments be postponed on the terms of repayment to be established by American legislation for putting into effect the President's proposal of June 20th, 1931.

2. The Agreement also provides for payment of 20,400,000 reichsmarks on September 30th, 1931, and of the same amount on March 31st, 1932, a total of 40,800,000 reichsmarks which are payable in satisfaction of the awards of the German-American Mixed Claims Commission. These payments are affected by special conditions which make it desirable in the interest of the general situation that they be not postponed and the Government of the United States proposes that they be not postponed. The payments are deposited, together with sums appropriated from the United States budget and other funds of the United States Treasury, in a special deposit account for disbursal to German and American nationals pursuant to categories of priorities established by the United States Settlement of War Claims Act.⁸ The surpluses which would become payable to the German economy from this fund in the year beginning July 1, 1931, are nearly twice the sum of 40,800,000 reichsmarks payable by Germany into the fund during the same year.

In connection with the German exchange crisis the Government of the United States has examined into the possibility of making payments from this fund immediately available to the German economy and has assured itself that it would be technically possible to mobilize immediately in the most effective manner such a payment in the amount of about \$18,000,000 while there is a contingent possibility that an additional sum of approximately \$13,000,000 may within a few months become available.

⁷ Not printed.

⁸ March 10, 1928; 45 Stat. 254.

The budget of the United States receives no benefits from the 40,800,000 reichsmarks payable by Germany in the year beginning July 1, 1931, which are disbursed to private individuals in payment of the awards of an international tribunal. A minor fact of practical importance incident to these awards is that they bear interest at the rate of 5 percent in favor of the individual claimants and that postponement of receipts of the deposit fund would result in the accrual of interest changes [*charges*] in favor of American nationals having priority over later payments to be made to German nationals under the priorities established by the pertinent legislation.

For these reasons of a practical nature substantially promoting the economic purpose of the President's proposal of June 20, the Government of the United States regards it as obviously undesirable that the movement of these payments be interrupted. However, before expediting the payment of \$18,000,000 from its own resources to German nationals for the benefit of the German economy the Government of the United States desires to bring the foregoing statement of facts to the attention of the experts now meeting in London assuming that they will agree that these and the corresponding German payments should be continued."

From Livesey.⁹

DAWES

462.00R296/4917 : Telegram

The Chargé in France (Marriner) to the Acting Secretary of State

[Paraphrase]

PARIS, August 12, 1931—10 a. m.

[Received August 12—8:15 a. m.]

503. Last night I was told informally that Flandin had returned to Paris yesterday morning and that he did not agree with the viewpoint of the French experts in London or with the French Foreign Office on the question of the non-postponement of payments under the German-American Claims Agreement. The American request would have to be refused. Today the Foreign Office will probably send a formal indication of this attitude.

MARRINER

462.00R296/4917 : Telegram

The Acting Secretary of State to the Chargé in France (Marriner)

[Paraphrase]

WASHINGTON, August 12, 1931—noon.

399. Reference is made to your telegram No. 503 of August 12, 10 a. m. The formal consent of all other interested Governments has

⁹ Frederick Livesey, Assistant Economic Adviser, Department of State, was in London as technical expert with Mr. Gibson at the Conference of Experts.

been given to the American suggestion, and the Treasury of the United States awaits only the French action to send out the checks.

If the information in your cable under reference proves to be accurate, please see Flandin or the Foreign Office at once and urge them strongly to reconsider this decision.

The net amount of these payments will run strongly in favor of German nationals and therefore should assist them greatly at this critical time. The payments are wholly in favor of private individuals and do not fall within the scope of the President's proposal. These points should be again emphasized to the French Government.

Should the payments in question be continued, it would mean that the American Government would pay within the year at least \$18,000,000 on account of the awards of the War Claims Arbitrator in payment for privately owned patents, radio stations, and ships taken by this Government. Moreover, if the decision on the so-called sabotage claims is sustained by the Mixed Claims Commission, this amount will be increased by another \$13,000,000. \$16,000,000 of the \$18,000,000 just mentioned would be distributed at once by the Treasury. Germany, on the other hand, would pay to the American Government during the moratorium year only \$9,700,000, all of which would be re-distributed to American private individuals in accordance with the decisions of the Mixed Claims Commission.

The following information is for your use at your discretion. Under arrangements with the Reichsbank, the required sums are made available by it to the American Treasury in reichsmarks in return for dollars. Then the Treasury draws checks payable in reichsmarks at the Reichsbank for the individual German claimants. These payments are clearly private in nature. It would seem to be unwise on the part of the French Government to withhold its consent to these payments in view of their private character and considering the further fact that all other countries concerned have agreed. Such an action on the part of the French would be seen in an unfavorable light both here and in Germany. The President's proposal is assured of coming into full effect as a result of the agreements reached in London yesterday. If the proposal is to contribute to a revival of the belief that states can straighten out their financial disputes, it is vital that the series of agreements reached be not disturbed by this small difference which will almost surely be interpreted as evidencing an unfriendly intention.

Unless you find it absolutely necessary do not use these arguments with the French Government. We hope sincerely that the French Government will give its consent without further controversy when it has made a fuller examination of all aspects of the case.

CASTLE

462.00R296/4924 : Telegram

The Chargé in France (Marriner) to the Acting Secretary of State

PARIS, August 12, 1931—7 p. m.

[Received August 12—4:15 p. m.]

505. The following is the text of the note from the Foreign Office setting forth the reasons for not agreeing to the non-postponement of the payments of the German-American Mixed Claims Commission awards:

"In your note number 1216 of the 8th instant you asked me to confirm that the French Government has no objection to the continuance of payments to be made by Germany on account of the mixed claims during the period 1931-1932 in spite of the proposal of President Hoover.

After examination of the question by the competent services it appears to the French Government that it is necessary to establish a distinction between the annuity due from the German Government to the American Government on account of the mixed claims on the one hand and on the other hand indemnities paid by the American Government to German nationals on account of restitution of sequestered property, indemnification for liquidated property, damages suffered, etc., in conformity with the sentences of the special jurisdiction competent in the premises.

In fact the annuity which the German Government pays to the American Government on account of mixed claims is incontestably an intergovernmental obligation; it is a fraction of the Young annuity,¹⁰ a fraction quite distinct it is true from the Hague agreements¹¹ to which the United States is not a party and sanctioned by a special Germano-American agreement but that agreement is as intergovernmental as the Hague agreements themselves.

Furthermore, by an exchange of letters dated January 20, 1930,¹² officially confirmed [*confirming*] the said Hague agreements the German Government engaged itself with respect to all the powers whose credits are included in the annuities under the Young Plan "in the future not to give any special advantage to any of those powers in connection with postponement". That exchange of letters was required precisely to maintain strict equality of treatment between the Hague agreements on the one hand and the Germano-American agreement on the other. The present request of the American Government is directly inconsistent with that parity. It appears also as a derogation in favor of the United States of the very recent Franco-American agreement relative to the application of the Hoover Plan.¹³

Finally, I am not aware that the French representatives on the Experts Committee expressed the opinion that their Government

¹⁰ See Great Britain, Cmd. 3343 (1929) : *Report of the Committee of Experts on Reparations*.

¹¹ Great Britain, Cmd. 3484, Miscellaneous No. 4 (1930) : *Agreements Concluded at the Hague Conference, January 1930*.

¹² See *ibid.*, p. 134.

¹³ For text of this agreement, dated July 6, 1931, see vol. I, p. 162.

would have no objection to the payments relative to mixed claims being continued. The Experts Committee referred the question to the Governments as soon as it was presented by the American representative. The French experts immediately reported to their Government which approved their position, namely, that they had no jurisdiction in the matter.

Under these conditions the French Government regrets it is unable to accede to the request presented to it. (signed) Berthelot."

MARRINER

462.00R296/4924 : Telegram

The Acting Secretary of State to the Chargé in France (Marriner)

[Paraphrase]

WASHINGTON, August 13, 1931—3 p. m.

400. We wish you to bring before the French Government the following observations upon the note transmitted in your No. 505 of August 12. These are to be put in such form as you judge best and are in addition to the considerations set forth in our No. 399 of August 12 to you.

(1) The French Government is inconsistent in drawing a distinction between the annuity paid by Germany to the United States and the payments by the United States to nationals of Germany. Both sets of payments are used directly to recompense private individuals. It should be kept in mind that payments from Germany go into a fund created at the Treasury under the "Settlement of War Claims Act of 1928" known as The German Special Deposit Account. This fund is derived in part from appropriations by the United States Congress, and out of it payments are made, following a series of priorities established in the Act, to both German and American nationals. The German payments, in other words, are one of the sources from which German claims are compensated.

(2) It would not be practicable for this Government to recommend to the Congress that payments be continued to German nationals while payments to American nationals were discontinued. The French Government must recognize this.

(3) The United States is not a signatory of the Young Plan and consequently the fact that the annuity which the German Government pays is taken into account under the Young Plan does not affect the validity of the proceeding.

(4) The conclusion that this Government's suggestion that payments under the German-American Claims Agreement constitutes a "special advantage" to the United States seems a strained and unwarranted construction of the exchange of letters of January 20, 1930. The net bal-

ance of payments, as has been repeatedly pointed out, will be greatly in favor of German nationals. This is also applicable to the observation of the French Government that our proposal appears to be contrary to the recent Franco-American agreement.

If a long exchange of argument and counter-argument over this matter should be necessary, it would be indeed unfortunate. The evident facts of our suggestion should rule. These facts are that all other interested Governments have accepted the proposal, that it would mean assistance to German industry when it is badly needed, that the Government of the United States would be unable to continue the payments on German claims unless the German payments are continued, and finally, the very important fact that continued opposition of the French in this connection, though founded on conviction, would not accord with that spirit of cooperation of which the international action taken to forward the President's proposal has given such encouraging proof to the world.

It is agreeable that Livesey go to Paris. Reference your No. 506.¹⁴

CASTLE

462.00R296/4976 : Telegram

The Chargé in France (Marriner) to the Acting Secretary of State

PARIS, August 19, 1931—1 p. m.

[Received August 19—12:40 p. m.¹⁵]

516. I saw Flandin this morning. He has received and been over all the information which the Embassy had transmitted to the Foreign Office in accordance with your cables and while fully comprehending the desirability of assisting with the German exchange in this manner saw no possibility of defending before Parliament a proposition which would mean payments by Germany of sums embodied in the scope of the Young Plan because of the exchange of letters of January 20, 1930, and which might also be attacked as assisting the payment of damages to other nationals at a time when the payment for the very damages caused by the war in France were suspended.

[Paraphrase.] Flandin discussed all the other issues which had been discussed previously. He particularly insisted that there was no necessary relation between our domestic law which requires payments from the United States to Germany and the intergovernmental payment from Germany to the United States.

As a practical matter he likewise felt that it would be easy enough to work out a method by which the Treasury would pay the difference between the amount owed to Germany and the amount owed by Ger-

¹⁴ Not printed.

¹⁵ Telegram in two sections.

many to the United States. Nevertheless, Flandin would not commit himself on the French Government's attitude in case such a proposal were made.

Flandin expressed his regret that this matter had not come up during the Paris conversations when the French Parliament was meeting. His implication was that the American desire for this payment from Germany might have made it possible for the French to have achieved certain modifications in the agreement reached at that time.

Livesey and I both insisted that the question was one of assistance to the German economy at this time and not a legal question, but Flandin could see no reason of an international character why this assistance could not be given in some other way regardless of a German payment. He apparently had neither the desire nor the intention of gambling his own political life or his Government's in defending any plan that would allow Germany to pay any of the annuities included in the Young Plan report during the year of postponement. [End paraphrase.]

MARRINER

462.11W892/1945 : Telegram

The Acting Secretary of State to the Ambassador in France (Edge)

[Paraphrase]

WASHINGTON, August 28, 1931—5 p. m.

423. Reference is made to your No. 516 of August 19. A decision on this matter cannot be much longer delayed. Accordingly the Department desires that the Ambassador take up the matter with Prime Minister Laval personally, presenting if necessary, and within his discretion, the following considerations to supplement those already advanced:

(1) The President's proposal excluded obligations held by private parties. This Government cannot agree that payments under the German-American Claims Agreement are suspended by that proposal. Acting on this conviction the American Government is continuing to make payments to German nationals during the moratorium year. It cannot agree that the payments of the German Government should be treated on a different basis and suspended on the contention that they are intergovernmental obligations. These payments by Germany are likewise in compensation for private claims.

Moreover, if Germany fails to pay to the account of American nationals as the agreement requires, then Congress would have to give its consent to the postponement and to a refunding scheme if this action were not to stand as a default by Germany. It is clear that Congress

would not consent to such postponement while our Government continued to pay the similar claims of German nationals.

(2) It should be understood by the French Government that the payments by the German Government are placed in a special account from which checks are drawn in favor of private claimants. The United States receives no benefit, directly or indirectly or even temporarily, from these payments. It should be further understood that the United States Government pays money into the same special account and that from this account both German and American claimants are paid according to established priorities.

(3) Something over \$4,000,000 is the actual amount of the first German payment which is due on September 30, 1931. A similar payment is due on March 31, 1932, but under the German-American Claims Agreement this one might be suspended. In that event, the total German payment going into the special account will be somewhat over \$4,000,000, while German nationals would receive out of that account \$18,000,000 and very likely \$31,000,000 during the moratorium year.

(4) In view of the economic situation in Germany, the American Government believes that the continuation of payments would greatly aid German economy and strengthen German exchange.

(5) It may be restated to the French Government that the fact that the Young Plan signatories took German payments into account as a fraction of the Young Plan annuities does not bind this Government and that this Government does not accept the view that the nature of the payments in question is thereby modified.

(6) The French Government must recognize that there is a necessary connection between the German payments and the disbursements from the special account created by Act of Congress, first of all, because the German payments are one source of the funds in the special account, and secondly, because the American Treasury would not feel itself legally authorized to pay German nationals and at the same time consent to the cessation of German payments into the account. This is because the payments in both directions are essentially identical.

(7) It is our hope that in view of the preceding statements and considering the relative smallness of the German payments involved, the Government of France will reconsider its attitude. In the present critical state of world affairs, it is obviously desirable that all these problems should be solved with complete cooperation and accord. We bring this matter to the attention of the French Government because we desire to secure such cooperation and accord.

(8) It is not possible to accept the French suggestion of payment of the net, for all the payments under discussion are in reality pay-

ments to private individuals. In order to discharge the private claims the whole body of payments must be made.

However, in seeking to reach agreement with the French Government on this matter, the American Government is ready to consider the French suggestion in any practicable form that enables the whole body of claims to be discharged. For example, a satisfactory solution would be for the German Government, instead of transmitting any funds to the American Treasury for the Special Deposit Account, to merely make payment in reichsmarks to the Reichsbank (for the credit of the Special Deposit Account) for the discharging of the claims of German nationals.

If you find that there is a serious desire on the part of the French Government to work out a solution, you might make the above suggestion.

CASTLE

462.11W892/1952 : Telegram

The Ambassador in France (Edge) to the Acting Secretary of State

PARIS, September 2, 1931—8 p. m.

[Received 8:11 p. m.]

558. I saw the Prime Minister this afternoon. Flandin was not present having already conferred with him.

Monsieur Laval elaborated the French proposal contained in my 555 of September 2, noon,¹⁶ as follows:

"Germany shall request the authorization of France as one of the signatories of the Hague agreements to deposit the payments, made in accordance with the agreement between the United States and Germany, in the Bank of International Settlements to be held there for redistribution in accordance with the indications of the United States Treasury after 2 years in 10 equal installments in accordance with the arrangement contained in the Franco-American agreement of July 6."

The Prime Minister assumed that this would not necessarily affect the payments by the United States to Germany and added that it would merely involve the question of the interpretation of the American law and that it would accord with the obligations of Germany in the Hague agreements and the subsequent exchange of notes.

The Prime Minister insisted this would afford the American creditors absolute security since the sums would be on deposit in the Bank of International Settlements and would merely delay their distribution on the same basis as other creditors were treated under the Hoover plan.

¹⁶ Not printed.

I told him that I feared it would be impossible to work out such a plan in view of the provisions of the American law and I emphasized the points contained in your 429, September 1, 4 p. m.¹⁷ I even hinted that perhaps it would be possible for France in view of the mutual efforts to aid Germany merely to overlook the question and allow the payments to continue. To this he strenuously objected saying that it was a matter of principle for France with respect to the inviolability of the German commitments at The Hague and only a matter of arrangement and interpretation of law to America.

Flandin leaves for Geneva tonight and in view of the position of the Council and Laval[']s unqualified agreement with his Finance Minister I do not believe further representations beyond clarification of details if the French proposal is at all practical would change their position.

Notwithstanding every assurance that the subject matter of our conversations with French officials would not be publicly divulged I have been informed during the course of the preparation of this telegram by representatives of the press that they have received from French sources the subject [of] our discussion upon which I of course refused to comment.

EDGE

462.11W892/1953 : Telegram

The Ambassador in France (Edge) to the Acting Secretary of State

PARIS, September 4, 1931—11 a. m.

[Received September 4—9 : 18 a. m.]

562. Your 431, September 3, 6 p. m.¹⁷ I have this morning sent by hand to Prime Minister Laval the following note:

"After our conversation Wednesday afternoon I submitted to my Government the suggestion which you and Monsieur Flandin had worked out with respect to the arrangement for the continuation of the payments under the German-American Mixed Claims awards due private citizens of both countries. You will recall that during our talk, without any effort to pass upon the proposal from a legal standpoint, it was my opinion that such a plan would not prove practical. This morning I have received word from my Government that your suggestion is unsatisfactory to the American Treasury.

I am sure you share with me the feeling that unpleasant repercussions of this situation should be avoided and I am convinced that France does not wish to remain the only country in the world that fails to consider this transaction outside the year's debt suspension or to prevent German economy from receiving the much needed balance of these payments."

EDGE

¹⁷ Not printed.

462.11W892/1953 : Telegram

The Secretary of State to the Ambassador in France (Edge)

WASHINGTON, September 9, 1931—6 p. m.

440. You will notify the French Government that the American Government does not agree to the French position in respect of payments on account of mixed claims. In order to find a solution to this troublesome problem and to permit the private claimants to receive the sums due them the Government of the United States now intends to adopt the following policy: The Treasury has decided that if the German Government gives notice of postponement of payment to this country in accordance with Article 5 of the Agreement between the American and German Governments of June 23, 1930, the requirement of 90 days' advance notice will be waived. Germany would, under these circumstances, make no payment on September 30. But in virtue of the German notice of postponement, no default would arise. Therefore there would be no reason why payments could not be made in regular course to German claimants out of the Special Deposit Account.

This contemplated procedure you will please communicate to the French Government without, however, seeking to elicit comment from them.

STIMSON

462.00R296/5114

The Secretary of the Treasury (Mellon) to the Secretary of State

WASHINGTON, September 23, 1931.

MY DEAR MR. SECRETARY: I have Assistant Secretary White's letter (EA 462.00R296/5095) of September 15, 1931,¹⁹ enclosing two letters and copies of translations thereof, dated September 11, 1931, from the German Ambassador,¹⁹ giving notice to the United States that the payments due September 30, 1931, and March 31, 1932, on account of the awards of the Mixed Claims Commission, United States and Germany, and on account of the costs of the American Army of Occupation, as specified under paragraphs 1 (a) and (b), respectively, of the debt funding agreement between the Governments of the German Reich and the United States, dated June 23, 1930, will be postponed in accordance with paragraph 5 of that agreement.

I shall appreciate it if you will be good enough to advise the German Ambassador that the Treasury of the United States takes due notice of his Government's action in this connection, and that the ninety days' advance notice required under the agreement is hereby

¹⁹ Not printed.

waived with respect to the payment due September 30, 1931. You may also advise the Ambassador that the Treasury will recommend to the Congress that authority be granted to the Secretary of the Treasury to postpone the payments due during the year July 1, 1931 to June 30, 1932, on account of Army costs, and to execute an agreement for their repayment over a period of ten years beginning July 1, 1933.

Very truly yours,

A. W. MELLON

NEGOTIATIONS FOR THE SALE OF SURPLUS AMERICAN WHEAT AND COTTON TO STRENGTHEN THE FINANCIAL POSITION OF GERMANY

811.61311 Germany/1 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

[Paraphrase]

WASHINGTON, July 16, 1931—1 p. m.

123. 1. What follows is solely for your own consideration and your advice to the Department. No hint of it is to be given to the German Government, at the present time. Our intention is to inform you of a possible plan of ours whereby about \$120,000,000 could be made available to the German people. At the same time this would assist the improvement of social conditions there, demonstrate our confidence in the future of Germany, and contribute to the restoration of confidence within Germany.

2. You are aware that the farm cooperatives are financed by the Farm Board. Our plan is to sell Germany about 1,100,000 bales of cotton and 70,000,000 bushels of wheat from the stocks of the cooperatives.

3. These supplies of wheat and cotton are for consumption exclusively within Germany. Payment will be made in dollar obligations of the German Government or some acceptable German institution. A period of $1\frac{1}{2}$ to 3 years may be granted for full payment. Payments in reduction of the obligations may be derived, under some arrangement, from a portion of the realizations upon reexported cotton goods.

4. Through our observers we have learned that, owing to import restrictions, the amount of wheat consumed by Germany is approximately 70,000,000 bushels under that of normal economic times. That is, much more wheat would be imported by Germany under normal conditions than at the current rate. According to our information the bread is of an inferior quality. This circumstance has a depressing effect upon the people. If the quality of the bread were raised to the normal level, the entire social situation would be sensibly strengthened.

5. Considerable amounts of immediate cash would be secured for the German Government by the purchase of wheat on such credit, by re-selling it plus the import duty to the population.

6. By selling cotton to the spinning industries, the German Government would also secure considerable cash for the Treasury. If the manufacturers were given time for payment, they, the manufacturers, would be able to grant their customers easier terms.

7. If any such proposal were feasible, the price would be the difficulty confronting us. Ten cents is approximately the current F. O. B. price of these more than average grades of cotton for which the cooperatives have paid about 18 cents a pound. The F. O. B. price of wheat is about \$.55; and the cost approximately \$1.10 per bushel. Temporary difficulties in Central Europe are partly responsible for this great decline in the current price which in itself is temporary. For our cooperatives to sell at the present price would be ruinous. Because present price levels throughout the world are rapidly decreasing the acreage—the fall in world production of export wheat this year by 300,000,000 bushels and the shrinkage in cotton acreage by 10 to 20 percent—the prices of wheat and cotton are bound ultimately to rise. From this point of view, the cooperatives can hold until economic recovery.

8. It will be realized that sale upon such security is not very attractive now; furthermore, that there is a considerable element of risk involved. Moreover, it will be seen, too, that on time payments of commodities, commercial transactions with Germany now bring from 8 to 9 percent interest annually. Our contribution to the situation could be to make it possible for the cooperatives to set a low interest rate at a minimum of $4\frac{1}{2}$ percent per annum. This we could accomplish by making use of our governmental agencies. These price difficulties could be approached by devising a formula which took into consideration that current prices do not represent fair values nor values apt to maintain in the future. Such a formula might provide:

(1) that the delivery of the commodities would be made in equal monthly amounts for a period of 1 year, or more rapidly if the buyer so desired;

(2) that, for the year of delivery, the average of F. O. B. prices in the open market should be determined; that this be established at the end of the year;

(3) that the original cost price of these commodities, plus carrying charges, should also be fixed;

(4) that the original cost price less half the difference between these two prices should be paid by the buyer. This amount ought not to exceed some figure per unit to be agreed upon.

9. By declaring a fixed price now derangement of commodity markets would be avoided by such a formula. Both the purchaser and

the buyer would be relieved from the difficulties of stating the price under existing economic conditions.

10. The low interest rate and risk would be taken care of in the differential above the average market price as above.

11. The problem in suggesting a negotiation of this sort is that we might be charged with attempting to arrange a commercial transaction to benefit the American farmer out of this situation. In reality, the entire basis of it is an effort to give assistance to Germany now.

We do not believe that the moment is opportune for advancing the suggestion; consequently the above is solely for your own consideration and advice to us. Nevertheless, it is our desire that you be informed and that you forward your opinion.

CASTLE

811.61311 Germany/2 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

[Paraphrase]

WASHINGTON, July 20, 1931—3 p. m.

126. Department's No. 123, July 15 [16], with reference to cotton and wheat. It is extremely difficult to secure any increase in banking credits now. Consequently, as our contribution to the situation, the suggestion to sell cotton and wheat assumes an importance larger than hitherto imagined. Our desire is that you approach some proper German official with the suggestion, as if it were your own, that, if his Government wished it, you might be able to arrange a proposal. You should present the facts as outlined in paragraphs 1 through 7 of that telegram. You are not to discuss prices. It would be much better if the Germans initiated the proposal to take advantage of our large holdings of raw materials. This procedure would enable us to scotch any charge that we were taking advantage of the German situation to force our commodities on them.

There has been considerable criticism in this country of the fact that our tremendous sacrifices to Germany have come at a time when our farmers were enduring hardships while Germany continues to purchase breadstuffs from Russia. The idea of marketing our goods is in no sense behind our participation in this transaction. The entire world financial situation, including that of Germany, would be strengthened by any action of the German people to support American commodity markets. The German Government ought to be aware of this.

CASTLE

811.61311 Germany/4 : Telegram

The Ambassador in Germany (Sackett) to the Acting Secretary of State

[Paraphrase]

BERLIN, July 21, 1931—4 p. m.

[Received July 21—3:36 p. m.]

139. Department's 126, 20th of July, 3 p. m. Chancellor Bruening is in London. Consequently, I have talked with the Minister of Agriculture, Schiele, about the sale of wheat and cotton. I made no mention of prices. I had difficulty in making him understand that the intention was to formulate a plan whereby Germany would be granted considerable financial aid. He finally seemed to grasp the purpose and at present he is privately conferring with the Minister of Finance²⁰ who is the Acting Chancellor, and with the President of the Reichsbank.²¹ In view of the fact that Canada, Russia, and Argentina are making almost irresistible demands for the sale of wheat, Schiele stated that the proposal must be kept secret; and, if acted upon must be made public as a *fait accompli*. He realizes that, if the suggestion is considered practical, it must come from Germany. As Minister of Agriculture, Schiele does not see the financial difficulties as keenly as he does the agricultural. Schiele's main problem is to dispose of a certain quantity of German soft wheat, the principal market for which is England, and to achieve this, it is virtually necessary to take hard wheat in return as a trade. His initial opinion was that his own particular difficulty would not be facilitated by my suggestion. Today or tomorrow morning I expect to have the first reactions of the Finance Minister and Dr. Luther, or to have a conference with them.

Department's 123, 16th of July, 1 p. m., with reference to wheat. In a recent conversation which I had with Bruening he confidentially told me that his Government would want to buy about 50,000,000 bushels of hard wheat. It would like to obtain wheat from the United States, as that from Eastern Europe was of the soft variety. Since he preferred to deal with America, he pointed out in the same conversation that it would be immaterial if he had to pay slightly more for the wheat from the United States. Although I made no effort to have him expand this idea, I did make note of the conversation for future reference. The need of Germany for two to three hundred thousand tons of hard wheat was confirmed today by the Minister of Agriculture.

²⁰ Hermann Robert Dietrich.

²¹ Dr. Hans Luther.

With regard to the fourth paragraph of your 123, my personal observation as well as official and general opinion do not bear out the statement as to depressing or inferiority effect. Last summer the Government issued regulations which required substitutes to be mixed with wheat in milling. The regulations were practically ineffective and lasted only a short time. Since that time the restrictions in force require that 80 percent domestic wheat be used by the millers in milling flour. These regulations were intended to be a measure of relief to agriculture. In connection with a prohibitive tariff on the imports of wheat, a consumption of a large part of the domestic crop is secured at good prices. Although the quality of the bread produced under such restrictions is not as satisfactory as formerly because the mixture contains a low proportion of hard wheat, it apparently provides the necessary nutrition for the population. In Germany's present financial difficulties, the poor classes of the population are using as voluntary substitutes for wheat bread, the heavy surplus of rye, thereby forcing a low price, and the large and cheap potato crop. The proposal of the Department that Germany buy wheat on credit will yield considerable income to the German Government because the duty is about \$1.60 per bushel. Domestic wheat in Germany is also about the same price.

In the eighth paragraph of your telegram the price plan regarding cotton is giving me great difficulty. There is severe competition between the spinning industry in Germany and that in neighboring countries. To compete, the Germans must secure their raw material at the lowest possible price. Should the German Government sell to the spinning industry at a price above the prevailing market of the month of delivery, my opinion is that the industry would be operating at so great a disadvantage in its foreign competition that, despite the favorable rate of interest over the \$.14 price, it might be more a hindrance than a help to Germany's finances. Because there is no duty on raw cotton, the German Government would be unable to reap a profit by reselling to its industries. I can only suggest whether the American cooperatives like commercial interests could sell their cotton at the market and hedge winter sales in future contracts, and resell the hedge as the market rises.

Your suggestion regarding wheat and cotton in paragraph 8 would encounter difficulties here. My fear is that a telegram does not explain them clearly and fully.

SACKETT

811.61311 Germany/5 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

[Paraphrase]

WASHINGTON, July 22, 1931—7 p. m.

130. Embassy's 139, 21st of July, 4 p. m.

1. Fifty million bushels of hard wheat could be delivered by us. One quality called Fancy Dark winter has a protein value of 13 percent; and the other, No. 2 hard winter, has a slightly lower protein value. No. 2 hard winter seems to be the quality which Germany usually imports. It would require a premium over normal good milling wheat.

2. We have considerably changed our point of view on prices. If it should be possible to take an early transaction on both wheat and cotton, my opinion is that the Farm Board would be ready to sell 50,000,000 bushels of wheat and 1,100,000 bales of cotton. Payment in the form of acceptances from some sound German financial institution bearing interest at $4\frac{1}{2}$ percent would be distributed over a period of 2 or 3 years. There would be monthly deliveries; the price calculated over the average of a whole year; but a minimum price to be fixed and also a maximum.

3. It would probably be necessary to have the maximum on wheat at about \$.80 and the minimum at approximately \$.70.

4. Cotton could be treated in the same manner, and the maximum set, shall we say, at \$.13 $\frac{1}{2}$ and the minimum at \$.11. If required, delivery would be given earlier than monthly amounts but if the deliveries were less than the monthly amounts, Germany would bear the storage charges.

5. These terms are not to be stated precisely to the German Government. You could point out, however, that upon inquiry you believe something could be formulated upon these lines. If such a transaction could be announced in the present situation, we believe that German credit would be undoubtedly strengthened as showing that the Farm Board, a Government agency, has no fears as to the stability of Germany.

CASTLE

811.61311 Germany/7 : Telegram

The Ambassador in Germany (Sackett) to the Acting Secretary of State

[Paraphrase]

BERLIN, July 24, 1931—4 p. m.

[Received July 24—1 : 25 p. m.]

147. Department's 130, 7 p. m., 22nd of July. This morning I had a conference with an official from the Ministry of Finance, the Minister of Agriculture, and the Acting Minister of Economics. We discussed the entire question as regards both cotton and wheat. After 2 hours they could not arrive at any decision. The conference, however, will be continued shortly.

I have the distinct impression that no positive decision can be made in this matter until I have gone over the issue with Bruening. It is evident that other members of the Cabinet will not bring questions to a conclusion unless they have first been passed on by the Chancellor. The absence of the latter in London, the foreign statesmen's visits, and the necessity of Cabinet meetings for consideration of the economic situation will preclude my having a satisfactory conference with Bruening until some time next week.

The cotton situation is developing as anticipated in the Embassy's telegram No. 139, July 21, 4 p. m. The manufacturers of cotton goods are dependent upon the sales made against the daily price of raw cotton. One of the officials pointed out that it is necessary to know in some way, almost daily or possibly weekly, the price which the German Government would have to pay and could pass on to the spinners. Unless this price can be made known in one way or another, this official continued, the manufacturers would be extremely handicapped in their competition with the manufacturers of Belgium, England, Czechoslovakia, etc. The cotton goods which Germany exports are about equal to the value of the total raw cotton consumed in Germany. This would seem to indicate that 50 to 60 percent of their manufacture is exported. Consequently, it is in competition with the daily quotation of cotton goods from neighboring countries. The quotations are based on the price of spot cotton the day of the manufacturers' sale. In the opinion of the official, the danger of a possible further decline in cotton prices, even if temporary, would put his Government into a speculative position in cotton which it is unable to undertake. If the Department should find it necessary to put our minimum price limit above the current market price, a real difficulty will seemingly develop from such action. The German Government has recently experienced that difficulty in flax purchases from Russia at a fixed price. Owing to a subsequent decline in the commodity

market, it had to subsidize the manufacturers of the finished product in order to permit them to compete with other countries.

The question of wheat seems to be much more simple, especially if I have an opportunity to discuss it with Bruening or some one who appreciates that the needs of Germany lie more in the financial line than in the agricultural balance. The Minister of Agriculture seems to be chiefly concerned with the agricultural balance.

I shall pursue this matter as rapidly as possible. Nevertheless, I must wait for additional conferences with more intelligent members of the Government. In the meantime, if the Department can consider again the cotton situation in the light of the above remarks, it will be helpful.

SACKETT

811.61311 Germany/7½ : Telegram

The Ambassador in Germany (Sackett) to the Acting Secretary of State

[Paraphrase]

BERLIN, July 31, 1931—2 p. m.

[Received July 31—12:10 p. m.]

155. Embassy's 147, 24th of July, 4 p. m.; the Department's 130, July 22, 7 p. m. In the presence of the Chancellor, I have continued to hold conversations regarding wheat with the Acting Minister of Economics and the Minister of Agriculture. According to the latter, his Government could take in the next 12 months not more than 500,000 metric tons. The previous estimates of 50,000,000 bushels had been based upon imports of former years. Last year the production of domestic wheat showed a considerable increase over former years. Consequently, the requirements of hard wheat are much reduced.

The Minister of Agriculture claims that the requirements of Germany as to these 500,000 tons fall into the following three categories: (1) 100,000 tons of No. 1 and 2 amber durum; (2) 200,000 tons of northern Duluth spring and hard Duluth spring corresponding to Manitoba 1 and 2; (3) 200,000 tons of the usual commercial deliveries of first grades of hard winter.

I need additional data on the question of price. On the quotation of what grain exchange and on what grades would your prices be based to arrive at the average annual price to be paid?

Schiele, the Minister of Agriculture, is of the opinion that only if the newest crop of wheat is delivered could this sale be carried through. He also asks if deliveries can be made of equal amounts quarterly instead of monthly.

Yesterday, the Minister continued, the Federal Farm Board offered good hard winter grades at \$.56 per bushel c. i. f. European ports and

American shippers offered durum at \$.60½ to \$.61½ c. i. f. European ports.

SACKETT

811.61311 Germany/8 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

WASHINGTON, August 1, 1931—2 p. m.

146. Story from Berlin of negotiations for purchase of Farm Board wheat and cotton appears in this morning's press. The Department stated to the press last night (not for quotation) that "Ambassador Sackett has suggested to the German Government that perhaps it might be of assistance to Germany if the Farm Board were to sell on liberal credit terms substantial amounts of its holdings in wheat and cotton. However, neither the Farm Board nor the Government has yet received any request from Germany along these lines."

[Paraphrase.] After a meeting yesterday, the Farm Board stated that it had no proposal from the German Government but that it would sell to Germany on credit terms if it would assist Germany and increase the consumption of commodities.

Embassy's No. 155, July 31. In our opinion the time is now opportune for you to inform the German Government that your only interest was to assist it financially by ascertaining if the supplies of the Farm Board could be sold on long-term credits at low rates of interest. You know now that such is the case and that neither the Government of the United States nor you can negotiate contracts. Such negotiation is the province of the Farm Board; and you should tell them that if they are further interested they should appoint an agent in this country who would deal directly with the Farm Board. Your good offices, you should stress, were purely in the nature of a guide to them in locating, indirectly, a large amount of foreign credits.

Confidentially, this is more necessary, since the German Government is obviously consulting with dealers who are antagonistic to the Farm Board. These dealers wish to sell their commodities and are obviously misrepresenting matters in an attempt to forestall any action. This is also necessary because the Government cannot undertake either details or haggling over such matters.

Moreover, our opinion is that the moment has come when we have done everything that the Government could do in this matter of assistance; that we ought not to expose ourselves to the charge that as a Government the United States is attempting to sell commodities. [End paraphrase.]

WHITE

811.61311 Germany/9 : Telegram

*The Ambassador in Germany (Sackett) to the Acting Secretary
of State*

[Paraphrase]

BERLIN, August 4, 1931—5 p. m.

[Received August 4—1:30 p. m.]

157. Department's 146, 1st of August, 2 p.m. This matter was telegraphed from Washington and was published for the first time in the Berlin press on the afternoon of Friday, July 31. This preceded by about 1 hour your telephone call to me. Since that time complete accounts of the proposed trade in cotton and wheat have been published here and many of the news reports have included prospective deals in copper and other commodities as well. Canada, either the wheat pool or the Government, I have just learned, is evidently aroused by this publicity and is on the verge of approaching the German Government with a like wheat offer. I received a telephone call from Sprague, the financial adviser of the Bank of England who is now here assisting the German Government. According to him he was considering conferring with the Germans about this today. He agreed with my suggestion, however, that it would be inadvisable to bring up the matter at this time.

In accordance with the instructions in your telegram, I have suggested to the Foreign Office that some one be appointed to conduct negotiations for Germany directly with the Farm Board. The German Foreign Office appears to be anxious to continue discussions here at least to the point of concluding an offer to be sent through me to the Farm Board in both commodities. The reason is that the German Government has no one available in the United States just now who is competent to act for it. It is my expectation that tomorrow I shall cable some offer from it of a definite nature. At their request the Foreign Office officials assembled in a conference today. They seemed to be deeply interested in our suggestions.

SACKETT

811.61311 Germany/10 : Telegram

*The Ambassador in Germany (Sackett) to the Acting Secretary
of State*

[Paraphrase]

BERLIN, August 5, 1931—6 p. m.

[Received August 5—5:45 p. m.]

159. Embassy's 139 and 147, July 21 and 24 respectively. An offer to the Farm Board in regard to cotton resulted from conference at

Foreign Office yesterday and today. In the telegrams under reference difficulties as to price were set forth. These difficulties are confirmed by the Foreign Office experts. Therefore, they propose a purchase without maximum or minimum prices. Their preference within the scope of the total order would be to make each purchase separately at the price governing in the New York Cotton Exchange upon the date of sale as according to paragraph 4 of the offer. As an alternative which they prefer not to use otherwise, they offer, however, a price based upon the monthly price in New York for all cotton shipped within that month. After conferring with the spinners and other users of cotton, the Foreign Office alleges that it is not practical for the Germans to handle this cotton unless they have definite knowledge of the price at which the cotton can be turned over to the manufacturer whose competition from other countries is based on spot prices. Although the quantity they can use is substantially reduced under the amount of the previous years' imports because much of the former imported cotton was resold, by the brokers buying it, to other countries, the officials at the Foreign Office are quite anxious to do this business.

The proposal of Germany is as follows:²²

"Basic principles of a contract concerning a cotton transaction between the Federal Farm Board and the German Government.

1. The German Government obligates itself to purchase from the Farm Board a total quantity of 600,000 bales with an option on a further 200,000 bales of American cotton.

The German Government may entrust a special bureau with the carrying out of the transaction.

2. The purchaser determines the individual quantities to be bought and shipped in each case as well as the qualities and the steamer on which shipment is to be made.

In case the Farm Board cannot supply certain qualities in the quantity demanded the German Government can demand that the total quantity of 600,000 bales be reduced by a corresponding quantity.

3. The acceptance and shipment must take place within the 12 months following the signing of the contract and in every month about one-twelfth of the total quantity is to be taken over. If desired the Farm Board will also supply larger monthly quantities. If the purchaser in any month takes less than one-twelfth of the total quantity he must pay the storage charges for the quantity not taken starting with the end of the month insofar as the deficiency in the amount taken is not balanced by previous excess purchases.

The individual purchases must as far as possible not amount to less than blank bales (the number to be inserted here to be agreed on later, the idea being that not less than a shipload is to be purchased).

4. The price for each purchase, *id est*, call for delivery, is determined by the official quotations on the New York Cotton Exchange.

²² Quotation not paraphrased.

5. In the absence of any provisions to the contrary in the contract the terms usual in international cotton transactions and the draft of agreement (form) of Liverpool and Bremen contracts at the choice of the purchaser are to hold good for the transaction of the business.

6. The Farm Board grants the German Government a credit of 3 years for the payment of the purchase price. Interest is to be paid on the coupon at the rate of $4\frac{1}{2}$ percent. The interest is to be paid yearly.

7. The German Government gives as security for the price of each purchase note in dollars which becomes due 3 years after shipment.

8. The two parties will agree upon a court of arbitration.

9. The use to which the cotton is put, the participation of German private importers and of the Bremen Cotton Exchange, as well as the conditions of the use of the quantities purchased, are the private concern of the German Government.

Alternative proposal for section 6: The price for the purchase made in a calendar month is to be determined by computing the average of the official quotations on the New York Cotton Exchange on all business days of the calendar month for the qualities in question. These average prices during the calendar month apply to the purchases during that month.

Alternative proposal for section 7: The German Government gives as security a bill in dollars for the total price of the purchases in a calendar month computed as per section 4, the bill to become due 3 years after the end of the calendar month".

Embassy's 155, 31st of July. I was asked again by the Foreign Office about the basing point for calculating the average wheat prices and whether the Farm Board would agree to base them on the Rotterdam and Liverpool markets with adjustments for American grades and also whether the grades mentioned in that telegram could be supplied by the Farm Board in those approximate quantities. On the hypothesis that the Department replies in the affirmative to both of these questions, the Germans are preparing a proposal for wheat which will probably be submitted to us in a day or two. I have insisted that should they desire to do any wheat business, the prices which you quoted to me must be the basis of any proposal coming from them.

SACKETT

811.61311 Germany/11 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

[Paraphrase]

WASHINGTON, August 7, 1931—noon.

148. The German proposition has been sent to the Farm Board without comment. Our desire is to avoid further discussion of the matter through diplomatic channels. Furthermore, the Department

does not intend to offer any advice to the Farm Board. I may say, for your strictly confidential information, that the original suggestions were based on a minimum price. It is apparently impossible for the Board to dispose of the stocks which it is holding on any other basis. Outside of the Farm Board stocks there are, however, many factors to be considered. Consequently, should the German Government really desire to push the matter, it would seem absolutely necessary that the German authorities appoint an agent to confer directly with the Board on all possibilities. I feel it necessary to repeat that we must get the matter out of diplomatic channels, and into the commercial channels where it should be handled. Dr. Kiep²³ would probably be a man with the proper ability to carry on these discussions. You may not want to suggest any particular man. You should make it clear to the German Government that their only procedure involves the appointment of a German agent to conduct the negotiations.

CASTLE

811.61321/36 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Sackett)*

WASHINGTON, August 7, 1931—7 p. m.

150. I am informed by the Farm Board that the German proposal as to cotton is impossible of acceptance as a Board transaction. This does not at all conflict with my telegram of this morning, which suggested that the German Government should appoint an agent to consult with the Farm Board and I hope that may be carried through. Owing to the fairly accurate reports from Germany as to the German proposition to buy 600,000 bales of cotton, I understand that the export of cotton has practically stopped. For this reason, the Board this afternoon was forced to give out the following statement:

"The Farm Board has given careful consideration to the German offer to purchase cotton. The Board is desirous of facilitating assistance to Germany and to the American cotton producer by expanding his immediate markets. Many conditions of the German offer are beyond the ability of the Board to comply with. It is, therefore, unable to accept the offer under the present proposed terms.

In addition to other difficulties, the original suggestion of Ambassador Sackett 5 weeks ago provided for a minimum price which would have contributed materially to stabilizing the price of cotton and would have made it possible for the Board to offer participation to holders of new crop cotton. The fall in price since that time, due in part to the situation in Central Europe, has necessarily led to the elimination by the German Government of that feature of its offer.

²³ Otto Carl Kiep, German Consul General at New York.

However, a new possibility has arisen in this whole question, which offers an alternative course. The purpose of the discussion has been in effect to assist the Germans in securing the foreign exchange necessary to provide immediate supplies. The effort now being made by the Treasury Department to expedite payment to German nationals under awards of the arbiter of certain German claims, if successful, would place the German bank in possession of an even larger amount of dollar exchange than the volume of this proposed transaction in cotton and would enable German business to make its purchases directly from the producers and the trade in the normal way."

CASTLE

811.61311 Germany/13 : Telegram

The Ambassador in Germany (Sackett) to the Acting Secretary of State

[Paraphrase]

BERLIN, August 8, 1931—2 p. m.

[Received August 8—10:50 a. m.]

163. Department's 148, 7th of August, noon. I presented to the Foreign Office the views contained in the telegram under reference. I assume that, although you refer to the Embassy's 159, August 5, which dealt only with cotton, the appointment of a German agent or agents applies both to cotton and to wheat, and I so informed the Foreign Office, which quite understood that under existing conditions, especially in view of the unfortunate publicity, it is necessary to resort to direct negotiations with the Farm Board.

It is the hope of the Foreign Office that business can be done in both wheat and cotton. The Chancellor, according to the Foreign Office, is strongly of the same mind, and it was very plain in this morning's conversation that he can see more clearly the great advantages which would flow to German credit from the loaning to Germany on long term at 4½ percent by an American governmental institution, than can Schiele, whose vision is largely limited to difficulties of a technical nature.

The matter will be taken up by the Foreign Office with Bruening as soon as he returns from Rome on Monday, and in the meantime it will be on the lookout for suitable agents, subject to the Chancellor's decision, to deal with the Farm Board.

SACKETT

811.61311 Germany/14: Telegram

*The Ambassador in Germany (Sackett) to the Acting Secretary
of State*

[Paraphrase]

BERLIN, August 10, 1931—noon.

[Received August 10—9:35 a. m.]

166. Supplement to the Embassy's 163, 8th of August, 2 p. m. The Foreign Office, just before receiving your 148, of August 7, had submitted to me, following previous instructions, the wheat proposal which I foreshadowed in my 159 of August 5, last paragraph. In effect, this proposal was one for approximately 500,000 metric tons at market prices of diversified grades of hard wheat. In spite of my insistence, the proposal contains no recognition of the principle of maximum and minimum prices and as I believe that the Germans can meet such a condition I informed the Foreign Office that I knew the proposal would not be acceptable; and that, therefore, there was no use in transmitting it to the Farm Board.

The Farm Board, I indicated, could sell at market prices to anyone on the more favorable terms of a short-term credit and a high rate of interest and the German Government would have to make a better proposal, from a purely business standpoint, if it wanted long-time credit and a low rate of interest, not to speak of the more general advantages resulting from the acquisition of credit on such easy terms from an agency of the United States Government. It was, therefore, my suggestion that the German Government reconsider its position. The proposal apparently emanated primarily from the Ministry of Agriculture. The Chancellor and the Foreign Office have a broader point of view, as indicated in the Embassy's telegram number 163 of August 8. If the German Government, as seems possible, appoints agents for dealing with the Farm Board, the latter may properly insist on the condition of maximum and minimum prices.

SACKETT

811.61311 Germany/20

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] September 3, 1931.

The Ambassador²⁴ said that things were not going so well in the negotiations for the purchase of wheat. He said that the Farm Board now agreed that the original suggestion was a credit of three years but that the negotiations on the financial end had apparently

²⁴ Friedrich W. von Prittwitz und Gaffron, German Ambassador.

fallen down for what the Ambassador said seemed to him a foolish reason. The wheat is to be sold, if sold, to the German Grain Importing Company, the notes of this company will be endorsed by the German Government. Now the grain corporation says that it will not take these notes, unless in its endorsement, the German Government will guarantee that they will be paid ahead of reparations or any other political debts. I told the Ambassador that I would take this up immediately with the grain corporation (it stands to reason that this kind of a guarantee is fruitless because the German Government is merely guaranteeing the note of a private company and that private company has nothing to do, one way or the other, with political obligations of the German Government).

The Ambassador continued that there was one other trouble in the negotiations which was that the Germans insisted on having 1931 wheat as of better quality and the Farm Board insisted that it had no 1931 wheat to sell and that the 1930 wheat was just as good anyway. We agreed that this technical matter was obviously not one for discussion in the Foreign Office and that it was purely a question of fact to be decided by the negotiators.

The Ambassador asked me whether I did not think it wise for the Germans to come back to Washington from Chicago to continue their negotiations. I said the reason why I doubted this was that for some unknown reason the whole business had been kept out of the papers and if the negotiators came back here, it would almost certainly be known. The Ambassador agreed to this.

811.61311 Germany/21

Memorandum by the Economic Adviser (Feis)

[WASHINGTON,] September 11, 1931.

Mr. Meyer, the First Secretary of the German Embassy, came in to see me about the last two outstanding points of difference between the German negotiators and the Farm Board in regard to the purchase of wheat. One concerned the financial guarantee which the German Government has to grant. The suggested amendment seemed to me to be unobjectionable and by telephone to the Farm Board, I ascertained that they were agreeable. The second concerned the price to be paid for the wheat. On this, though I have avoided giving advice to the Farm Board, it seemed to me that the position taken by the Farm Board was fair in accordance with the understanding at the beginning of the discussions. The Secretary indicated that though he was not authorized to give any answer to that question—as I was not authorized to receive any—that the

German negotiators would give in if the American position is maintained.

Therefore, at the Secretary's request, I arranged a meeting at 12:15 at the Farm Board for the signature of the contract²⁵ and at 12:45 for the Ambassador's signature of the German Government's financial guarantee. Both the Secretary and the Farm Board asked me to be present at the signature, but in accordance with previous discussion with the Under-Secretary, I informed them that it did not seem to be necessary and that I would not come.

HERBERT FEIS

OPPOSITION IN GERMANY TO THE SHOWING OF THE MOTION PICTURE
"ALL QUIET ON THE WESTERN FRONT"²⁶

862.4061 All Quiet/2

The Ambassador in Germany (Sackett) to the Secretary of State

No. 654

BERLIN, December 17, 1930.

[Received January 3, 1931.]

SIR: With reference to my despatch No. 646, of December 9, 1930, pages 4 and 5, and to my telegram No. 140, of December 12, 12 noon,²⁷ reporting respectively, the disturbances resulting from the showing in Berlin of the American-produced Universal Film Company's version of Eric Remarque's "All Quiet on the Western Front," and the decision of the Appellate Board of Film Censors, on December 11th, to prohibit its further production in Germany, I have the honor to report further as follows:

As stated in my telegram aforementioned, the film had been approved by the primary Board of Film Censors, but, on complaint of five German States (Saxony, Thuringia, Brunswick, Bavaria, and Württemberg), the Appellate Board of Film Censors ruled that it was calculated to injure Germany's prestige abroad and therefore should be withdrawn. The chairman of the board declared that, as a whole, the film did not do justice to the frame of mind of those who participated in the war, that it pictured the German defeat and not the war, and that, if the film were continued to be shown, other countries would feel that Germany had approved the representation.

²⁵ For the terms of the contract between The Grain Stabilization Corporation and the Deutsche Getreide Handelsgezeellschaft, which involved the sale of 7,500,000 bushels of wheat on 3-year credits, see the statement by the U. S. Federal Farm Board in the *New York Times*, September 12, 1931, p. 2.

²⁶ For correspondence concerning similar opposition in Austria, see vol. I, pp. 866 ff.

²⁷ Neither printed.

The chief arguments against the film which furnished the basis for the demands of the Right parties for its withdrawal may be summarized as follows:

1) The spontaneous, patriotic enthusiasm of the young German volunteers is depicted in the film as artificial, caused by outside influences.

2) Certain of Remarque's characters are depicted from an unsympathetic angle, exception being taken particularly to the hard-boiled sergeant, Himmelstoss, and Katchinsky's "criminal" countenance.

3) No effort was made to show the struggles and moral conflicts in the armies of Germany's enemies, who are depicted as well-organized and always eager to attack.

4) The total impression on German spectators is that the film depicts Germany's defeat rather than the heroism of the German soldiers.

5) The original version of the film, which is being shown in America and other countries, contains other scenes injurious to Germany's prestige.

The representative of the Reichswehr, Kapitänleutenant von Baumbach, incidentally a naval officer, issued a public statement declaring that since the war the hope had been fostered in Germany that the inimical spirit which separated the nations during the conflict would disappear, but that there was one field, that of motion pictures, in which the spirit of Locarno had not been able to prevail. He stated that, although the type of primitive war-agitation film had died out, another kind had taken its place in which Germans were represented as ridiculous, brutal, and cowardly, a subtle form of propaganda, very pernicious as far as Germany is concerned. He also averred that the film version of "All Quiet on the Western Front" expresses anti-German tendencies, and that the Ministry of War, which is the bearer of the glorious tradition of the old army, looks upon it as its duty to oppose the defamation and insult offered the honor and reputation of the old army. Kapitänleutenant von Baumbach further stated that if the Reichswehrministerium is publicly accused of supersensitiveness, it gladly puts up with this reproach, and he asks why the German soldier is not shown in this film in the dignified and serious manner which he deserves after his incomparable service during the war.

The Foreign Office expert declared that reports had been received from German foreign missions showing that the film was actually injurious to Germany's prestige abroad, but this attitude was clearly a reversal of the Ministry's earlier standpoint in the matter. Newspapers had reported, without contradiction, that, when the film came up before the primary Board of Film Censors prior to its first public showing in Germany, the representative of the Foreign Office offered no objection and even declared that he was favorably impressed.

However, an unfavorable opinion of the film was reported in the press to have been transmitted to the Foreign Office by the German Consul General at San Francisco, who was stated to have protested to the producers against certain anti-German tendencies in the original version. The representative of the Reich Ministry of the Interior declared that the Remarque film depicted only one side of a soldier's war experiences and that, aside from this, the Minister himself felt that a further showing of the film tended to imperil public order. It is interesting to report, in this relation, that "West Front, 1918," a talking film, produced in Germany, of a distinctly anti-war character, is now being shown in smaller theaters and no disturbances in connection therewith have occurred.

The immediate cause for the suppression of the film was undoubtedly the pressure of the mob, which made demonstrations every evening under the leadership of members of the National Socialist Party. However, after the first disorders in the theater, reported in my despatch above-mentioned, the management of the theater was able to continue the performance for six days, before crowded houses, without further disturbance. Later disorders took place in the square outside the theater, where hundreds of youths assembled every evening, but were held back at a safe distance by a cordon of police. As a result of the strong guard outside of the theater, the Nazi leaders also conducted demonstrations in nearby public squares.

It is strongly indicated that the showing of the film was only a pretext for demonstrations by the National Socialist Party. Most of the youthful participants in the disorders never saw it at all, and even some of the Nazi leaders who agitated against the film, admit that they had not seen it. On the evening of the first public showing in Berlin several Nazi leaders, it will be recalled, were in the audience, but as the performance was interrupted after the first few scenes they, therefore, did not see the whole picture. Even before the first performance, not only Nazi but newspapers with less extreme tendencies, notably the *Deutsche Allgemeine Zeitung*, had launched a campaign against the film, the main arguments against it being that the Reichswehr experts were opposed to it and that the version shown in foreign countries had distinct anti-German tendencies which had been deleted from the German version. Although the Prussian Government, which has the direct police supervision of Berlin, was at all times in control of the situation and was willing to protect further performances, it was the Reich Government which capitulated to the Nazi mobs.

Two leading members of the Brüning Cabinet, the Foreign Minister and the Minister for the Interior, encountered especial difficulties in connection with the performance of this film: the Foreign Minister

was implicated inasmuch as all attacks on the film were, partially at least, based on the theory that it brought Germany into disrepute abroad, and the Minister for the Interior was involved—although illogically, inasmuch as the two film censorship boards heretofore mentioned, though under the jurisdiction of his Department, are supposed to have judicial and therefore independent functions. Various motions of lack of confidence in these two ministers, predicated upon the foregoing motives, were either threatened or concretely formulated, and it required careful political maneuvering to prevent their passage. Republican circles contend, and this seems to be the case, that both Ministers changed their attitude towards the film in order not to jeopardize their positions in the Cabinet and, as the situation exists today, to imperil the entire Cabinet.

The grounds on which the film was suppressed are not convincing and cannot be accepted by an impartial observer. Some days before the suppression of the film the outcome of the hearing before the Appellate Board of Film Censors was certain. Whatever doubts may have existed were dispelled when the names of the members of the board were announced. The board is composed of persons, serving in rotation, from a panel composed of representatives of certain professional and social welfare groups. With one possible exception the members selected belonged to, or sympathized with, the Right parties. It is of interest that in handing down the decision the chairman of the board was careful to point out that it was not the result of mob pressure, and that the board refused to be influenced by the statement made by the legal representative of the Universal Pictures Corporation, to the effect that if the film should be suppressed the American film industry might withdraw from the German market. The latter statement gains perhaps some significance in the light of the assertion, in some circles, that Dr. Hugenberg's opposition to the *Remarque* film was prompted by business as well as political considerations, since he is the owner of the controlling interest in the largest German film concern.

Republican organizations, notably the *Reichsbanner*, have announced a series of meetings to protest against the suppression of the film. Several held on December 15th were well attended. Another result of this incident has been that the Reich Government has been requested by certain political parties to pass a law which would enable the primary Board of Film Censors to prohibit the showing of films in Germany on the basis of the version shown in the country of origin and not merely on the version prepared for Germany, as at present.

The widespread editorial comment on the suppression of the film was influenced principally by the political affiliations of the respective

journals. The Nazi press, of course, acclaimed the decision of the Board as a signal victory over the hated Republic by the "patriotic" elements under their leadership. The *Völkische Beobachter* of December 14th declared that the Appellate Board of Film Censors had no intention of prohibiting the "Jewish film" and that it was finally forced to take this step as a result of organized resistance by the Nazis. Other Nazi journals, notably Dr. Goebbels' *Der Angriff*, boastfully declared that the Nazis would likewise proceed in future against all films and theatrical productions with anti-national tendencies. While the moderate Right journals greeted the decision because it put an end to an incident which was rapidly assuming an importance out of all proportion to the many real political and economical difficulties with which Germany is confronted, Nationalist papers, particularly those owned by Hugenberg, failed to conceal a feeling of triumph.

Perhaps the most daring attitude was assumed by the extreme Nationalist *Deutsche Zeitung* of December 12th which was not completely satisfied with the course of events, suggesting that the Foreign Office should now take steps to secure the withdrawal of the film in other countries also. The Democratic *Berliner Tageblatt* of December 13th remarked ironically that, since the Foreign Office had actually expressed the view that the film was injurious to Germany's prestige abroad, such a step would be only logical.

The Nationalist *Kreuzzeitung* of December 13th stated that, if the soldiers of Remarque's film were put in French uniform, France would never permit the showing of the film in that country or elsewhere.

The Nationalist *Lokal Anzeiger* of December 12th declared that the decision of the Appellate Board of Film Censors could not have been otherwise and that it had merely confirmed the general belief that the film was injurious to German prestige.

Another Hugenberg journal, *Der Tag* of December 12th, wrote triumphantly that patriotic Germany had "attacked successfully."

The agrarian *Deutsche Tageszeitung* of December 12th, taking the reason for the suppression of the film as given by the Board as a premise, came to the conclusion that it was therefore likely to disturb peace and order.

The *Deutsche Allgemeine Zeitung* (People's Party) of December 12th expressed satisfaction with the fact that "justified arguments" and the "justified wrath of an insulted population" had succeeded in getting the upper hand. In another issue this journal declared that all further discussion of the unfortunate incident should cease for the sake of the common good.

The Centrist *Germania* of December 12th sought to repudiate the assertion that Nazi mob influence was responsible for the suppression of the film.

The Democratic *Vossische Zeitung* of December 12th stated that the political conflict caused by the showing of the film was not a result of deficiencies "in this American product." The conflict, it added, was a result of systematic agitation which magnified the nation's difficulties. This paper declared that the triumph in the radical camp was premature, as the fight would continue, not for the sake of the film but for the cause.

The Social-Democratic *Vorwaerts* of December 12th declared that the Reich Government had capitulated before the Nazi mob. It stated that the Social-Democrats were fully aware of the dangers to the Republic and were determined to fight to the finish against Fascist mob pressure and a rebirth of the war spirit. This Social-Democratic organ averred that the decision of the Board was contrary to the spirit of the Weimar Constitution, which prescribes that instruction in public schools must be in the spirit of international conciliation.

The suppression of the film version of "All Quiet on the Western Front" has undoubtedly assumed great importance. The National-Socialist Party has succeeded in giving a blow to the prestige of the Government of the Reich, in that it yielded to Nazi compulsion on a clean-cut political issue.

There is no doubt that this incident has given renewed impetus to the constant and unremitting struggle between the Government and the irreconcilable Opposition, and should the latter eventually succeed in its endeavor to force Dr. Bruening to resign, it may well be found that the present event was a very decided contributive factor in such a result. In my opinion the action of the Government in suppressing the film was not dictated in any sense by opposition to the movement for world peace, but in its own eyes was merely a matter of relieving the local political situation from a growing series of disturbances.

Respectfully yours,

FREDERIC M. SACKETT

862.4061 All Quiet/3 : Telegram

The Ambassador in Germany (Sackett) to the Secretary of State

BERLIN, March 11, 1931—2 p. m.
[Received March 11—12:55 p. m.]

26. End of last week Reichstag passed a motion of Social Democrats supported *inter alia* by Communists to the effect that Reichstag considers prohibition of film "All Quiet on the Western Front" unjustifiable (see my telegram 140, December 12, noon; ²⁸ my despatch No. 654, December 17, 1930, and subsequent reports concerning prohibition of this film).

²⁸ Not printed.

[Paraphrase.] The vote was taken during the period of the withdrawal from the Reichstag of the Hugenberg Nationalists and the Nazis, both bitter opponents of the film. This circumstance was fortunate for the owner and producer, the Universal Film Corporation, which has been actively urging the lifting of the ban. The producer expects to urge that the film be reexamined by the censor promptly and released for public showing in the near future.

Intense political controversy has resulted from the mode of withdrawal and censorship of this film. The necessity of maintaining public order has, I believe, involved the Cabinet in unusual reversals of opinion.

I am strongly of the belief that the Reichstag action followed by a showing of the picture in theatres here would have seriously unfortunate results. The Nazis and other extremists of the Right would definitely welcome such a chance of rallying their cohorts. They would also welcome demonstrations involving physical violence as means of keeping up the zeal of their followers.

Attempts to produce this film here might involve a certain amount of anti-American criticism owing to its American ownership and origin. The probable embarrassment resulting to the American Government might lose us the advantage of a growing disposition here to change the film regulations in a manner favorable to American films. This latter is much desired by the Hays people.

If this view which I am venturing to urge upon the Department could be communicated to and urged upon Will Hays ²⁹ it might greatly aid him in urging the producer to avoid this new controversy.

I should be glad to be informed how the Department views this suggestion as I am convinced that the matter is one of the greatest importance. [End paraphrase.]

SACKETT

862.4061 All Quiet/3

Memorandum by Mr. P. T. Culbertson of the Division of Western European Affairs

WASHINGTON, March 17, 1931.

In Mr. Castle's absence I telephoned Major Herron ³⁰ yesterday afternoon in order to let him have the suggestion contained in Ambassador Sackett's telegram No. 26, March 11, 2 p. m., concerning the exhibition in Germany of the American film "All Quiet on the Western Front". I explained that while this was not technically a Depart-

²⁹ President of Motion Picture Producers and Distributors of America, Inc.

³⁰ Major F. L. Herron of Motion Picture Producers and Distributors of America, Inc.

mental matter I agreed with the Ambassador that further showing of the film would likely stir up trouble which might react to the disadvantage of American film interests generally, particularly in connection with the change of German film regulations now under consideration.

Major Herron said that the film company was going slow and that he did not think it likely that they would press for exhibition of the film.

862.4061 All Quiet/10

The Ambassador in Germany (Sackett) to the Secretary of State

No. 1135

BERLIN, September 12, 1931.

[Received September 25.]

SIR: With reference to my despatch No. 654, of December 17, 1930, and to further correspondence relative to the disturbance caused in Germany by the showing and subsequent prohibition of Eric Remarque's "All Quiet on the Western Front," I have the honor to report that the Bureau of Film Censorship in Berlin, on September 2nd, released this film for unrestricted public exhibition in Germany, although the showings have not yet commenced. The reversal of the authorities' decision was made after the deletion of a few scenes and the receipt of a letter from Mr. Laemmle, the head of the American Universal Pictures Corporation, in which he stated that his company had decided to adopt the expurgated German version for presentation henceforward in the whole world.

The Department will recall that the disturbances which the film caused in Berlin and other German cities on its first being shown here were arranged by members of the Nazi Party, foremost among these being the Reichstag Deputy Dr. Goebbels, and in view of this fact the present reaction of the chief Nazi organ, the *Voelkischer Beobachter*, is of interest as giving some indication of the reception the production is likely to experience when it is again shown in Germany. On September 4th, this paper greeted the action of the Bureau of Film Censorship with a violent tirade against the film and remarked that the fact that it had now been released was a symptom of present day conditions, namely, of the predominant Jewish influence in Germany. However, in view of the strong language daily employed by this sheet, this statement is not surprising, but it may be assumed that no further disturbances are as yet planned, as it went on to say that the German people were now too low-spirited and exhausted to oppose this insult to their men who had fought in the world war.

Comment in the moderate press was by no means as extensive as at the time of the disturbances caused by the first showing, which, of course, had much greater news value than the present release.

From a broad point of view the present action may be regarded as indicating that the authorities no longer feel bound to make concessions to the Nazis as they did shortly after the successes of the radicals in the elections to the Reichstag in November, 1930.³¹ The chief present significance of the whole affair is that of a straw which shows which way the wind is blowing.

Respectfully yours,

FREDERIC M. SACKETT

ARRANGEMENT BETWEEN THE UNITED STATES AND GERMANY REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES EFFECTED BY EXCHANGE OF NOTES, SIGNED SEPTEMBER 11 AND DECEMBER 16, 1931

Executive Agreement Series No. 31
862.8561/6

The American Ambassador in Germany (Sackett) to the German Minister for Foreign Affairs (Curtius)

No. 585

BERLIN, September 11, 1931.

EXCELLENCY: I have the honor to refer to previous correspondence and in particular to Note Verbale 5 845/31, of March 4, 1931,³² from the Ministry of Foreign Affairs wherein the statement was made that the Government of Germany was prepared to accept the American "Regulations for the Establishment of Load Lines for Merchant Vessels of 250 Gross Tons or over when engaged in a Foreign Voyage by Sea" as equally effective with the German regulations similar thereto and to conclude a reciprocal agreement as well as a temporary reciprocal agreement governing the acceptance by each Government of the regulations of the other.

I now beg to inform Your Excellency that the competent executive authorities of the Government of the United States have examined the German rules and tables of freeboard, which were submitted with the Note under reference, and have found them to be as effective as the United States load line regulations. I am further directed to state, in regard to the reciprocal agreement concerning the acceptance of the mutual regulations, which agreement will remain effective pending the coming into force of the international load line convention in the two countries, that my Government understands that the Governments of the United States and Germany will each recognize

³¹ See *Foreign Relations*, 1930, vol. III, pp. 76 ff.

³² Not printed.

as equivalent the load line marks and the certificates of such marking of merchant vessels of the other: provided, that the load line marks are in accordance with the load line certificates; that the hull or superstructure of the vessel certificated has not been so materially altered since the issuance of the certificate as to affect the calculations on which the load line was based, and that alterations have not been made so that the—

- (1) Protection of openings,
- (2) Guard Rails,
- (3) Freeing Ports,
- (4) Means of Access to Crews Quarters

have made the vessel manifestly unfit to proceed to sea without danger to human life.

I have the further honor to inform Your Excellency that it will be understood by the Government of the United States that, upon receipt of a note from Your Excellency expressing the German Government's concurrence in my Government's understanding, as above set forth, the agreement will become effective.

I avail myself [etc.]

FREDERIC M. SACKETT

Executive Agreement Series No. 31
862.8561/6

*The German Undersecretary of State for Foreign Affairs (Bülow) to
the American Ambassador in Germany (Sackett)*

[Translation]

BERLIN, December 16, 1931.

MR. AMBASSADOR: In reply to your communication No. 585 of September 11, 1931, relative to the conclusion of an agreement between Germany and the United States of America concerning mutual recognition of the load line regulations of the other country, I have the honor to inform Your Excellency as follows:

Since the German "Regulations of the See-Berufsgenossenschaft (Maritime Cooperative Association) Governing the Freeboard of Steamers and Sailing Vessels on Long Voyages and Atlantic Voyages as well as Extended Coasting Navigation" and the corresponding "Regulations for the Establishment of Load Lines for Merchant Vessels of 250 Gross Tons or Over When Engaged in a Foreign Voyage by Sea" of the United States of America, have been examined by both parties and recognized as equivalent, the Government of the Reich agrees to the conclusion of a reciprocal agreement governing the acceptance by each Government of the freeboard regulations of the other, the load line marks, and the certificates of such marking of

merchant vessels—this agreement to be effective beginning today until the international convention governing the freeboard of merchant vessels becomes effective in both countries:—provided, that the load line marks are in accordance with the load line certificates; that the hull or superstructures of the vessel certificated has not been so materially altered since the issuance of the certificate as to affect the calculations on which the load line was based, and that alterations have not been made so that the:

- (1) Protection of openings,
- (2) Guard rails,
- (3) Freeing ports,
- (4) Means of access to Crews Quarters

have made the vessel manifestly unfit to put to sea without danger to human life.

I take [etc.]

BÜLOW

STATUS OF NATURALIZATION TREATIES BETWEEN THE UNITED STATES AND THE GRAND DUCHY OF BADEN, SIGNED JULY 19, 1868, AND WÜRTTEMBERG, SIGNED JULY 27, 1868

711.624/8

The Chargé in Germany (Gordon) to the Secretary of State

No. 567

BERLIN, October 28, 1930.

[Received November 10.]

SIR: I have the honor to transmit herewith a copy of a despatch dated October 21, 1930, from the American Consul General at Stuttgart in which he inquires as to certain treaties between the United States and the Grand Duchy of Baden, and the United States and Württemberg, together with a copy of my reply thereto.³³

In connection with the foregoing, I venture to request an expression of the Department's opinion.

Respectfully yours,

GEORGE A. GORDON

[Enclosure]

The Consul General at Stuttgart (Dominian) to the Chargé in Germany (Gordon)

STUTTGART, October 21, 1930.

SIR: I have the honor to inform the Embassy that I find it necessary, in the course of a number of citizenship cases which are being investigated at the Consulate to inquire into the present status of certain treaties with former German states entered into by the United States prior to the formation of the Empire in 1871.

³³ Reply not printed.

The treaties in question are the Naturalization Convention between the United States of America and the Grand Duchy of Baden, signed July 19, 1868, proclaimed January 10, 1870,³⁴ and the Convention as to Naturalization and Extradition between the United States of America and Württemberg, signed July 27, 1868, proclaimed March 7, 1870.³⁵

Article V of the second treaty referred to states that :

"The present convention shall go into effect immediately on the exchange of ratifications, and shall continue in force ten years. If neither party shall have given to the other six months previous notice of its intention then to terminate the same, it shall further remain in force until the end of twelve months after either of the high contracting parties shall have given notice to the other of such intention."

The treaty between the United States and the Grand Duchy of Baden contains a similar statement.

The Consulate would appreciate being informed if the Embassy has any record showing whether such notice has ever been given by either of the high contracting parties and if so, at what dates the treaties are known to have been terminated, and if such notice has not been given, whether these treaties are considered to be in force at present.

Respectfully yours,

LEON DOMINIAN

711.624/10

The Secretary of State to the Ambassador in Germany (Sackett)

No. 487

WASHINGTON, December 4, 1931.

SIR: The Department refers to the Embassy's despatch No. 567 of October 28, 1930, enclosing a copy of a despatch dated October 21, 1930, to the Embassy, from the American Consul General at Stuttgart, and a copy of the Embassy's reply of October 28, 1930,³⁶ to the Consul General, regarding the status of the naturalization convention between the United States and the Grand Duchy of Baden, concluded July 19, 1868, (18 Stat — Part 2 — 37 [38]) and the convention as to naturalization and extradition between the United States and Württemberg, concluded July 27, 1868 (18 Stat — Part 2 — 811).

No notice of termination of either of these conventions in accordance with the stipulations in them in regard to termination was ever given or received by the United States. The conventions were, there-

³⁴ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 53.

³⁵ *Ibid.*, vol. II, p. 1895.

³⁶ Embassy's reply not printed.

fore, in force on April 6, 1917, the day of the passage by Congress of the Joint Resolution declaring a state of war to exist with the German Empire. By virtue of the provisions of Article 289 of the Treaty of Versailles,³⁷ the allied and associated powers were accorded the right to revive bilateral treaties and conventions with Germany by giving to Germany, within a period of six months from the coming into force of the Treaty of Versailles, notice of any bilateral treaties which they respectively, desired to revive. That article also contained the stipulation that all bilateral treaties and conventions in regard to which such a notification was not given "are and shall remain abrogated." The period of notification was subsequently extended for the United States by paragraph 5 of Article II of the treaty between the United States and Germany restoring friendly relations, signed on August 25, 1921,³⁸ so that the period of election for the United States began to run from the date on which the treaty of August 25, 1921, came into force. This treaty came into force on exchange of ratifications on November 11, 1921.

No notice was given by the United States within the period referred to in Article 289 of the Treaty of Versailles as extended by paragraph 5 of Article II of the treaty between the United States and Germany of August 25, 1921, of its intention to revive the naturalization convention with Baden or the convention as to naturalization and extradition with Württemberg. It is clear, therefore, that these conventions were no longer in force after May 11, 1922, the date of the expiration of six months from the coming into force of the Treaty restoring friendly relations.

No matter has ever come before the Department requiring official action which involved the question whether bilateral treaties or conventions between the United States and Germany not revived by such notice were terminated as of April 6, 1917, as a result of the declaration of the existence of the state of war or whether such treaties were merely in suspension during the war and until May 11, 1922, the date of the expiration of the period within which notice of revival might be given. The Department has hitherto refrained, as a matter of policy, from expressing an opinion on this question where it was not necessarily involved, and desires to continue that policy.

It may also be stated that the Department holds that the aforementioned treaties with Baden and Württemberg were applicable to American women who were naturalized in those countries through marriage to nationals thereof, as well as to those who were naturalized upon their own petitions.

³⁷ *Treaties, Conventions, etc.*, 1910-1923, vol. III, pp. 3329, 3453.

³⁸ *Foreign Relations*, 1921, vol. II, p. 29.

The Department is transmitting a copy of this instruction to the American Consul General at Stuttgart.

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

PETITIONS FOR REHEARINGS IN THE SO-CALLED SABOTAGE CASES:
BLACK TOM AND KINGSLAND³⁹

462.115232/186

The Solicitor for the Department of State (Hackworth) to the Assistant Secretary of State (Castle)

[WASHINGTON,] January 12, 1931.

MR. CASTLE: I am informed by Mr. Martin, Assistant to the American Agent, Mixed Claims Commission, United States and Germany, that grounds for a new trial on the Black Tom explosion are based in general on—

1. Newly discovered evidence.
2. Failure of the Commission to give proper weight to certain evidence submitted by the American Agent.
3. Action of the Umpire in taking part in the discussions and in joining in the opinion.
4. Failure to give proper consideration to the fact that the United States made out a *prima facie* case which Germany did not refute.

Mr. Martin states that the motion was filed this morning.⁴⁰

G[REEN] H. H[ACKWORTH]

462.1115232/174

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] January 15, 1931.

The German Ambassador⁴¹ came to the Department in a high state of excitement to discuss Mr. Bonyne's⁴² motion for a retrial of the

³⁹ For correspondence concerning the establishment of the Mixed Claims Commission (August 10, 1922), United States and Germany, before which these petitions were heard, see *Foreign Relations*, 1922, vol. II, pp. 240 ff.

On October 16, 1930, the Mixed Claims Commission decided in favor of Germany in both of the so-called sabotage cases. For text of the decision, see *Mixed Claims Commission, United States and Germany, Administrative Decisions and Opinions of a General Nature and Opinions and Decisions in Certain Individual Claims, from October 1, 1926, to December 31, 1932, with orders of March 25 and May 7, 1925, and Appendices* (Washington, 1933), pp. 967-994.

⁴⁰ The petition for a rehearing in the so-called Kingsland case was filed on January 22, 1931.

⁴¹ Friedrich W. von Prittwitz und Gaffron.

⁴² Robert W. Bonyne, Agent for the United States.

Black Tom case. He had hoped to see Mr. Cotton,⁴³ with whom he had talked previously. He said that he had repeatedly warned Mr. Cotton that Mr. Bonyngé would introduce a motion very shortly and had urged him to ask at least to see the wording of this motion, since he felt that Mr. Bonyngé was not acting as a private lawyer, but as the agent of the Government of the United States. He said that Mr. Cotton had refused to do this because the Department had nothing to do with the whole business, but added that Mr. Cotton had said he would send for Mr. Roland Boyden⁴⁴ to come to Washington immediately so that the whole question could be settled. The part of the motion which troubled him was the claim that the case had not been conducted in a legal manner in that the Umpire had taken part in the discussion. The Ambassador said he did not see how it is possible for the United States agent, considering the fact that the American representative on the Commission had made no protest and that the Umpire, who was an American, had accepted the situation, could, in behalf of the American Government, make a claim that all the 6,000 claims, with the exception of two, had been illegally conducted. He said that he felt it essential that Mr. Boyden should come promptly to Washington, in order that at least this part of Mr. Bonyngé's notice should be decided immediately. The reason for this is because that it opens the way to a retrial of all but two of the 6,000 cases and applications for retrial have already begun to pour in. If the Commission will promptly decide, these applications for retrial will stop or if they come in can be refused immediately, should the Commission decide that the procedure has been legal. I quite see his point in this, since many applications are already coming to the Department.

I told the Ambassador that, of course, this was a matter I had not handled personally although I had been interested in it and that I would take it up promptly with the Secretary.

(I cannot find from Mr. Cotton's office whether he communicated with Mr. Boyden or not. The suggestion would be that he had not. If not, it seems to me that the Department should make the suggestion that the sooner this matter is settled, the better.)

W. R. CASTLE, JR.

462.11L5232/174

*The German Embassy to the Department of State*⁴⁵

The Motion of the American Agent to reopen the Black Tom Case is, among others, based upon the contention that "the decision was

⁴³ Joseph P. Cotton, Under Secretary of State.

⁴⁴ Roland W. Boyden, Umpire for the Mixed Claims Commission.

⁴⁵ Notation on original: "Left with me by the German Ambassador January 15, 1931. G[reen] H.[ackworth]."

irregularly rendered". The American Agent argues that the Umpire should not have "participated in the joint deliberations of the two Commissioners, or join with them, as he did, in their judgment of first instance". "The United States", he says, "was entitled to an independent deliberation of the case by the National Commissioners". (Motion p. 69).⁴⁶ The American Agent concludes (p. 70): "The United States never agreed to the procedure followed, nor knew that it was to be followed—and the United States submits that the irregularity of the procedure should be held to vitiate the decision, and render it null and void".

If this argument were sound it would follow that the vast majority of all the Commission's decisions rendered in the course of its proceedings are null and void, that thousands of American claimants have been deprived of their right to a regular procedure and that all these cases have—as a matter of right—to be reopened, reconsidered and redecided. For—in more than 5000 cases the Umpire, Judge Parker,⁴⁷ has joined in the deliberations of the two Commissioners and in their judgment in exactly the same way as the present Umpire joined with them in the sabotage-cases.

It is the German Government's opinion that this method of procedure was absolutely regular and in accordance with the Agreement of August 10, 1922⁴⁸ and with the Rules of the Commission. The Agreement provides in Article II as follows: "The two Governments shall by agreement select an umpire to decide upon any cases concerning which the commissioners may disagree, or upon any points of difference that may arise in the course of their proceedings". This provision does not limit the activities of the umpire to passing upon cases certified to him after the commissioners have reached a disagreement, but permits him also to cooperate with them "in the course of their proceedings", i. e. while a case is still pending before them, by deciding any points of difference arising at this stage of the proceedings.

The Rules of the Commission, apparently prompted by this proviso, provide, among others, that the decisions of the Commission may be signed "by the Umpire and the two National Commissioners" (Art. VIII sec. (d)).

The practice adopted in the sabotage-cases has been followed by the Commission in thousands of instances. All dismissals, with the exception of two, have been signed by the Umpire and the two Commis-

⁴⁶ Mixed Claims Commission, United States and Germany, *The United States on behalf of Lehigh Valley Railroad and Underwriters of the Black Tom Disaster against Germany*: Docket nos. 8103, *et al.*, Petition for Rehearing, Washington, D. C. January 12, 1931 (New York, 1931), p. 69.

⁴⁷ Edwin B. Parker, Umpire, died October 30, 1929. He was succeeded by Roland W. Boyden, appointed January 9, 1930.

⁴⁸ *Foreign Relations*, 1922, vol. II, p. 262.

sioners after joint deliberation and the same method has been observed in a number of cases where awards were rendered. Neither Agent has ever objected to this practice which was, of course, known to both of them.

It is certain, that the American Agent will raise the identical objection in the impending motion to reopen the Kingsland Plant-case.

462.11L 5232/175

*Memorandum by the Solicitor for the Department of State
(Hackworth)*

[WASHINGTON,] January 16, 1931.

Doctor Kiep⁴⁹ called at the Department this afternoon in connection with the petition which has been filed by the American Agent with the Mixed Claims Commission for a rehearing in the so-called sabotage cases. He stated that the Ambassador had an appointment to see the Secretary tomorrow and he wanted to indicate in advance some of the matters which the Embassy has in mind.

He stated that Doctor von Lewinski, the German Agent, is compelled to leave the United States not later than January 21; that he is the only representative of the German Government familiar with these cases and in a position to present the German Government's point of view to the arbitrators. He stated that his Government, therefore, is very desirous of disposing of the petition, as far as possible, before the departure of Doctor von Lewinski. He understands that Colonel Boyden is coming to Washington the middle of the coming week, probably January 21, and thinks that it would be very helpful if arrangements could be made for him to come a little earlier than contemplated, namely, the 19th or 20th of January, in order that such hearing as the Commission may desire to hold may be held before Doctor von Lewinski sails for Europe.

Doctor Kiep also stated that there had been suggestions in certain quarters (not emanating from the German Government) to the effect that the decision on the point of procedure raised by the petition filed by the American Agent might be facilitated by a declaration of the two Governments on their interpretation of the claims agreement. The part of the agreement in question is contained in Article 2 and provides that:

"The Government of the United States and the Government of Germany shall each appoint one Commissioner. The two Governments shall by agreement select an Umpire to decide upon any cases concerning which the Commissioners may disagree, or upon any points of difference that may arise in the course of their proceedings."

⁴⁹ Otto Carl Kiep, Counselor of the German Embassy.

The American Agent in his petition for a new hearing contends, among other things, that it was improper for the Umpire to participate in the joint discussions of the case by the two Commissioners in the absence of a disagreement between them; also that it was improper for him to join with them in the decision which was rendered.

Doctor Kiep stated that it was his personal opinion that an interpretation of the agreement by the two Governments could not well be given without a request from the Commission; that if a declaration by the two Governments should be requested he believed that the German Government would have no objection to cooperating.

I told Doctor Kiep that I would inform the Secretary of his call and of the information which he had given me. I attach a memorandum on the same subject which the German Ambassador left with me yesterday.⁵⁰

It is my feeling that if we could accommodate the German Government by inducing Colonel Boyden to come to Washington the early part of the coming week, it might facilitate an early settlement of the matter which, of course, would be to the mutual interest of the two Governments . . .

I do not, however, feel that the two Governments should undertake an interpretation of the Convention since the Commission has authority to do this and any action by the two Governments, whether rightly or wrongly, would open the way to greater criticism by dissatisfied parties than would action by the Commission. I think the Commission should dispose of this case in its own way but that we might use our good offices in bringing about an early hearing.

G[REEN] H. H[ACKWORTH]

462.11L5232/187

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] January 17, 1931.

The German Ambassador came in to ask me whether it had been possible for the Department to do anything to assure Mr. Roland Boyden's presence in Washington prior to the date of sailing, of January 21st, of Dr. von Lewinski. I read the Ambassador a telegram to Mr. Boyden which Mr. Hackworth had just written for me, saying that the German Embassy had informed us that, since Dr. von Lewinski was leaving and it is very important that he should be able to testify before the Commission on the notice of rehearing of the Black Tom Case, that I hoped it would be possible for him to be in Washington next Monday. The telegram concluded by saying that the German Ambassador agreed with this for the reason, of course, that Mr.

⁵⁰ *Supra*.

Boyden, the umpire, was appointed by the German and American Governments.

The Ambassador talked for some few minutes about the case, feeling that it would be exceedingly unfortunate if the whole matter of the claims were reopened by agreement on the part of the Commission to rehear this particular case. I made no comment on this, but did point out that I hoped that on the question of procedure, which is the most important proviso in Mr. Bonyng's argument, that the Commission itself should decide rather than refer the matter to the Government since it would seem very unfortunate to inject a political issue.

The telegram was sent as soon as the Ambassador left.⁵¹

W[ILLIAM] R. C[ASTLE], JR.

462.11L5232/181

Memorandum by the Secretary of State

[WASHINGTON,] January 22, 1931.

The German Ambassador came to discuss the argument in the pending sabotage cases. He said he was much relieved that Mr. Boyden was here and he wanted to know whether I thought that the Commission would proceed rapidly in disposing of the motions for rehearing. I told him that under our practice in the Department I had found that it was the time immemorial custom to leave all control of the cases in the hands of the American Agent and that I had therefore followed that practice in this case. I said that Mr. Bonyng had been an energetic and successful agent in handling these claims and we had made far better progress than with any of the present Claims Commissions with other countries, and I felt that therefore he had a right to make any motions for rehearing that he chose and that I, as his client, did not wish to discourage him. The Ambassador said he appreciated this perfectly. He asked about the question of procedure—whether I thought the Commission would handle that? I said the only difficulty that I saw was in the absence in Germany of the German Commissioner; otherwise, I thought that that matter could be handled entirely by the Commission and I had made it clear that I hoped that it would be handled by them. He said his only interest was in having the case disposed of as promptly as possible because he was worried over the repercussions that might be excited by the claimants who were the really dissatisfied people—the railroad companies and the others. He said that these people were likely to appeal to the newspapers. I said I appreciated that trouble, which was inseparable from democracy, but I thought it was less likely to cause

⁵¹ Telegram not printed. Mr. Boyden arrived in Washington from Boston on January 19.

trouble here where the two governments had thus far acted throughout these arbitrations with such harmony and that I did not look for trouble. I told him I would do everything I could to expedite the closing up of the cases as I was just as much interested in that as he was.

H[ENRY] L. S[TIMSON]

462.11L5232/243

The Agent for the United States (Bonyng) to the Acting Secretary of State

WASHINGTON, July 1, 1931.

SIR: I have the honor to enclose herewith for your information a copy of the supplemental petition for rehearing⁵⁶ that I have filed this day with the Mixed Claims Commission, United States and Germany, in the claims involving the fires and explosions at the Lehigh Valley Terminal, Black Tom, New Jersey, on July 29-30, 1916, and at the Assembling Plant, Kingsland, New Jersey, January 11, 1917.

This petition for rehearing is based on certain newly discovered evidence.

Sincerely,

ROBERT W. BONYNGE

462.11W892/1992

Memorandum by the Under Secretary of State (Castle) of a Telephone Conversation With the German Ambassador (Von Prittwitz), November 17, 1931

[WASHINGTON,] November 18, 1931.

The German Ambassador telephoned me to say that he had communicated with his Government in relation to the possible appointment of an umpire⁵⁷ for the Mixed Claims Commission and that his Government fully supported the agreement we had reached here, that it would not be necessary at the moment to appoint an umpire. He said his Government felt the American and German Commissioners might be able to reach an agreement without an umpire, but if they could not do so, they could at least so closely define the questions at

⁵⁶ Mixed Claims Commission, United States and Germany, *The United States on behalf of Lehigh Valley Railroad, and Black Tom Underwriters; and Agency of Canadian Car & Foundry Company, Ltd., and Kingsland Underwriters, against Germany*: Docket Nos. 8103, *et al.*; and 8117, *et al.*, Supplemental Petition for Rehearing, Washington, D. C., June 30, 1931 (New York, 1931).

⁵⁷ Roland W. Boyden, Umpire, died on October 25, 1931. He was succeeded by Mr. Justice Owen J. Roberts, of the Supreme Court of the United States, appointed March 24, 1932.

issue that an umpire would have a narrow question only to decide. He felt, as I do, that if the Commissioners found they could not reach an agreement, it will be easy to decide very promptly on the umpire. . . .

W. R. CASTLE, JR.

ADMISSION TO THE UNITED STATES OF GERMAN STUDENT
LABORERS ⁸⁸

811.111 Colleges 62/32

The German Embassy to the Department of State

[Translation]

St. D. E. 4/31

The German Embassy has the honor to acknowledge, with profound gratitude, the receipt of the esteemed note—811.111 Colleges 62/30[31]—of January 5 of this year.⁸⁹ It gathers therefrom that there is no prospect of a decision, before April 1, in the matter of the admission of German work-students during the year 1931.

On giving full consideration to this decision, the Embassy believes that it cannot, in consideration of the important interests of cultural policy (*kulturpolitischen Interessen*) involved in this question, fail to call attention to the viewpoint that delay in the decision is, in its effect upon the continuance of the entire arrangement for an exchange of work-students between the United States and Germany, in the highest degree undesirable.

The selection of a qualified personnel for the exchange in question cannot be made until it has been decided whether, when, and to what extent the exchange will, as a matter of fact, be made. It will of course require considerable time, while a hasty decision, which appears unavoidable under the present arrangement, might easily lead to a selection made without the necessary care. And the students themselves, who would be connected with the exchange, might, in the event that they were unable to devote considerable time to their plans of travel, in most cases be placed in a most difficult situation; for the majority of them would hardly have the economic liberty to-day to decide matters having an important bearing upon their personal future, connected with the trip to America, without extended preparation. The financing of the eventual transportation of the work students also requires thorough preparation.

For all these reasons the Embassy, which, as has repeatedly been pointed out, sees in this very exchange of work-students one of the most cultural ties between the United States and Germany, would strongly

⁸⁸ Continued from *Foreign Relations*, 1930, vol. III, pp. 109-116.

⁸⁹ *Ibid.*, p. 115.

urge, if at all feasible, that a final decision in this matter be made as soon as possible, without waiting until April 1 of this year.

WASHINGTON, January 30, 1931.

811.111 Colleges 62/35

The German Embassy to the Department of State

AIDE-MÉMOIRE

In November, 1925, an agreement was concluded between the Honorable W. W. Husband, Assistant Secretary of Labor, and Dr. Reinhold Schairer of the Wirtschaftshilfe der Deutschen Studentenschaft, e. V. in Dresden (German Students' Cooperative Association), which had for its purpose the annual exchange between the United States and Germany of one hundred so-called "student laborers". The students of either country, in order to complete their theoretical studies at home, were, under certain specified conditions, allowed to perform actual and paid labor in the territory of the other contracting party.

Accordingly, each year one hundred German students were granted visas as "temporary visitors" and released from the "contract labor" clause by the United States Government. It was provided also that their permits to remain in the United States might be extended to a period not exceeding two years. The first German student laborers entered the United States during the year April 1, 1926–March 31, 1927. From the German point of view, the arrangement has worked in a most satisfactory manner. It has proved to be a most valuable means of stimulating the exchange of practical knowledge, of creating mutual understanding and thus strengthening the cultural bonds between the two countries.

Due to increasing unemployment in the United States, the Department of Labor, in February, 1930, found it necessary, however, to modify the agreement by reducing the annual number of students from one hundred to thirty-five. Thus, in the year April 1, 1930–March 31, 1931, thirty-five German students were admitted.

On December 3, 1930 the German organization submitted to the Department of Labor an application, requesting that in 1931 (i. e., from April 1, 1931–March 31, 1932), fifty German students might be permitted to enter the United States under the agreement. The Department has so far, however, not been able to make a decision. It is earnestly hoped that it will be in the affirmative, as the suspension of the exchange would entail a dissolution of the German organization and therefore necessarily mean the end of an institution which has worked so satisfactorily in the interest of German-American intercourse.

WASHINGTON, March 10, 1931.

811.111 Colleges 62/42

The Secretary of State to the German Ambassador (Von Prittwitz)

[WASHINGTON,] March 26, 1931.

EXCELLENCY: I have the honor to refer to your *Aide-Mémoire* dated March 10, 1931, which you left at the Department on the occasion of your call on the same date, and to previous correspondence concerning the admission to the United States of German students under the auspices of the German Students' Cooperative Association, and to quote for your information the contents of a communication, dated March 11, 1931, which has been received from the competent authorities.⁶⁸

"Referring again to the temporary admission of German and other industrial students for the purpose of gaining experience through employment in this country . . . I beg to advise that after careful consideration it has been determined that on account of employment conditions in the United States the practice that has prevailed in the past shall be somewhat modified for the time being. The present rule relating to the admission of 'student laborers' is in part as follows:

"In pursuance of the provision of section 3 of the act of February 5, 1917,⁶⁹ authorizing the bureau and the department to prescribe conditions "to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission," employers of skilled labor desirous of training aliens in their establishments may be granted such privilege by the department, provided the prospective "student laborers" are admissible in every other respect except that they migrate under contract, and provided a bond is furnished for each such alien in the penalty of not less than \$500, guaranteeing that the alien will be employed in no other than a student capacity while within the United States and will leave this country immediately upon the conclusion of his course of training."

"Under a liberal construction of this rule student laborers have been admitted in considerable numbers even when such admission was solely for their own benefit and not because their services were needed by employers in the United States.

"In view of employment conditions in the United States, however, it is not believed that the liberal policy referred to should be continued and for the time being the admission of so-called student laborers will be limited to cases in which employers in the United States on their own initiative seek to bring in such students for the purpose indicated in the above quoted rule. This order, however, will not apply to industrial students who may be sent to the United States by foreign governments in accordance with existing agreements or understandings in that regard."

Accept [etc.]

For the Secretary of State:
WILBUR J. CARR

⁶⁸ From the Secretary of Labor, William N. Doak (811.111 Colleges 62/37).

⁶⁹ 39 Stat. 875.

811.111 Colleges 62/46

The German Embassy to the Department of State

AIDE-MÉMOIRE

St. Dep. A 16

In a note dated March 26, 1931—811.111 Colleges 62/37 [42]—this Embassy has been informed by the Department of State that for the current year 1931 the United States Government has decided to discontinue the admission of foreign students who hitherto entered the United States under previous agreements as so-called student-laborers. Mention was not made, however, of those students who were already in this country, having entered legally in previous years, in accordance with the agreement.

It was understood from the agreement concluded between the Honorable W. W. Husband, Assistant Secretary of Labor, and Dr. Reinhold Schairer of the German Students' Cooperative Association that the United States Department of Labor would be willing to grant permission that student laborers, selected under the control of the "Wirtschaftshilfe der Deutschen Studentenschaft", come to this country in order to work here in American plants, mines, farms or other similar enterprises as laborers for a period not to exceed two years, and as a two years' visé was not possible, the Department of Labor would be helpful in extending this permit here in the U. S. of America up to two years.

Since that time these German student laborers have regularly been granted the extension by the Commissioner of Immigration at Ellis Island.

Recently, however, the 29 students named on the enclosed list,⁷⁰ whose first year expires on April 22 and May 9, respectively, were refused a prolongation, upon presentation of their applications to the Commissioner of Immigration at Ellis Island.

This unlooked for decision has caused the persons involved considerable anxiety, who came to the United States with the assumption that the customary permission for a two years' stay would be granted them and who made their plans accordingly, since it necessarily entails most serious hardships for them.

The German Embassy would be greatly obliged to the United States Government if the decision of the Commissioner of Immigration at Ellis Island were to be reconsidered and the extension in question granted.

WASHINGTON, April 16, 1931.

⁷⁰ Not printed.

811.111 Colleges 62/50

The Department of State to the German Embassy

The Secretary of State refers to the Embassy's *Aide-Mémoire*, dated April 16, 1931, (St. Dep. A 16) concerning the admission of German student laborers into the United States and to the desire of twenty-nine students, who have already been admitted to this country, to remain for a further period.

Confirming the information given to Doctor Leitner ⁷¹ by a member of the Department over the telephone recently, it may be stated that the cases of the twenty-nine students referred to are being reviewed by the appropriate branch of the Government. When information shall have been received regarding the decision reached in the cases of the students mentioned, the Embassy will be further advised.

WASHINGTON, April 22, 1931.

811.111Colleges 62/54

Memorandum by the Assistant Secretary of State (Carr)

[WASHINGTON,] November 12, 1931.

Mr. Leitner of the German Embassy called to see me, at the request of the Ambassador, on Tuesday afternoon, the 10th of November, in regard to an extension of the time in the United States of certain German students.

He said that last spring when the question of the admission of German students was discussed with the Department there were twenty-nine students in this country, ten of them have departed, and nineteen are still here and have been here for possibly one and one half years; their original understanding was when they entered the United States that their time would be extended to a total of approximately two years. Last spring, however, the decision was made by the Department of Labor to extend the time for six months longer.

Mr. Leitner said that these were the last of the students that had entered the United States under the arrangement with the Department of Labor and it was desirable that they should return to Germany as well satisfied as possible and hence the Embassy felt that the extension of their time for another six months to carry out their original understanding when they entered would be in the interest of fairness to them and of both countries and that they would derive the maximum benefit from their residence in the United States.

I told him I thought that in view of the employment situation in this country the chances of extending their time were doubtful but that I would discuss it with the Department of Labor.

⁷¹ Rudolf Leitner, First Secretary of the German Embassy.

Yesterday I discussed the matter with Assistant Secretary Husband and he told me that the Department of Labor had been over the entire subject at great length, had discussed it with various senators, with the representatives of the students, and with representatives of The White House, and had taken the position very definitely that they would not be justified in extending the time of the students. Their information is to the effect that the students are, for the most part, holding drafting jobs in this country which could be very properly filled by American employees and that the Department of Labor can not agree to any further extension.

I informed Dr. Leitner of the German Embassy this morning (November 13) of the decision of the Department of Labor, and expressed regret that the extension desired could not be made.

W[ILBUR] J. C[ARR]

811.111 Colleges 62/56

The German Ambassador (Von Prittwitz) to the Secretary of State

[Translation]

VI W 9435

WASHINGTON, December 16, 1931.

MR. SECRETARY OF STATE: By direction of my Government, I have the honor to submit the following suggestion to Your Excellency. The German Government is convinced that, like the institution of exchange students, that of industrial students is also eminently calculated to strengthen the relations between Germany and the United States. Feeling conscious that the United States Government shares this view, my Government has instructed me to convey to Your Excellency its wish to have German industrial students sent by the Government to the United States. These students, whose number should not exceed 25, would be senior students selected with special care, who have already finished their German high school studies up to a certain grade, and taken up a course in some special field of industry, agriculture, or mining. The period of their sojourn in the United States, which would serve not only to increase their theoretical knowledge but also and particularly to acquaint them with the practical side of life, should not exceed two years.

With respect to the practical details connected with the sending of the students to the United States, my Government proposes the following arrangement:

1. The names of the students to be sent would be furnished by the Foreign Office to the American Embassy at Berlin so that the American consulates in Germany might be duly informed.

2. After the visas have been granted by the American consulates in Germany (section 3/I, Immigration Act of 1924 ⁷²), the German Em-

⁷² 43 Stat. 153.

bassy at Washington would indicate to the Department of State the place and time of arrival of the students as well as the localities to which and the mode in which they are to be assigned in the United States.

3. The Department of State would be kept posted by the Embassy regarding changes of residence of the students.

4. The place and time of departure of students would likewise be indicated by the Embassy to the Department of State.

5. The Embassy would give a guarantee that the periods of sojourn granted to the students would be strictly observed.

My Government would be highly gratified if the United States Government decided to consent to its proposal.

Pursuant to instructions I wish also to offer Your Excellency full reciprocity with respect to the establishment of this institution of official sending of industrial students.

In begging Your Excellency to notify me of the decision of the United States Government as soon as possible, I avail myself [etc.]

F. VON PRITTWITZ

811.111 Colleges 62/63

The Secretary of State to the German Ambassador (Von Prittwitz)

[WASHINGTON,] February 9, 1932.

EXCELLENCY: Referring to the Department's note of January 23, 1932,⁷³ in reply to the Embassy's note No. W 9435 of December 16, 1931, I have the honor to state that a communication has now been received from the appropriate branch of the Government⁷⁴ concerning the desire of the German Government to send to the United States a number of German industrial students for the purpose of acquiring theoretical and practical knowledge in some special field of industry, agriculture or mining.

The following quotation from the communication referred to is given for your information:

"This Department appreciates that mutual benefit might arise if young engineers, technicians or specialists of one country are privileged to acquire practical experience along the same lines through actual employment in another country. This Department's attitude in that regard was made plain some four or five years ago when it was arranged that a limited number of so-called industrial students desiring to come from various countries to gain practical experience in American industry would be permitted to take paid employment in the United States. Its liberal attitude in that regard was further evidenced by the fact that while such students were admitted for a period of one year, extensions up to but not to exceed two years were freely granted when it was shown that such students were actually pursuing the pur-

⁷³ Not printed.

⁷⁴ Letter dated January 26 from the Second Assistant Secretary of Labor, W. W. Husband (811.111 Colleges 62/60).

pose for which they were admitted. This practice was continued until because of the business depression of the last two years large numbers of our own engineers, specialists and technicians were either thrown out of employment or were unable to find employment when they graduated from our engineering and technical schools. While the number of foreign industrial students in the United States was limited, it became perfectly apparent that they were in many instances occupying paid positions which otherwise would have been open to our own people who were unemployed. In view of this situation this Department was impelled temporarily to terminate the arrangement under which foreign industrial students were admitted and to curtail somewhat the extension of stay of those already in the United States.

"With this explanation, let me say that the proposal contained in the German Embassy's note above referred to would seem in effect to revive to a limited extent a practice which for the reasons stated has been temporarily abandoned. The German note does not specify that the twenty-five students referred to would not take employment without wages, and, if such is the fact, the proposal appears to this Department as essentially the same as that formerly in operation. It follows, of course, that if the proposed arrangement so far as Germans are concerned was favorably considered a like privilege would necessarily have to be extended to the industrial students of other nationalities and all things considered, the Department of Labor regrets that because of continued unemployment in the United States it is not able to give favorable consideration to the proposal in question."

Accept [etc.]

For the Secretary of State:

WILBUR J. CARR

GREAT BRITAIN

EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREAT BRITAIN AND EXCHANGES OF NOTES EXTENDING THE APPLICABIL- ITY OF THE TREATY TO PALESTINE AND TRANS-JORDAN, SIGNED DECEMBER 22, 1931

211.41/137

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 3182

LONDON, November 19, 1928.

[Received December 3.]

SIR: I have the honor to refer to the Embassy's despatch No. 2199, October 3, 1927,¹ relating to the conclusion of a supplementary extradition convention, and in this connection to forward a copy, in triplicate, of a Foreign Office note, together with three copies of a draft treaty² which it is proposed might well replace the old treaty provision of 1842 and the various supplementary conventions which have from time to time been added thereto.

I have [etc.]

RAY ATHERTON

[Enclosure]

The British Acting Secretary of State for Foreign Affairs (Cushendun) to the American Chargé (Atherton)

No. T 11803/1669/374

[LONDON,] 17 November, 1928.

SIR: I have the honour to refer to Mr. Kellogg's note of February 26th, 1924 (No. 69)¹ proposing the conclusion of a supplementary extradition convention adding bigamy to the list of offences made extraditable under the existing treaty arrangements between this country and the United States, and also to Mr. Sterling's subsequent note of March 23rd, 1925 (No. 765)¹ proposing that crimes and offences against the laws for the suppression of the traffic in narcotics might similarly form the subject of a convention applicable to the British Empire generally or to Great Britain.

2. On the receipt of these notes His Majesty's Government in Great Britain duly entered into communication with His Majesty's Governments in the Dominions in order to ascertain the views of the latter in

¹ Not printed.

² Draft treaty not printed; for text as signed, see p. 353.

regard to the proposals made by the United States Government. In the course of these communications reference was made to the possibility of suggesting to the United States Government that the opportunity might be taken to replace the existing arrangements on the subject of extradition, dating as far back as 1842, by a comprehensive treaty more adapted to modern requirements, and in the more ample form which has been adopted in the case of all extradition treaties recently concluded with foreign countries.

3. As you will be aware, the extradition arrangements between this country and the United States rest on provisions contained in Article 10 of the Treaty regarding boundaries which was signed at Washington on August 9th, 1842,⁴ together with those contained in supplementary conventions successively concluded on July 12th, 1889,⁵ December 13th, 1900,⁶ and April 12th 1905.⁷ There is an agreement of September 23rd 1909⁸ extending the operation of those arrangements to certain British protectorates in Africa, and an agreement of September 1st/23rd, 1913,⁹ extending their operation to the Philippine Islands or Guam and the State of North Borneo. There are further supplementary conventions of May 15th 1922,¹⁰ and January 8th, 1925,¹¹ adding certain offences, so far as regards extradition between Canada and the United States. It appeared therefore that the proposals made by the United States Government in Mr. Kellogg's note of February 26th, 1924, and Mr. Sterling's note of March 23rd, 1925, might be more conveniently met by the conclusion of a new treaty of the comprehensive character afforded by the model draft extradition treaty now used by His Majesty's Government in Great Britain in all cases of negotiation with foreign governments, thus combining the treaty provisions of the past with others more in accordance with modern conditions.

4. The preparation of a draft treaty on these lines has however been somewhat delayed by the need of revising the model draft extradition treaty habitually used by His Majesty's Government in Great Britain in order to bring it into conformity with the recommendations of the Imperial Conference of 1926.¹² This revision has necessarily occupied some time.

⁴ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 4, p. 363.

⁵ Malloy, *Treaties*, 1776-1909, vol. I, p. 740.

⁶ *Ibid.*, vol. I, p. 780.

⁷ *Ibid.*, vol. I, p. 798.

⁸ See *Foreign Relations*, 1909, pp. 286-288.

⁹ *Ibid.*, 1913, p. 549.

¹⁰ *Ibid.*, 1922, vol. II, p. 406.

¹¹ *Ibid.*, 1925, vol. I, p. 542.

¹² Great Britain, Cmd. 2768, Imperial Conference, 1926: *Summary of Proceedings*, pp. 21-24, 29 ff.

5. I regret the delay which has thus occurred in answering the proposals made by the United States Government in the notes above referred to, but I would now suggest, for the consideration of that government, that these proposals might in the circumstances most conveniently find expression in a treaty of the comprehensive character mentioned, replacing the old treaty provision of 1842 and the various supplementary conventions which have from time to time been added thereto. With this view I have accordingly the honour to transmit to you copies of a draft treaty¹³ which has been prepared for the purpose, and I would ask you to be good enough to submit it to the United States Government for their consideration.

6. You will observe that the draft treaty in Article 3 includes among the list of offences set forth, bigamy, and offences or attempted offences in connexion with the traffic in dangerous drugs; that in Article 17 it provides for the accession to the treaty of His Majesty's self-governing Dominions and India; that in Article 19 it is made applicable to certain British protectorates and mandated territories, while in Article 20 provision is made for its extension to other British protectorates, protected States and mandated territories; and that in Article 21 it is provided that the provisions of existing treaty arrangements shall remain in force in respect of each Dominion and India, pending their accession to the treaty, or until replaced by other treaty arrangements. It is understood in this connexion that His Majesty's Government in Canada contemplate the negotiation of a separate treaty applying as between the United States and Canada only and covering all offences extraditable as between Canada and the United States. I desire also to call your attention to Article 2, and to suggest for the consideration of the United States Government whether a second paragraph should be added specifying the position of the Philippine Islands and Hawaii and other overseas territories of the United States in relation to the treaty.

7. With respect to the substantive articles of the draft treaty I would add that these are drawn in accordance with the laws governing extradition in this country, viz: the Extradition Acts, 1870-1906, and that as regards the provision of Article 3 (No. 25) relative to offences or attempted offences in connexion with the traffic in dangerous drugs, this is in the circumstances necessarily dependent upon the passage of an amending Act constituting these extraditable offences.

I have [etc.]

(For Lord Cushendun)
G. R. WARNER

¹³ Not printed.

211.41/137

*The Secretary of State to the Ambassador in Great Britain
(Houghton)*

No. 1734

WASHINGTON, March 14, 1929.

SIR: The Department has given careful consideration to the draft of an extradition treaty which was enclosed with your Embassy's despatch No. 3182 of November 19, 1928, together with a copy of a note from the British Foreign Office, proposing that such a treaty be concluded to replace the provisions relating to extradition contained in the Treaty of 1842 as well as the various supplementary conventions relating to extradition which were later concluded between the two Governments.

As a result of the consideration given to this draft the Department submits the following conclusions and suggestions:

Pursuant to the suggestion contained in the note from the Foreign Office it is recommended that a paragraph be added to Article 2 of the draft treaty reading as follows:

"For the purposes of the present Treaty, the territory of the United States shall be deemed to be all territory wherever situated belonging to the United States or in its occupancy and under its control, during such occupancy and control."

It is provided in Article 3 of the draft treaty that extradition shall be reciprocally granted for the crimes listed therein "provided that the crime or offence charged constitutes an extradition crime or offence according to the laws of both High Contracting Parties".

With respect to this proviso, it may be pointed out that the laws of the United States do not enumerate any crimes or offences as constituting extradition crimes or offences. Therefore, this proviso would not be acceptable to the United States. In this relation it may be observed that the Department understands that under the applicable rules and principles of international law a Government is not considered to be obligated to surrender a fugitive in extradition proceedings unless he is charged with a crime or offence which is made such under its laws. Therefore, the suggested proviso would seem to be unnecessary and might well be omitted. However, if it is desired that it shall be retained it might be rendered acceptable to this Government by the elimination of the word "extradition".

Among the crimes and offences listed in Article 3 of the draft is that of "indecent assault". With a view to determining whether such an offence is embraced under other nomenclature in the legislation of the United States it is desired that information be furnished as to the elements constituting the offence mentioned under British law, and in this relation it is deemed pertinent to point out that the offences

of rape and unlawful carnal knowledge are also listed in Article 3 of the draft.

The same need for information exists with respect to the offence listed as No. "10. Procuration".

Under Nos. 12 and 13 of Article 3 are listed, respectively, "maliciously wounding or inflicting grievous bodily harm" and "assault occasioning actual bodily harm". In view of the apparent similarity of these offences, it is suggested that they might well be combined into one offence, with appropriate wording.

While pointing out that by the Treaty of May 15, 1922, between the United States and Great Britain,¹⁴ made applicable only as between the United States and the Dominion of Canada, it is provided that extradition shall be granted for "wilful desertion or wilful non-support of minor or dependent children", it is observed that these offences are not listed in the draft submitted. The Department is desirous of having this omission supplied.

The concluding paragraph of Article 3 of the draft provides that:

"Extradition may also be granted at the discretion of the High Contracting Party applied to in respect of any other crime or offence for which, according to the laws of both the High Contracting Parties for the time being in force, the grant can be made."

This provision would be meaningless so far as the United States is concerned since according to its laws as interpreted by the courts the executive branch of the Government is without authority to surrender a fugitive in extradition proceedings unless there is express authority of law for such surrender. Accordingly, it is suggested that this paragraph be omitted, unless the British Government should be willing to enter into the agreement contemplated thereby while understanding that for the reason mentioned it must be of a unilateral character.

It is provided in effect in Article 5 of the draft that extradition shall not take place if prosecution for the crime or offence charged shall have become barred by the statutes of limitation in either the country applying or that applied to. With respect to this provision, it may be pointed out that the extradition treaties of the United States limit the exception in this respect to the laws of one country and in most cases to those of the country applying, and this Government would prefer that the final words of Article 5, namely "or applied to", be omitted.

Article 6 of the draft contains an exception in favor of political offenders from the obligation to surrender and this is satisfactory to the Department so far as it extends. However, the Department would prefer the addition to this article of words somewhat as follows,

¹⁴ *Foreign Relations*, 1922, vol. II, p. 406.

which are substantially found in recent extradition treaties of the United States:

“When the offence charged comprises the act either of murder or assassination, either consummated or attempted, the fact that the offence was committed or attempted against the life of the sovereign or head of a foreign State or against the life of any members of his family, shall not be deemed sufficient to sustain that such a crime or offence was of a political character, or was an act connected with crimes or offences of a political character.”

Article 8 of the draft provides that requisition for the extradition of an accused person must be accompanied by a warrant of arrest and evidence which would justify the arrest if the crime or offence had been committed in the country applied to and it is provided in Article 9 that if the requisition for extradition shall be in accordance with the provisions of Article 8 the competent authorities shall proceed to the arrest of the fugitive.

These provisions taken together would seem to require the production of formal documents of the nature indicated before an arrest could be brought about and would apparently result, in many cases, in such delay in making arrests as would defeat the purpose sought. Moreover, Article 10 contains further provisions of a somewhat technical character concerning the arrest of a fugitive and, in particular, refers to apprehension under a warrant issued by a police magistrate or a justice of the peace. It may well be doubted whether such officials are invested with authority under the laws of the United States to issue warrants of arrest in extradition proceedings.

In connection with the above comment concerning the provisions of Articles 8, 9 and 10 of the draft it is observed that Article 12 contains somewhat complicated provisions concerning the evidence admissible in extradition proceedings and that failure to comply with these provisions, which compliance might be difficult at all times, would be likely to result in the release of the fugitive sought.

So far as the Department is informed the present extradition arrangements between the United States and Great Britain have given satisfactory results and it is therefore suggested that in place of the provisions contained in Articles 8, 9, 10 and 12 of the draft there be substituted the following:

“The extradition of fugitives under the provisions of this Treaty shall be carried out in the United States and in the territory of His Britannic Majesty, respectively, in conformity with the laws regulating extradition for the time being in force in the surrendering State.”

In this relation reference may be made to the provision of Article VI in the Extradition Treaty of 1889 between the United States and

Great Britain¹⁵ and to the apparent advantage in simplification which would result from the substitution suggested. However, an exception to the suggestion may be made for the first paragraph of Article 8 of the draft which provides that "subject to the provisions of Articles 17 and 18, the requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties, respectively".

It is provided in Article 11 of the draft that "no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender". The Department presumes that this provision is made in view of the requirements of British law. However, it may be pointed out that there is no such requirement in the laws of the United States and, therefore, a fugitive may be surrendered here without waiting for the expiration of any particular time after the date of his committal, assuming, of course, that he does not avail himself of subsequent legal remedies. In view of this consideration it is suggested that the words last quoted be omitted.

It is provided in Article 16 of the draft that:

"Each of the High Contracting Parties shall defray the expense occasioned by the arrest within its territories, the detention, and the conveyance to its frontier, of the persons whom it may have consented to surrender in pursuance of the present Treaty."

In relation to this provision it may be pointed out that all of the extradition treaties of the United States provide in general for the payment of expenses by the demanding State and this Government considers that this is an equitable provision since such expenses are, of course, incurred at the request of the Government which makes the demand. Moreover, in view of the facts that if the United States should agree to such a provision as is made in Article 16 it would apparently require additional legislation in this country to carry out such provision and would considerably complicate matters as between the Federal Government and the governments of the several states, this Government would find it difficult to agree to such a provision and, in the event of agreement, would be placed in an inconsistent attitude with respect to certain third Governments whose requests for agreement upon a provision of this character have been declined. However, this Government would be willing to go to some lengths to accommodate itself to the apparent desire of the British Government in this matter, and while it would desire that a general provision be made that the expense of the arrest, detention, examination and transportation of the accused shall be paid by the Government

¹⁵ Malloy, *Treaties*, 1776-1909, vol. I, p. 740.

which has presented the demand for extradition, it is disposed to consent that this be followed by a provision to the effect that the magistrates and law officers of the country where the proceedings of extradition are had shall assist the officers of the Government demanding the extradition by every legal means within their power and that no claim for compensation for any of the services so rendered shall be made against the Government demanding the extradition, provided, however, that any officer or officers of the surrendering Government so giving assistance who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers. It may be added in explanation of the exception last indicated that prosecuting attorneys and judges of courts of record in the United States are in receipt of salaries for their services.

You may bring the foregoing considerations to the attention of the British Foreign Office in reply to its note of November 17, 1928.

I am [etc.]

For the Secretary of State:
J. REUBEN CLARK, JR.

211.41/147

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 996

LONDON, June 24, 1930.
[Received July 3.]

SIR: I have the honor to refer to the Department's instruction No. 1734, March 15 [14], 1929 (File No. 211.41/137), relating to the Department's conclusions and suggestions on the draft of an extradition treaty, which was duly forwarded to the Foreign Office under date of March 28, 1929, and to enclose a copy of a Foreign Office note in reply, containing certain specific observations in regard to the articles of the draft treaty.

I have [etc.]

RAY ATHERTON

[Enclosure]

The British Secretary of State for Foreign Affairs (Henderson) to the American Chargé (Atherton)

No. T 4815/350/374

[LONDON,] 20 June, 1930.

SIR: I have the honour to refer to your note of the 28th March 1929 (No. 2285) relative to the draft Extradition Treaty which formed the

subject of Lord Cushendun's note of November 17th, 1928. His Majesty's Government in the United Kingdom have given careful consideration to the various points raised in your note, and I now beg leave to offer the following observations in regard to the articles of the draft treaty mentioned.

2. *Article 3.* The proviso in the first sentence of this article was inserted in the draft treaty in order to meet the requirements of the Extradition Acts, to which it is necessary that any treaty entered into by this country should conform. Under those Acts surrender can only take place for certain crimes specified by statute, and the list of crimes scheduled in the article is too wide for this purpose without the qualification contained in the proviso. It is however understood from your note that the proviso would be inappropriate, since there is no corresponding statutory list of extradition crimes in the United States, and as it is agreed that it is a fundamental principle of extradition that a country is under no obligation to surrender a fugitive unless he is charged with an act which is recognized as a crime in its own law, His Majesty's Government in the United Kingdom concur in the view of the United States Government that the proviso should be omitted. For similar reasons the concluding paragraph of the article would also be deleted.

3. The omission of the proviso will however, as indicated above, necessitate a few consequential changes in the list of crimes in article 3, and the following revisions are accordingly suggested:—

Item 26. "Malicious injury to property, if such offence be indictable". Besides indictable offences of malicious injury to property there are in this country summary offences where the injury is trivial, and the latter are not extraditable.

Item 27. "Piracy by the law of nations".

Item 27a. "Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm". This definition follows the wording of article 1, item 9 of the existing Convention of July 12th, 1889.¹⁶

4. *Article 3, Item 6.* While the determination of the law is a matter for the Courts, His Majesty's Government in the United Kingdom are advised that "indecent assault" is committed when one person indecently assaults another; it may be committed by a male person upon another male person or a female person. It is a much less serious offence than either (a) rape, which consists of having carnal knowledge of a woman without her consent (and is usually accompanied with

¹⁶ Malloy, *Treaties*, 1776-1909, vol. I, p. 740.

violence), or (b) unlawful carnal knowledge of a girl of tender years to which offence consent is no defence.

5. *Article 3, Item 10.* The term "Procuration" in the draft treaty is intended to refer to such offences as those enumerated in the first and second articles of the International Convention for the Suppression of the White Slave Traffic, concluded at Paris on May 4th, 1910.¹⁷ From the standpoint of English law the expression "Procuration" appears to be a sufficient description.

6. *Article 3, Item 12.* "Maliciously wounding or inflicting grievous bodily harm", and *Item 13* "Assault occasioning actual bodily harm" relate to offences which are very similar in character, and the latter might be omitted. The former item will seemingly include all cases in which extradition will be desired.

7. His Majesty's Government in the United Kingdom regret that they are unable to accede to the proposal that "Wilful desertion or wilful non-support of minor or dependent children" should be added to the list of offences. Such acts do not necessarily constitute any offence in English law, and are not acts in respect of which they are empowered to grant extradition.

8. *Article 5.* This article appears to embody a reasonable principle that a man should not be surrendered if he would be exempt from prosecution in the territory in which he is found by lapse of time, and the principle of the article seems to be accepted in article 5 of the treaty between the United States and Poland.¹⁸ His Majesty's Government would in the circumstances be glad if the United States Government would be good enough to accord further consideration to the proposal.

9. *Article 6* is founded upon British law, and His Majesty's Government regret that they would be unable to accept the additional paragraph desired by the United States Government. The determination whether or not a particular crime is a crime of a political character is ordinarily a matter for the Courts of this country, and it would not be possible in a treaty concluded by this country to attempt an explanation of the expression. Further should the Court consider the explanation to be contrary to the Statute, the Court would feel itself obliged to give effect to the Statute rather than the treaty, and an awkward position would then arise. It may be remarked in this connection that the meaning of a crime of a political character in the Extradition Acts has been considered by the English Courts in the cases of *Castioni* (1891 1 QBD 143) and *Meunier* (1894 2 KB 415), the head note to the latter case stating that "to constitute a political offence there must be two or more parties in the State, each seeking

¹⁷ *British and Foreign State Papers*, vol. ciii, p. 244.

¹⁸ Signed at Warsaw, November 22, 1927, *Foreign Relations*, 1927, vol. iii, p. 624.

to impose the government of their own choice on the other, which was not the case with regard to anarchist crimes”.

10. *Articles 8, 9, 10 and 12* in the draft treaty substantially set out the requirements of the Extradition Acts and the current practice. Articles 8 and 9 refer to the formal application for extradition, while article 10 sets out the procedure in urgent cases in which the arrest of the fugitive is sought before the formal application supported by the usual documents can be made. His Majesty's Government, while of opinion that their inclusion in the draft treaty would be convenient for reference purposes, do not however wish to press for their insertion, and are prepared to accept the proposal of the United States Government. They would however suggest that the proposed article should be worded as follows:—"The extradition of fugitive criminals under the provisions of this treaty shall be carried out in the United States and in the territory of His Britannic Majesty, respectively, in conformity with the laws regulating extradition for the time being in force in the territory from which the surrender of the fugitive criminal is claimed”.

11. In *Article 11* of the draft treaty the words "and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender" are, as the United States Government presume, a requirement of the Extradition Acts. The provision does not appear however in the existing treaties, and as it is incorporated in the alternative text proposed by the United States Government for articles 8-10 and 12, His Majesty's Government agree that it is preferable, on the ground mentioned in your note to omit this provision.

12. *Article 16*. His Majesty's Government regret that the United States Government feel unable to accept the proposal in this article regarding the incidence of expenses. They have carefully considered the observations made in your note, and in the circumstances they desire to recommend that the existing arrangements should be continued and that for article 16 in the draft treaty there should be substituted the following provision:—"All expenses connected with the extradition shall be borne by the High Contracting Party making the application”.

13. With regard to the formula proposed in your note for insertion in article 2, I would observe that section 25 of the Extradition Act of 1870 states that "For the purposes of this Act every Colony, Dependency, and constituent part of a foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of, and to be part of such foreign State". In view of the terms of the act, His Majesty's Government feel some hesitation with regard to the use in the treaty of

the expression "territories in the occupancy or under the control of the United States" and therefore suggest that the words "or in its occupancy and under its control, during such occupancy and control" should be replaced by the phrase "including its dependencies and all other territories under its exclusive administration or control".

14. I have the honour accordingly to request that you will be good enough to submit these observations to the United States Government and acquaint me in due course with their further views in the matter. For convenience of reference a revised print of the draft treaty has been prepared of which I enclose copies herewith.¹⁹

I have [etc.]

(For the Secretary of State)

G. R. WARNER

211.41/147

*The Acting Secretary of State to the Ambassador in Great Britain
(Davies)*

No. 471

WASHINGTON, August 11, 1930.

SIR: The Department has received your despatch No. 996, dated June 24, 1930, and its enclosures, in further regard to the proposed extradition treaty between the United States and Great Britain.

Careful consideration has been given to the statements contained in the note addressed to you by the Foreign Office on June 20, 1930. It is observed therein that in view of the terms of the Extradition Act of 1870 the Government of Great Britain feels some hesitation with regard to the use in the treaty of the expression "territories in the occupancy or under the control of the United States," and suggests in lieu of the words, "or in its occupancy and under its control, and during such occupancy and control," the substitution of the phrase "including its dependencies and all other territories under its exclusive administration or control." As the suggestion made by the British authorities covers substantially the proposal made by this Government, there would seem to be no objection to Article 2 as printed in the "Draft Extradition Treaty" submitted to you with the Foreign Office note of June 20, 1930.

With respect to Article 3, it is observed that the British Foreign Office states that the crime "wilful desertion or wilful non-support of minor or dependent children" should not be added to the list of extraditable offenses as such acts do not necessarily constitute an offense in English law, and are not acts in respect of which they are empowered to grant extradition. In view of these circumstances, this Government withdraws its proposal to include this offense in the list of extraditable offenses.

¹⁹ Not printed.

This Government accepts the amendments made by the Government of Great Britain with respect to Article 3, Items 26, 27 and 27a.

As to Article 3, Item 6, it may be pointed out that this Department is not informed whether the offense is indictable under the laws of all of the states of the United States. In the circumstances, difficulty may be experienced in effecting extradition from the United States on this charge if the offense is not indictable in the jurisdiction where the accused is apprehended. Accordingly, it is suggested that the following be added to this item: "if such offense be indictable in the jurisdiction where the accused is apprehended."

The term "Procuration" in Article 3, Item 10, is not necessarily descriptive of a crime in the United States. While there would appear to be no objection to the inclusion of the expression, "Procuration," it is deemed advisable to describe the crime more fully, and it is suggested, therefore, that the following be added to Item 10: "defined as the so-called traffic in women and girls, meaning the recruiting, transporting, abduction or seduction for immoral purposes of said persons, provided such crimes be punishable by imprisonment of at least one year, or by more severe penalty."

This Government notes that in accordance with its suggestion, Article 3, Item 13, has been eliminated, it being understood that the offense described in Item 12 sufficiently covers that mentioned in Item 13. The elimination of this item would, of necessity, require the renumbering of subsequent items.

This Government withdraws its objection to Article 5, which provides that extradition shall not take place if the prosecution or punishment for the crime is barred by the lapse of time in either contracting country, and agrees thereto as the article is printed in the "Draft Extradition Treaty" enclosed with the note of June 20, 1930, from the Foreign Office.

It is observed that Article 6, dealing with crimes of a political character, is founded upon British Law, and that the Government of Great Britain regrets that it would be unable to accept the additional paragraph desired by this Government. In the circumstances, the Department withdraws its proposal and agrees to the article as printed in the "Draft Extradition Treaty."

The Department is glad to observe that, pursuant to its suggestion, Articles 8, 9, 10 and 12 of the Draft Treaty have been consolidated.

You are instructed to bring the substance of this instruction to the attention of the appropriate British authorities, pointing out the fact that our Governments are substantially in accord on the proposed treaty and expressing the hope that the Government of Great Britain may find it possible to agree to the additional suggestions contained herein. The Department is prepared to send you the necessary full

power as soon as you inform it that you have reached an agreement with the British authorities.

Very truly yours,

WILBUR J. CARR

211.41/152

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 1573

LONDON, January 20, 1931.

[Received January 30.]

SIR: I have the honor to refer to the Department's instruction No. 471, August 11, 1930 (File No. 211.41/147), relating to the proposed extradition treaty between the United States and Great Britain, the substance of which was immediately brought to the attention of the appropriate British authorities, and to enclose a copy of a Foreign Office note in reply which I have just received.

Respectfully yours,

(For the Ambassador)

RAY ATHERTON

Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador (Dawes)

No. T 288/46/374

[LONDON,] 17 January, 1931.

YOUR EXCELLENCY: I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom have given careful consideration to your note No. 785 of the 20th August last relative to the proposed Extradition Treaty between this country and the United States.

2. With regard to Article 3, Item 6, of the draft Treaty, His Majesty's Government have no objection to accepting in substance the qualification proposed in your note. It would, however, seem desirable to avoid the use of the expression "jurisdiction" in this connexion in view of the terms of Article 1, which refers to the jurisdiction of the High Contracting Parties. His Majesty's Government would therefore suggest that the words to be inserted at the end of this item should be "if such offence be indictable in the place where the accused is apprehended", or more simply "if such offence be indictable" as in Item 26.

3. Though His Majesty's Government share the view of the United States Government that the term "Procuration" in Item 10 of Article 3 is vague and that definition is desirable, they find some difficulty in accepting the definition proposed by the United States Government or in proposing a satisfactory alternative formula. The following definition, however, is in greater conformity with English law than that proposed in Your Excellency's note:—"Procuration: that is to

say the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person provided that such crime or offence is punishable by imprisonment for at least one year or by more severe punishment." I should be glad if Your Excellency would be good enough to inform me whether this modification is acceptable to the United States Government.

4. His Majesty's Government are glad to observe that, apart from these two points, agreement appears to have been reached with the United States Government upon the terms of the proposed Treaty, and I venture to express the hope that, the United States Government will find it possible to agree with the alterations in phraseology suggested above.

I have [etc.]

(For the Secretary of State)

G. R. WARNER

211.41/153

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 662

WASHINGTON, February 9, 1931.

SIR: The Department has received your despatch No. 1573, of January 20, 1931, with which you enclosed a copy of a note from the British Foreign Office in relation to the negotiations for the conclusion of an extradition treaty between the United States and Great Britain.

The Department has no objection to the counter suggestion of the British Government that the following language be inserted at the end of Article 3, Item 6 of the Draft Treaty:

"if such offense be indictable in the place where the accused is apprehended."

The modified definition of the crime "Procuration" as suggested by the Foreign Office is satisfactory to this Government.

The two points in question having been agreed upon there seems to be no issue remaining between the two Governments as to the language of the proposed treaty, and, accordingly, the Department is sending you the necessary full power to sign the treaty. It assumes that the changes in the "Draft Extradition Treaty" enclosed in the Foreign Office note of June 20, 1930, agreed upon in the Department's Instruction No. 471 of August 11, 1930 and in this instruction, are sufficiently set forth in such instructions so that you will be able readily to see to it that the necessary changes are made in the draft treaty before signing.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

211.41/157

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 949

WASHINGTON, October 1, 1931.

SIR: The Department has received your despatch No. 2259, of September 16, 1931,²⁰ enclosing a copy of a note from the Foreign Office suggesting further amendments in the text of the proposed Extradition Treaty between the United States and Great Britain.

The Department has no objections to the changes suggested which are as follows:

The insertion of the words "crime or" or "crimes or", as the case may be, before the words "offence" or "offences", where such words occur in Article 3, paragraphs 6, 24, and 25;

The insertion of the words "or convicted person" after the word "accused" in Article 3, paragraph 6;

The insertion of the words "or offences" after the word "crimes" in Article 3, paragraph 21;

The amendment of the description of the British Government in Article 15 to read "His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland";

The alteration of the concluding words of Article 16, so as to read, "Cameroons under British Mandate, Togoland under British Mandate, and the Tanganyika Territory", and the omission of Palestine from Article 16.

The Department is also agreeable to the exchange of notes making the provisions of the treaty applicable to Palestine (excluding Transjordan) and to Transjordan.

It is noted that the British Government states with reference to Article 9 of the proposed treaty that English law requires a person convicted *in contumaciam* to be regarded as an accused person and that consequently the term "convicted" is not regarded as including such a person. The Government of the United States regards this matter in the same light.

It is further stated that the British Government calls attention to the fact that the inclusion in Article 3 of the treaty of offenses or attempted offenses in connection with the traffic in narcotics is dependent upon the passage of further legislation constituting such offences as extraditable.

In view of the foregoing and of the statements of the British Government in its current note, the Department presumes that the proposed treaty will be signed at an early date, full power for signing having been sent you February 9, 1931.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

²⁰ Not printed.

211.41/159 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, December 22, 1931—noon.
[Received December 22—8:35 a. m.]

468. Department's instruction 949, October 1. Extradition treaty signed and notes regarding its application to Palestine and Trans-Jordan exchanged today. Documents in next pouch.

DAWES

Treaty Series No. 849

*Extradition Treaty Between the United States of America and Great Britain and Exchanges of Notes Extending the Applicability of the Treaty to Palestine and Trans-Jordan, Signed at London, December 22, 1931*²¹

The President of the United States of America,

And His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India;

Desiring to make more adequate provision for the reciprocal extradition of criminals,

Have resolved to conclude a Treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

General Charles G. Dawes, Ambassador Extraordinary and Plenipotentiary of the United States of America at the Court of St. James;

And His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

for Great Britain and Northern Ireland:

The Right Honourable Sir John Simon, G.C.S.I., M.P., His Principal Secretary of State for Foreign Affairs;

who, having communicated their full powers, found in good and due form, have agreed as follows:—

ARTICLE 1

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the

²¹ Ratification advised by the Senate, February 19 (legislative day of February 17), 1932; ratified by the President, March 3, 1932; ratified by Great Britain, July 29, 1932; ratifications exchanged at London, August 4, 1932; proclaimed by the President, August 9, 1932.

crimes or offences enumerated in Article 3, committed within the jurisdiction of the one Party, shall be found within the territory of the other Party.

ARTICLE 2

For the purposes of the present Treaty the territory of His Britannic Majesty shall be deemed to be Great Britain and Northern Ireland, the Channel Islands and the Isle of Man, and all parts of His Britannic Majesty's dominions overseas other than those enumerated in Article 14, together with the territories enumerated in Article 16 and any territories to which it may be extended under Article 17. It is understood that in respect of all territory of His Britannic Majesty as above defined other than Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, the present Treaty shall be applied so far as the laws permit.

For the purposes of the present Treaty the territory of the United States shall be deemed to be all territory wherever situated belonging to the United States, including its dependencies and all other territories under its exclusive administration or control.

ARTICLE 3

Extradition shall be reciprocally granted for the following crimes or offences:—

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under 16 years of age.
6. Indecent assault if such crime or offence be indictable in the place where the accused or convicted person is apprehended.
7. Kidnapping or false imprisonment.
8. Child stealing, including abandoning, exposing or unlawfully detaining.
9. Abduction.
10. Procuration: that is to say the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person provided that such crime or offence is punishable by imprisonment for at least one year or by more severe punishment.
11. Bigamy.
12. Maliciously wounding or inflicting grievous bodily harm.

13. Threats, by letter or otherwise, with intent to extort money or other things of value.

14. Perjury, or subornation of perjury.

15. Arson.

16. Burglary or housebreaking, robbery with violence, larceny or embezzlement.

17. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion.

18. Obtaining money, valuable security, or goods, by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.

19.—(a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.

(b) Knowingly and without lawful authority making or having in possession any instrument, tool, or engine adapted and intended for the counterfeiting of coin.

20. Forgery, or uttering what is forged.

21. Crimes or offences against bankruptcy law.

22. Bribery, defined to be the offering, giving or receiving of bribes.

23. Any malicious act done with intent to endanger the safety of any persons travelling or being upon a railway.

24. Crimes or offences or attempted crimes or offences in connection with the traffic in dangerous drugs.

25. Malicious injury to property, if such crime or offence be indictable.

26.—(a) Piracy by the law of nations.

(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.

27. Dealing in slaves.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences, provided that such participation be punishable by the laws of both High Contracting Parties.

ARTICLE 4

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the territories of the High Contracting Party applied to, for the crime or offence for which his extradition is demanded.

If the person claimed should be under examination or under punishment in the territories of the High Contracting Party applied to for any other crime or offence, his extradition shall be deferred until the

conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE 5

The extradition shall not take place if, subsequently to the commission of the crime or offence or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the High Contracting Party applying or applied to.

ARTICLE 6

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for a crime or offence of a political character.

ARTICLE 7

A person surrendered can in no case be kept in custody or be brought to trial in the territories of the High Contracting Party to whom the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the territories of the High Contracting Party by whom he has been surrendered.

This stipulation does not apply to crimes or offences committed after the extradition.

ARTICLE 8

The extradition of fugitive criminals under the provisions of this Treaty shall be carried out in the United States and in the territory of His Britannic Majesty respectively, in conformity with the laws regulating extradition for the time being in force in the territory from which the surrender of the fugitive criminal is claimed.

ARTICLE 9

The extradition shall take place only if the evidence be found sufficient, according to the laws of the High Contracting Party applied to, either to justify the committal of the prisoner for trial, in case the crime or offence had been committed in the territory of such High Contracting Party, or to prove that the prisoner is the identical person convicted by the courts of the High Contracting Party who makes the requisition, and that the crime or offence of which he has been

convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the High Contracting Party applied to.

ARTICLE 10

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed within their respective jurisdictions, his extradition shall be granted to the Power whose claim is earliest in date, unless such claim is waived.

ARTICLE 11

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the High Contracting Party applied to, or the proper tribunal of such High Contracting Party, shall direct, the fugitive shall be set at liberty.

ARTICLE 12

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the High Contracting Party granting the extradition.

ARTICLE 13

All expenses connected with the extradition shall be borne by the High Contracting Party making the application.

ARTICLE 14

His Britannic Majesty may accede to the present Treaty on behalf of any of his Dominions hereafter named—that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland—and India. Such accession shall be effected by a notice to that effect given by the appropriate diplomatic representative of His Majesty at Washington which shall specify the authority to which the requisition for the surrender of a fugitive criminal who has taken refuge in the Dominion concerned, or India, as the case may be, shall be addressed. From the date when such notice comes into effect the territory of the Dominion concerned or of India shall

be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of the above-mentioned Dominions or India, on behalf of which His Britannic Majesty has acceded, shall be made by the appropriate diplomatic or consular officer of the United States of America.

Either High Contracting Party may terminate this Treaty separately in respect of any of the above-mentioned Dominions or India. Such termination shall be effected by a notice given in accordance with the provisions of Article 18.

Any notice given under the first paragraph of this Article in respect of one of His Britannic Majesty's Dominions may include any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, and which is being administered by the Government of the Dominion concerned; such territory shall, if so included, be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty. Any notice given under the third paragraph of this Article shall be applicable to such mandated territory.

ARTICLE 15

The requisition for the surrender of a fugitive criminal who has taken refuge in any territory of His Britannic Majesty other than Great Britain and Northern Ireland, the Channel Islands, or the Isle of Man, or the Dominions or India mentioned in Article 14, shall be made to the Governor, or chief authority, of such territory by the appropriate consular officer of the United States of America.

Such requisition shall be dealt with by the competent authorities of such territory: provided, nevertheless, that if an order for the committal of the fugitive criminal to prison to await surrender shall be made, the said Governor or chief authority may, instead of issuing a warrant for the surrender of such fugitive, refer the matter to His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 16

This Treaty shall apply in the same manner as if they were Possessions of His Britannic Majesty to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda Protectorate and Zanzibar, and to the following territories in respect of which a mandate on behalf of the League of

Nations has been accepted by His Britannic Majesty, that is to say, Cameroons under British mandate, Togoland under British mandate, and the Tanganyika Territory.

ARTICLE 17

If after the signature of the present Treaty it is considered advisable to extend its provisions to any British Protectorates other than those mentioned in the preceding Article or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, other than those mandated territories mentioned in Articles 14 and 16, the stipulations of Articles 14 and 15 shall be deemed to apply to such Protectorates or States or mandated territories from the date and in the manner prescribed in the notes to be exchanged for the purpose of effecting such extension.

ARTICLE 18

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

In the absence of an express provision to that effect, a notice given under the first paragraph of this Article shall not affect the operation of the Treaty as between the United States of America and any territory in respect of which notice of accession has been given under Article 14.

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

On the coming into force of the present treaty the provisions of Article 10 of the treaty of the 9th August, 1842,²² of the Convention of the 12th July, 1889,²³ of the supplementary Convention of the 13th December, 1900,²⁴ and of the supplementary Convention of the 12th April, 1905,²⁵ relative to extradition, shall cease to have effect, save that in the case of each of the Dominions and India, mentioned in Article 14, those provisions shall remain in force until such Dominion or India shall have acceded to the present treaty in accordance with Article 14 or until replaced by other treaty arrangements.

In faith whereof the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

²² Miller, *Treaties*, vol. 4, p. 363.

²³ Malloy, *Treaties*, 1776-1909, vol. I, p. 740.

²⁴ *Ibid.*, p. 780.

²⁵ *Ibid.*, p. 798.

Done in duplicate at London this twenty-second day of December, 1931.

[SEAL]

[SEAL]

CHARLES G DAWES

JOHN SIMON

The British Secretary of State for Foreign Affairs (Simon) to the American Ambassador in Great Britain (Dawes)

No. T 15523/46/374

[LONDON,] 22 December, 1931.

YOUR EXCELLENCY: With reference to Article 17 of the Extradition Treaty between His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas and the President of the United States of America, signed this day at London, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom desire that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Palestine (excluding Transjordan).

2. I have accordingly the honour to enquire whether the United States Government agree with this proposal. In this event the present note and Your Excellency's reply to that effect will be regarded as placing on record the agreement arrived at in the matter.

I have [etc.]

JOHN SIMON

The American Ambassador in Great Britain (Dawes) to the British Secretary of State for Foreign Affairs (Simon)

No. 1582

LONDON, December 22, 1931.

SIR: With reference to Article 17 of the Extradition Treaty between the President of the United States of America and His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, signed this day at London, I have the honor to inform you that the Government of the United States of America is agreeable to the proposal of His Majesty's Government in the United Kingdom that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Palestine (excluding Transjordan).

I have [etc.]

CHARLES G. DAWES

The British Secretary of State for Foreign Affairs (Simon) to the American Ambassador in Great Britain (Dawes)

No. T 15523/46/374

[LONDON,] 22 December, 1931.

YOUR EXCELLENCY, With reference to Article 17 of the Extradition Treaty between His Majesty The King of Great Britain, Ireland and

the British Dominions beyond the Seas and the President of the United States of America, signed this day at London, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom desire that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Transjordan.

2. I have accordingly the honour to enquire whether the United States Government agree with this proposal. In this event the present note and Your Excellency's reply to that effect will be regarded as placing on record the agreement arrived at in the matter.

I have [etc.]

JOHN SIMON

The American Ambassador in Great Britain (Dawes) to the British Secretary of State for Foreign Affairs (Simon)

No. 1583

LONDON, December 22, 1931.

SIR: With reference to Article 17 of the Extradition Treaty between the President of the United States of America and His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, signed this day at London, I have the honor to inform you that the Government of the United States of America is agreeable to the proposal of His Majesty's Government in the United Kingdom that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Transjordan.

I have [etc.]

CHARLES G. DAWES

[Pursuant to the first paragraph of article 18 of the extradition treaty of December 22, 1931, between the United States of America and Great Britain, a British Order in Council, dated June 6, 1935, applying the extradition treaty in respect of the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and all British Colonies was published in the *London Gazette* June 14, 1935.

On July 30, 1935, the British Ambassador at Washington gave notice to the Secretary of State of the accession of Newfoundland to the treaty in accordance with the provisions of article 14, and on August 17, 1935, the British Embassy informed the Secretary of State that the accession of Newfoundland would take effect on August 30, 1935.

On August 9, 1935, the British Ambassador at Washington gave notice to the Secretary of State of the accession of the Commonwealth of Australia (including, for the purpose, Papua and Norfolk Island) to the treaty in accordance with the first paragraph of article 14, and stated, in accordance with the fourth paragraph of the article, that the

notice included the mandated territories of New Guinea and Nauru, administered by the Government of the Commonwealth of Australia. On August 17, 1935, the British Embassy informed the Secretary of State that the accession of the Commonwealth of Australia would take effect on August 30, 1935.

On July 31, 1939, the British Ambassador at Washington gave notice to the Secretary of State that in accordance with the provisions of article 17 the treaty should be extended to the Federated Malay States of Negri Sembilan, Pahang, Perak and Selangor; the Unfederated Malay States of Johore, Kedah, Kelantan, Perlis, and Trengganu; Brunei; and the State of North Borneo. The treaty is regarded as having become so extended on July 31, 1939.

Provisions of the treaty were extended to Burma effective as from November 1, 1941, by exchange of notes dated July 22 and August 1, 1941.

Provisions of the treaty were extended to India pursuant to note dated March 29, 1942, from British Embassy enclosing copy of Order in Council of February 23, 1942, providing that accession would have effect as from March 9, 1942.]

**PROPOSED REVISION, WITH RESPECT TO MUSCAT AND OMAN, OF
THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED
STATES AND MUSCAT (OMAN) SIGNED SEPTEMBER 21, 1833**

711.90a2/3

The British Ambassador (Lindsay) to the Secretary of State

No. 182

WASHINGTON, May 3, 1930.

SIR: I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that the State of Muscat and Oman, in South Eastern Arabia, with which His Majesty's Government in the United Kingdom are in special relations, has suffered for a period of several years from a condition of increasing financial stringency, and a critical situation has now arisen which calls for an immediate remedy. After much careful consideration of the problem, the Sultan and his advisers have reached the conclusion that an improvement in the financial position of the State can only be effected by an increase in the rate of the tariff on imported goods, and that it is important, in the interests of the prosperity and good government of the State, that this proposed increase should take effect with the least possible delay.

The right of the Sultan of Muscat to raise the tariff of the State beyond a rate of five per cent. is, however, limited by Article 3 of the

Treaty between the United States and Muscat of 1833,²⁶ in accordance with which "vessels of the United States entering any port within the Sultan's dominions shall pay no more than five per cent. duties on the cargo landed." Unless therefore the United States Government will consent to waive its rights under this treaty, no general increase in the tariff will be practicable, and it will be impossible to adopt the suggested remedy.

In these circumstances the Sultan desires that the United States Government should be approached with a view to secure at the earliest possible moment such a waiver of its abovementioned rights as will allow of a general increase in the Muscat tariff above the present flat rate of five per cent.. Since United States interests in Muscat are in charge of the Government of India's Political Agent, His Highness has requested that His Majesty's Government should take up the matter with the United States Government on his behalf.

Conditions have entirely altered since the conclusion of the Treaty of 1833. During the intervening period the revenues of the Sultans of Muscat have steadily diminished, owing principally to

- (1) the loss of their sea-power and overseas dominions;
- (2) the introduction of steamers into the Persian Gulf and the abandonment of Muscat as an entrepôt for trade;
- (3) the arrest of the prosperity of the country and its gradual impoverishment owing to the persistent drought in the interior.

In the last fifteen years, in particular, the general economic conditions of the country have deteriorated to an alarming extent. The date crop, Oman's primary source of wealth, has greatly declined in value as a result of the continued failure of the rains. There has in addition been a fall in the value of the country's produce since the war, and a fall in the value of the Maria Theresa dollar, Oman's principal currency, in sympathy with the silver market (in 1922 the dollar exchange was reckoned at two hundred rupees as against one hundred and twenty three rupees in 1929). Moreover the depressed conditions of the pearl industry in recent years have reacted unfavourably on the finances of Muscat, since Bahrein and Dibai are one [*sic*] of her principal markets.

The following figures for the four years 1925-1928 show the progressive decrease in the customs receipts, which are, and must remain, Muscat's principal source of revenue:—

1925	Rs. 774, 410
1926	677, 023
1927	651, 279
1928	635, 583

²⁶ Miller, *Treaties*, vol. 3, p. 789.

The result of this steady diminution in the resources of the government has been that, at a time when, if the State is to be administered in accordance with the changed conditions and improved standards of the present day, considerable increase of government expenditure is required, it has been necessary on the contrary to effect the most drastic economies, and to cut down expenditure to a figure at which it is no longer possible to maintain the administration even at its present level. To such an extent has restriction of outlay been essential that, for some years past, it has been necessary to eliminate from the budget all expenditure upon public works, and the Sultan has been unable to show to the important tribal Sheikhs of the interior the traditional hospitality which plays so important a part in maintaining his authority and prestige.

This financial stringency is leading to an increasing deterioration of the efficiency of the administration and is exercising a marked effect upon the Sultan's control over the country. Indeed it may be said to be threatening the stability of the State.

The problem of improving the finances of the State has therefore received the most attentive consideration and every possible means of remedying the situation has been examined by the Sultan and his native and European advisers. As a result it has become clear that the only course, which holds out any prospect of success, is to increase the rate of the customs duty, and moreover that such a step should be taken with the minimum of delay. It is understood that an increase of the flat rate of five per cent. ad valorem to one of seven and a half per cent (except upon alcohol and cigarettes, on which a tax of fifteen per cent would be levied) is at present contemplated. It is scarcely necessary to point out that the rate of five per cent. fixed over three-quarters of a century ago is, in the light of modern tariffs, a very low one and that the new rates proposed are moderate.

His Majesty's Government feel little doubt that, having in view the complete change of conditions, both in regard to the revenues and economic resources of Muscat and Oman, and in regard to the necessities imposed by the improved standards and increased costs of modern administration, the United States Government will consider the Sultan's request as reasonable, and will agree to release him from the limitation upon the rate of the Muscat tariff imposed by the Treaty of 1833. Should the United States Government, as His Majesty's Government earnestly hope, be prepared in principle to consent to this modification of their treaty rights, the question of the best method of giving legal effect to the modification of the relevant position can be subsequently considered. The matter, I would again mention, is regarded as one of considerable urgency.

I have [etc.]

R. C. LINDSAY

711.90a2/6

The Secretary of State to the British Ambassador (Lindsay)

WASHINGTON, May 23, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of May 3, 1930, in which, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, you refer to the increasing financial stringency suffered by the State of Muscat and Oman, and inquire whether, in order that it will be possible to remedy the situation by means of a general increase in the tariff on goods imported into Muscat, the Government of the United States of America will consent to waive its rights under Article III of the treaty of September 21, 1833, between the United States and Muscat whereby vessels of the United States entering the ports within the dominions of the Sultan of Muscat shall pay no more than five per cent. duties on the cargo landed.

In reply, I have the honor to say that in view of the situation described in Your Excellency's note, this Government has no objection in principle to a general increase in the tariff rates in Muscat. With a view to abandoning its rights which interfere with such increase, it will be glad to conclude a treaty modifying the provisions of Article III of the treaty of 1833. I have the honor to propose, therefore, that there be concluded between the United States of America and the Sultan of Muscat a treaty substituting for Article III of the treaty of 1833 a new article providing for unconditional most-favored-nation treatment in respect to import and export duties.

This Government would also desire to incorporate in the new article a general provision whereby American citizens shall enjoy in the dominions of the Sultan unconditional most-favored-nation treatment in respect of any advantage extended to citizens of any other country in matters of commerce, navigation, residence and establishment, taxation and the administration of justice.

If the foregoing proposals meet with approval, I shall be glad to submit for the consideration of the Sultan a draft of a treaty designed to give them effect.

Accept [etc.]

H. L. STIMSON

711.90a2/8

The Under Secretary of State (Cotton) to the British Ambassador (Lindsay)

WASHINGTON, June 11, 1930.

MY DEAR MR. AMBASSADOR: You will recall our talk this morning about the situation in Muscat, our reference to the Secretary's note to

you on that subject of May 23, 1930, and your suggestion that the Sultan might, pending the conclusion of a new treaty, desire and almost need to make limited increases in the duties on imported goods in the interim.

I have thought of that situation and it seems to the Department that in the event of such non-discriminatory increases in the interim, the Department probably would not have—and I do not see now how it could have—occasion to protest such limited interim non-discriminatory increases in duties on imported goods.

Very sincerely yours,

J. P. COTTON

711.90a2/10

The British Ambassador (Lindsay) to the Secretary of State

No. 320

WASHINGTON, August 18, 1930.

SIR: I have the honour to refer to the note which you were good enough to address to me on the 23rd day of May last regarding the tariff rates in Muscat, in which you suggested that the United States Government should submit for the consideration of the Sultan a draft of a new treaty on most favoured nation lines to replace Article III of the Treaty of 1833. I am instructed by His Majesty's Principal Secretary of State for Foreign Affairs to inform you that His Majesty's Government in the United Kingdom welcome the suggestion put forward in your note under reference and to express the hope that you may be able to furnish me with a draft of the proposed new Treaty as soon as it may be convenient to you.

I have [etc.]

R. C. LINDSAY

711.90a2/16

The Secretary of State to the British Ambassador (Lindsay)

WASHINGTON, October 4, 1930.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of August 18, 1930, referring to previous correspondence on the subject of a treaty to be concluded between this Government and the Sultan of Muscat for the purpose of modifying the provisions of Article III of the treaty of 1833 between the two Parties, and asking to be furnished with a draft of the proposed new treaty.

In reply, I take pleasure in transmitting herewith the draft of a treaty, as requested, which this Government is prepared to enter into with the Sultan of Muscat.

Accept [etc.]

H. L. STIMSON

[Enclosure]

Draft Treaty Between the United States and Muscat

The United States of America and His Highness the Sultan of Muscat have resolved to conclude a treaty modifying the provisions of Article III of the treaty of amity and commerce concluded September 21, 1833, and to that end have appointed as their plenipotentiaries:

The President of the United States of America:

His Highness the Sultan of Muscat:

Who, after communicating to each other their full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

The third article of the treaty of amity and commerce of September 21, 1833, between the United States of America and the Sultan of Muscat, is hereby amended, in so far as the State of Muscat and Oman is concerned, so as to read as follows:

3. No higher or other duties shall be imposed on the importation into or the disposition in Muscat and Oman of any article which is the produce or manufacture of the United States of America, its territories or possessions, than are or shall be imposed on the importation or disposition of like articles which are the produce or manufacture of any other country. No higher or other duties shall be imposed on the exportation of any article from Muscat and Oman to the United States of America, its territories or possessions, than are or shall be payable on the exportation of like articles to any other country. Any advantage of whatsoever kind which may be enjoyed in Muscat and Oman by nationals of any other country in respect of commerce, navigation, residence and establishment, taxation, the administration of justice, and the prospecting for and utilization of natural resources, shall be extended unconditionally to nationals of the United States of America, its territories and possessions.

ARTICLE II

This treaty shall be ratified in conformity with the laws of the respective countries, and the ratifications thereof shall be exchanged at as soon as possible. Immediately upon such exchange, the language above specified shall become effective as a provision of the treaty of September 21, 1833, and shall have the same force as the other articles of that treaty.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this treaty and have affixed their seals thereto.

DONE at in duplicate, this day of , one thousand nine hundred and

711.90a2/18

*The British Chargé (Osborne) to the Secretary of State*²⁷

No. 304

WASHINGTON, September 9, 1931.

SIR: With reference to Sir R. Lindsay's note No. 377 of October 7th last²⁸ I have the honour to inform you that I have now received a reply from His Majesty's Principal Secretary of State for Foreign Affairs in regard to the draft of the Treaty which the United States Government are prepared to conclude with the Sultan of Muscat for the purpose of modifying the provisions of Article III of the Treaty of 1833 between the United States and Muscat.

2. I am instructed to state that after a careful examination of the draft treaty the Muscat State Council have reluctantly come to the conclusion that the negotiation of such a treaty would present a variety of difficulties the solution of which would inevitably involve great delay and might well entail negotiations with other Governments.

3. Since the modification of Article III of the Treaty of 1833 between the United States and Muscat was first suggested, a further marked deterioration has taken place in the finances of Muscat. Efforts have been made in the past year to reduce expenditure wherever possible. Nevertheless a substantial budget deficit seems certain and the necessity of increasing the tariff rate has thus become one of considerable urgency.

4. In these circumstances it is earnestly desired to negotiate in the most expeditious manner possible a simple modification of the existing provisions of Article III of the Treaty of 1833, which would permit of the levy by the Muscat State of a duty of ten per cent on all goods save alcoholic liquors and tobacco for which a maximum rate of twenty five per cent is now proposed. His Majesty's Government in the United Kingdom hope that the United States Government will consent to this modification being effected by a simple exchange of notes which would become operative at once. They are for their part prepared, subject to the concurrence of the United States Government and the

²⁷ Handed to Under Secretary of State Castle by the British Chargé on September 10, 1931.

²⁸ Not printed.

French Government, who are also being approached in a similar sense, correspondingly to modify their own Treaty of 1891²⁹ with the State of Muscat.

I have [etc.]

[File copy not signed]
His Majesty's Minister

711.90a2/20

The Secretary of State to the British Chargé (Osborne)

WASHINGTON, October 10, 1931.

SIR: I have received your note No. 304 of September 9, 1931, with further reference to the proposed modification of Article III of the Treaty of 1833 between the United States and Muscat.

It is noted that the Muscat State Council has come to the conclusion that the negotiation of the draft treaty enclosed with the Department's note of October 4, 1930, would present difficulties and that His Majesty's Government hopes that this Government will be prepared to consent to a modification of the provisions of Article III by means of an exchange of notes which would become operative at once.

The Department fully appreciates the desirability of enabling the Muscat State to increase its revenues in order that it may proceed in its orderly development. As was pointed out in the Department's note of May 23, 1930, this Government has no objection in principle to the increase of customs duties in Muscat, provided that such duties are non-discriminatory. In view of constitutional requirements, however, the United States is not in a position to enter into an exchange of notes the purpose of which is to amend an existing treaty. Such a purpose could be effected only by the conclusion and ratification of a new treaty.

It is hoped therefore that the Muscat State Council will be able to reconsider the possibility of negotiating such a new treaty along the lines of the draft submitted with the Department's note of October 4, 1930, in which case the Department would be glad to consider any minor amendments of the draft which the Council might desire to propose. It should be pointed out, however, that it is not the policy of this Government to negotiate new treaties providing for the levying of specific rates of import duty on goods of American origin, and that it would be prepared to consider the modification of Article III of the treaty of 1833 only on the basis of most-favored-nation treatment.

²⁹ Treaty of friendship, commerce, and navigation between Great Britain and Muscat, signed at Muscat, March 19, 1891, *British and Foreign State Papers*, vol. Lxxxiii, p. 11.

If the Muscat State Council is in a position to negotiate a treaty along the lines suggested the Department would be prepared, in view of the financial situation in Muscat, and as an exceptional measure, to give assurances that no objection would be offered, pending the approval or rejection of the treaty by the United States Senate, to the collection of higher duties on goods of American origin imported into Muscat than those provided for in Article III of the Treaty of 1833. Such assurances would be given, however, on the understanding that the Muscat State Council would, in its turn, furnish assurances that pending the same period American nationals in Muscat would receive the treatment specified in the proposed new treaty.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

GREECE

EXTRADITION TREATY BETWEEN THE UNITED STATES AND GREECE, SIGNED MAY 6, 1931

211.68/46

The Secretary of State to the Minister in Greece (Skinner)

No. 310

WASHINGTON, November 27, 1929.

SIR: The Department has received your despatch No. 1106 of October 19, 1929,¹ with which you enclose a translation of a note from the Greek Foreign Office¹ suggesting two changes in the draft treaty of extradition which your Legation, under instructions from the Department, has heretofore presented to the Greek Government.²

With respect to the change suggested in Article IX of the draft treaty so as to provide for the payment by the surrendering government of the expenses of extradition proceedings, it may be said that the law of the United States contemplates the payment of such expenses by the demanding government. In this relation reference is made to the provisions of law found in Volume 32 of the Statutes at Large, at page 475, namely:

"All the fees and costs in extradition cases shall be paid out of the appropriations to defray the expenses of the judiciary, and the Attorney General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney General for deposit in the Treasury of the United States."

It may be added that in no extradition treaty of the United States is it provided that the surrendering government shall defray the general expenses of the extradition proceeding and in view of the above quoted provisions of law and of the system of government obtaining in the United States which would render it impracticable for this Government to consent to any such arrangement, the Department finds it is unable to agree to the modification of Article IX of the draft treaty which is desired by the Greek Government. However, the Department is willing to go as far as may be possible toward meeting

¹ Not printed.

² The draft treaty was enclosed in Department's instruction No. 103, December 31, 1924, not printed; for text of the treaty as signed, see p. 378.

the desire of the Greek Government in this respect and therefore suggests that Article IX of the draft treaty be amended so as to read as follows:

"The appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim other than for the board and lodging of a fugitive prior to his surrender, arising out of the arrest, detention, examination and surrender of fugitives under this treaty, shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government giving assistance, who shall, in the usual course of their duty receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers."

In submitting the proposed change to the Greek Government you will advise it that this represents the utmost limit of concession which the Government of the United States is in a position to make on the indicated point.

So far as concerns the request of the Greek Government for the omission from Article XI of the draft treaty of provisions contemplating the making by a diplomatic or consular officer of a complaint under oath in order to bring about the arrest of a fugitive, the Department authorizes you to state to the Foreign Office that it would be willing to amend the second paragraph of Article XI of the draft treaty so as to substitute for the last sentence thereof and also for the third paragraph of that Article, the following, which it would seem might well be made into a separate paragraph:

"The arrest of the fugitive shall be brought about in accordance with the laws of the respective countries, and if, after an examination, it shall be decided, according to the law and the evidence, that extradition is due pursuant to this treaty, the fugitive shall be surrendered in conformity to the forms of law prescribed in such cases."

In connection with the foregoing statement which you may make to the Foreign Office, the Department desires you to suggest the addition to Article II of the draft treaty, between present paragraphs numbered respectively 23 and 24, the following crimes and offenses:

"24. Bribery.

25. Crimes or offenses against the bankruptcy laws.

26. Crimes or offenses against the laws for the suppression of the traffic in narcotics."

The inclusion in the treaty of these additional extraditable offenses or any of them would of course necessitate the renumbering of the last paragraph of Article II.

The Department hopes that the concessions which it has indicated its willingness to make to the desires of the Greek Government will result in the prompt conclusion of the negotiations and with respect to the additional extraditable offenses mentioned, informs you that while it would be glad to have any or all of these offenses included in the treaty it does not desire that the attempted inclusion of them should operate to delay the agreement upon the terms of the proposed treaty.

I am [etc.]

For the Secretary of State:
WILLIAM R. CASTLE, JR.

211.68/48

The Acting Secretary of State to the Minister in Greece (Skinner)

No. 351

WASHINGTON, February 24, 1930.

SIR: The Department has received your despatch No. 1228 of January 23, 1930,³ in further relation to the proposed Extradition Treaty between the United States and Greece.

With respect to the matter of the costs involved in extradition cases in the United States, it may be pointed out that in its instruction No. 43 of June 30, 1927,³ the Department cited figures as to the charges incurred by foreign governments in three extradition proceedings conducted in the United States. It may be added that the Department's records show that recently a statement of charges in the amount of \$32.70 was sent to the Canadian Government and similar statements in the amounts of \$81.84 and \$172.82 were sent to the Mexican and Italian Governments, respectively. In this relation it should be pointed out that the last two statements mentioned were sent in cases where extradition was contested, and that the Italian case involved two fugitives from justice, for which reason the expenses involved were, of course, larger than if but one fugitive had been involved.

With regard to the matter of the cost of transportation, which was referred to by the Greek Foreign Office, it may be said that such cost would ordinarily be incurred after the surrendering of the fugitive to the agent of the demanding Government and, therefore, it would perhaps be unnecessary to refer to it in the Treaty. However, to

³ Not printed.

avoid any possible confusion in this matter, the Department considers that it would be well to preface the provisions of Article IX of the Treaty by the following sentence: "The expense of transportation of the fugitive shall be borne by the government which has preferred the demand for extradition."

Regarding the inquiry of the Foreign Office concerning the meaning of the following words contained in the present draft treaty, "the fugitive shall be surrendered in conformity to the forms of law prescribed in such cases," reference may be made to the following provisions of Section 5270 of the revised statutes of the United States:

"Whenever there is a treaty or convention for extradition between the Government of the United States and any foreign government, any justice of the Supreme Court, circuit judge, district judge, commissioner, authorized so to do by any of the courts of the United States, or judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within the limits of any State, district, or Territory, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or commissioner, to the end that the evidence of criminality may be heard and considered."

The complaint referred to in the provision of law just quoted would presumably be made by a consular officer of the demanding government acting under instructions from his government, and in this connection it should be pointed out that apparently consular officers of foreign governments, serving in the United States, experience no difficulty in making such a complaint.

Generally speaking, the Department has no objection to the changes in verbiage suggested by the Foreign Office. However, it considers that the suggested change in Article V apparently does not convey the exact idea which the Foreign Office had in mind. Therefore, it is suggested that after the word "either" contained in the third line of the article there be substituted for the words down to and including the word "committed" the following words: "the surrendering or demanding country."

With regard to the suggested addition to Article III the Department considers that the last two words "or not" are superfluous and might well be omitted. Similarly, the Department believes those words might be omitted from the suggested addition to Article VIII, and that the word "if" contained in that article might well be changed to "whether."

The change in provisions of Article XI of the draft treaty, to which the Department agreed in its instruction No. 310 of November 27,

1929, involves the omission of the fifth paragraph of that article, as set forth in the draft enclosed with your despatch under acknowledgment, as well as the fourth paragraph. In other words, the change agreed to by the Department would render the procedure in this country the same in cases of urgency as in other cases.

In like manner, the change in the provisions of Article IX of the draft treaty, which the Department suggested in its last-mentioned instruction, in an effort to meet the views of the Greek Government, would involve the elimination of Article XII of the draft treaty since the provisions contained in the latter article would be found in Article IX. This would, of course, involve the renumbering of the last two articles of the draft enclosed with your despatch.

To set forth clearly the changes above enumerated as desirable and also because of a few errors of transcription in the draft you enclose, the Department transmits to you herewith a further draft⁶ which it hopes will be found acceptable to the Greek Government, and result in the early conclusion of a Treaty.

Full powers will be sent to you for the signing of such a Treaty upon the receipt of your request therefor.

I am [etc.]

For the Acting Secretary of State:
G. HOWLAND SHAW

211.68/51

The Secretary of State to the Minister in Greece (Skinner)

No. 431

WASHINGTON, October 10, 1930.

SIR: The Department has received your Legation's despatch No. 1433 of July 16, 1930⁶ in further relation to the proposed Extradition Treaty between the United States and Greece.

The Department accepts the suggestions made by the Greek Foreign Office for the following amendments of Article 2 of the draft treaty:

The definition of murder in paragraph 1;

The substitution in paragraph 2 of the following crime for the one contained in the draft: "Malicious wounding or inflicting grievous bodily harm with premeditation";

The raising of the age limit in paragraph 3 from 12 to 15 years;

The elimination of the definitions of the crimes of burglary and larceny as contained in paragraphs 9 and 11 respectively;

The elimination from paragraph 20 of the offense—"subornation of perjury."

Respecting the proposed combination of paragraphs 9, 10, and 18, it may be observed that the offenses respectively covered by these paragraphs constitute separate and distinct crimes according to the laws

⁶Not printed.

of the United States and that, therefore, the Department would not desire to have them combined in a single paragraph.

Concerning the suggested addition to paragraph 23 of Article 2, it may be said that the Department has no objection in principle to such addition but considers that it should be stated in the following terms:—"and other dependent persons, provided that the crime or offense is punishable by the laws of both countries".

With relation to the suggested change in paragraph 27 of Article 2, it may be observed that the Department would have no objection to limiting the force of the paragraph so as to require as a prerequisite for extradition in the cases covered thereby that the penalty involved should be not less than a fixed term of imprisonment. However, the Department is not clear as to the force and effect of the distinction which the Foreign Office apparently attempts to draw between the case of a person condemned for a crime and one merely charged with a crime. Moreover, it is not perceived why such a distinction should be drawn. Accordingly, the Department desires further light upon the proposal of the Greek Government with respect to this matter.

The Department would prefer that Article 7 of the draft treaty should remain in its present form so as to provide that a criminal claimed by two or more Powers shall be delivered to the State whose demand is first received. This would obviate possibly embarrassing situations which might arise should the Greek proposal be adopted and the surrendering State be left free to choose the Power to which the criminal should be delivered. Presumably a choice made under such circumstances would require careful consideration of the relative gravity of the crimes charged, and the choice when made might arouse resentment in the country whose request should be refused. Therefore, the Department desires you to endeavor to persuade the Greek Government to accept this Article as contained in the present draft.

Regarding the suggested addition to Article 8, it may be stated that the Department would be willing to make such an addition and considers that it might properly be expressed in the following language: "except in cases where such citizenship has been obtained after the perpetration of the crime for which extradition is sought". It will be noted that this excludes the language of the Greek proposal apparently designed to make an exception only in the case where nationality was acquired with a view to defrauding the law. It would apparently be very difficult to reach a definite conclusion in a given case that citizenship was acquired for the purpose mentioned, and it is believed that it would be better to make a broad exception for all cases where citizenship was acquired in the surrendering country after the perpetration of the crime in question.

The Department has no objection to agreeing that the Greek Government shall be accorded most-favored-nation treatment with respect

to the provisions of Articles 9 and 11 of the Treaty and considers that an agreement to this effect might properly be contained in an exchange of notes at the time of signing the Treaty.

In view of the fact that the Department has not been able to agree to all of the changes suggested by the Greek Government, it has been thought inadvisable to enclose with this instruction a modified draft of the Treaty. However, since most of the Greek suggestions have been met, the Department is hopeful that you will be able to persuade the Greek Government to refrain from pressing its suggestions in the few cases where they have not been accepted, and upon being so informed, by telegraph or otherwise, will send to your Legation promptly a modified draft of the Treaty and full powers for signing.

Very truly yours,

For the Secretary of State:

J. P. COTTON

211.68/54

The Secretary of State to the Minister in Greece (Skinner)

No. 472

WASHINGTON, March 9, 1931.

SIR: The Department has received your despatch No. 1613, of February 5, 1931,⁷ in further relation to the proposed extradition treaty between the United States and Greece.

In view of the explanation made by the Foreign Office respecting the change it desires to have made in paragraph 27 of Article 2, of the Treaty, the Department agrees to such change with a very slight modification of the suggested language, so that the sentence to be added shall read as follows:

"However, extradition for participation or attempt will be accorded in the case of a suspected person only if the maximum of the possible punishment is two years or more, and, in the case of one condemned, only if the sentence pronounced by the jurisdiction of the demanding State is six months or more."

With respect to the text of the note to be addressed by you to the Foreign Office regarding most-favored-nation arrangements, the Department suggests that a slight change be made in the language proposed by the Foreign Office so that the note shall then read as follows:

"In signing today the treaty of extradition between the United States of America and the Hellenic Republic, I have the honor to declare to your Excellency, under the authority and in the name of my Government, that the Government of the United States will extend to Greece the most favorable treatment now accorded, or which may hereafter be accorded, by the United States to a third Power, with respect to matters dealt with in Articles 9 and 11 of the above mentioned treaty, particularly in that which concerns expenses of every

⁷ Not printed.

nature, including the usual charges, and the procedure to be followed after the demand for extradition."

The Department authorizes you to exchange notes of the indicated tenor simultaneously with the signing of the treaty.

There are enclosed full powers for signing⁸ and a modified draft of the treaty,⁹ including the changes which have been agreed upon by the two Governments since February 24, 1930, the date of the Department's instruction with which was enclosed the last draft of the treaty sent to you.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

Treaty Series No. 855

*Extradition Treaty Between the United States of America and Greece, Together With Exchange of Notes Concerning Most-Favored-Nation Treatment, Signed at Athens, May 6, 1931, and Protocol of Exchange of Ratifications*¹⁰

The United States of America and Greece, desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America: Mr. Robert Peet Skinner, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Athens; and

The President of the Hellenic Republic: Mr. Andreas Michalakopoulos, Vice President of the Government, Minister for Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Greece shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes or offenses specified in Article II of the Present Treaty committed within the jurisdiction of one of the High Contracting Parties, and who shall seek an asylum or shall

⁸ Not printed.

⁹ See text as signed, *infra*.

¹⁰ In English and Greek; Greek text not printed. Ratification advised by the Senate, February 19 (legislative day of February 17), 1932; ratified by the President, March 10, 1932; ratified by Greece, October 13, 1932; ratifications exchanged at Washington, November 1, 1932; proclaimed by the President, November 1, 1932.

be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes or offenses:

1. Murder (including crimes designated by the terms parricide, poisoning, infanticide, manslaughter when voluntary).

2. Malicious wounding or inflicting grievous bodily harm with premeditation.

3. Rape, abortion, carnal knowledge of children under the age of fifteen years.

4. Abduction or detention of women or girls for immoral purposes.

5. Bigamy.

6. Arson.

7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.

8. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the law of nations, or by statute;

(b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ship upon the high seas with intent to do bodily harm.

9. Burglary.

10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, [insurance and other companies,]¹¹ or other buildings not dwellings with intent to commit a felony therein.

11. Robbery.

12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

¹¹ See Protocol of Exchange, p. 385.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Greek equivalent.

16. Embezzlement by any persons hired, salaried, or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Greek equivalent.

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or Greek equivalent.

19. Obtaining money, valuable securities or other property by false pretenses, or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Greek equivalent.

20. Perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Greek equivalent.

22. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

23. Wilful desertion or wilful non-support of minor or dependent children, or of other dependent persons, provided that the crime or offense is punishable by the laws of both countries.

24. Bribery.

25. Crimes or offenses against the bankruptcy laws.

26. Crimes or offenses against the laws for the suppression of traffic in narcotics.

27. Extradition shall also take place for participation in any of the crimes or offenses before mentioned as an accessory before or after the fact, or in any attempt to commit any of the aforesaid crimes or of-

fenses. However, extradition for participation or attempt will be accorded in the case of a suspected person only if the maximum of the possible punishment is two years or more, and, in the case of one condemned, only if the sentence pronounced by the jurisdiction of the demanding State is six months or more.

ARTICLE III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the High Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime or offense committed before his extradition. The State applied to, or courts of such State, shall decide whether the crime or offense is of a political character. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State, or against the life of any member of his family, shall not be deemed sufficient to sustain that such crime or offense was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense, committed prior to his extradition, other than that for which he was surrendered, unless he has been at liberty for one month after having been tried, to leave the country, or, in case of conviction, for one month after having suffered his punishment or having been pardoned.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of either of the surrendering or the demanding country, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the two parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes or offenses committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received unless the demand is waived. This article shall not affect such treaties as have previously been concluded by one of the contracting parties with other States.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens, except in cases where such citizenship has been obtained after the perpetration of the crime for which extradition is sought. The State appealed to shall decide whether the person claimed is its own citizen.

ARTICLE IX

The expense of transportation of the fugitive shall be borne by the government which has preferred the demand for extradition. The appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim other than for the board and lodging of a fugitive prior to his surrender, arising out of the arrest, detention, examination and surrender of fugitives under this treaty, shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government giving assistance, who shall, in the usual course of their duty receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE XI

The stipulations of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or where extradition is sought from territory included in the preceding paragraphs, other than the United States or Greece, requisitions may be made by superior consular officers.

The arrest of the fugitive shall be brought about in accordance with the laws of the respective countries, and if, after an examination, it shall be decided, according to the law and the evidence, that extradition is due pursuant to this treaty, the fugitive shall be surrendered in conformity to the forms of law prescribed in such cases.

The person provisionally arrested, shall be released, unless within two months from the date of arrest in Greece, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding Government, or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime or offense for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII

The present Treaty, of which the English and Greek texts are equally authentic, shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods, and shall take effect on the date of the exchange of ratifications which shall take place at Washington as soon as possible.

ARTICLE XIII

The present Treaty shall remain in force for a period of five years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the Treaty, it shall continue in force until the expiration

of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof the above named Plenipotentiaries have signed the present Treaty and have hereunto affixed their seals.

Done in duplicate at Athens this sixth day of May, nineteen hundred and thirty-one.

[SEAL] ROBERT P. SKINNER

[SEAL] A. MICHALAKOPOULOS

The American Minister in Greece (Skinner) to the Greek Minister for Foreign Affairs (Michalakopoulos)

ATHENS, May 6, 1931.

SIR: In signing today the treaty of extradition between the United States of America and the Hellenic Republic, I have the honor to declare to your Excellency, under the authority and in the name of my Government, that the Government of the United States will extend to Greece the most favorable treatment now accorded, or which may hereafter be accorded, by the United States to a third Power, with respect to matters dealt with in Articles 9 and 11 of the above mentioned treaty, particularly in that which concerns expenses of every nature, including the usual charges, and the procedure to be followed after the demand for extradition.

Accept [etc.]

ROBERT P. SKINNER

The Greek Minister for Foreign Affairs (Michalakopoulos) to the American Minister in Greece (Skinner)

[Translation]

ATHENS, May 6, 1931.

MR. MINISTER: I have the honor to acknowledge to Your Excellency receipt of your letter of this date, reading as follows:

"In signing today the treaty of extradition between the United States of America and the Hellenic Republic, I have the honor to declare to your Excellency under the authority and in the name of my Government, that the Government of the United States will extend to Greece the most favorable treatment now accorded, or which may hereafter be accorded, by the United States to a third Power, with respect to matters dealt with in Articles 9 and 11 of the above mentioned treaty, particularly in that which concerns expenses of every nature, including the usual charges, and the procedure to be followed after the demand for extradition."

Acknowledging receipt of this communication, with the content of which the Hellenic Government is in agreement, I take this opportunity [etc.]

A. MICHALAKOPOULOS

PROTOCOL OF EXCHANGE

The undersigned, the Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of Greece at Washington, met this day for the purpose of exchanging the ratifications of the extradition treaty between the United States of America and Greece, signed at Athens on May 6, 1931.

It being found on a comparison of the respective ratifications that the words "insurance and other companies," in Article 2, paragraph 10, of the English text of the treaty as contained in the Greek instrument of ratification, are not contained in that article and paragraph as it appears in the English text of the instrument of ratification of the United States of America, the Secretary of State of the United States of America declared that it was intended by the Government of the United States to have these words appear in the English text of the United States original of the treaty, as their equivalent appears in the Greek text thereof, that their omission from the English text was an inadvertence and that the United States original of the treaty and the United States ratified exchange copy of the treaty should be understood as including those words, the same as if they had been actually written in the English text thereof.

This declaration being accepted by the Minister of Greece, the exchange took place this day in the usual form.

In witness whereof, the aforesaid Plenipotentiaries have signed the present Protocol of Exchange and have affixed their seals thereto.

DONE at Washington this first day of November, one thousand nine hundred and thirty-two.

HENRY L. STIMSON [SEAL]
CH. SIMOPOULOS [SEAL]

EXEMPTION FROM ALLEGED MILITARY OBLIGATIONS ACCORDED BY
GREECE TO AMERICAN CITIZENS OF GREEK ORIGIN

868.111/45

The Minister in Greece (Skinner) to the Secretary of State

No. 1158

ATHENS, November 26, 1929.

[Received December 13.]

SIR: I have the honor to report that by an order of the Ministry of War dated October 31, 1929, no measures will be taken during the year 1930 against Greek citizens returning to this country from America or against American citizens of Greek origin returning to Greece, by reason of alleged military obligations.

The "amnesty" originally granted for the period March 1–October 1, 1929 (reported in the Legation's despatch No. 841 of March 1, 1929¹³) was recently extended to cover the remainder of the present year, and according to official information now received, it has been further extended to December 31, 1930. An English translation of the pertinent order of the Ministry of War is enclosed.¹³

It will be observed that apart from the privilege of returning to Greece without molestation during the period mentioned, military delinquents are offered certain facilities in the event they desire to adjust their military obligations and thus remove the delinquency for all time. It will be also noted that these facilities will terminate on the same date as the "amnesty" now granted—i. e. on December 31, 1930.

I shall in the meanwhile continue to keep the question of a naturalization treaty before the attention of the competent Hellenic authorities,¹⁴ in the hope that it may be possible to come to a definite understanding with respect to the vexatious matters of dual nationality and military obligations.

I have [etc.]

ROBERT P. SKINNER

368.117/269 : Telegram

The Secretary of State to the Chargé in Greece (Fisher)

[Paraphrase]

WASHINGTON, October 30, 1930—noon.

23. Legation's despatch No. 1158, November 26, 1929, the Department suggests the advisability at this time of ascertaining whether the Greek Government would be willing to permit during the year 1931 American citizens of Greek origin, both naturalized and American born, to visit Greece without molestation on account of alleged military obligations. You may state, while making such inquiries, that it is the feeling of the Department that it is necessary to give appropriate publicity to the matter in this country, in order that plans for the coming year 1931 may be made by prospective visitors.

Should a suitable occasion be presented, you may, in your discretion, informally mention the matter to Prime Minister Venizelos and express to him this Government's appreciation of the Greek Government's good will as shown in the arrangement arrived at during 1930 and the hope of finding a way to effect a similar arrangement during

¹³ Not printed.

¹⁴ For previous correspondence regarding proposed naturalization treaty, see *Foreign Relations*, 1928, vol. III, pp. 25 ff.

1931. At the same time it might be desirable to point out that not only would a certain relatively small class of American citizens naturally benefit by such an arrangement, but the Greek people as a whole would benefit by reason of the encouragement given by it to such organized excursions and other visits to Greece as took place in 1930.

STIMSON

368.117/270

The Chargé in Greece (Fisher) to the Secretary of State

No. 1525

ATHENS, November 7, 1930.

[Received November 24.]

SIR: I have the honor to refer to telegram No. 23 of October 30, 1930, relative to the extension for another year of the amnesty from military service for American citizens of Greek origin.

I today called on the Foreign Minister (it is the first time he has been available since his return from Ankara), and Mr. Michalakopoulos told me that he would do his best to have the Council of Ministers continue the present arrangement. He said that the Minister of War always objected, but that he (the Foreign Minister) felt he could force a decision for the continuation of the amnesty, as he had done before.

It was evident that Mr. Michalakopoulos was in favor of extending the present arrangement, so no persuasion on my part was necessary.

Respectfully yours,

CARL A. FISHER

368.117/276

The Secretary of State to the Minister in Greece (Skinner)

No. 456

WASHINGTON, January 28, 1931.

SIR: Reference is made to the Department's telegram No. 23, of October 30, 1930, and to related correspondence dealing with the question of military service required of naturalized American citizens of Greek origin or American citizens born in this country of Greek parentage, who find themselves temporarily within the jurisdiction of the Greek Government.

As the Legation doubtless knows, the Conference for the Codification of International Law held at The Hague March-April, 1930, adopted a "Protocol Relating to Military Obligations in Certain Cases of Double Nationality."¹⁵ The Protocol was signed by the Greek Plenipotentiaries, *ad referendum*. Recently the American Minister at Berne, Switzerland, signed the Protocol on behalf of this Govern-

¹⁵ *Ibid.*, 1930, vol. 1, p. 224.

ment.¹⁶ For your convenience there is enclosed a copy of the Department's mimeographed press release of January 5, 1931,¹⁷ relating to the signature of the Protocol by the American Minister at Berne. A copy of the Protocol in question is also enclosed.

It will be noted that, according to Article I of the Protocol, "a person possessing two or more nationalities who habitually resides in one of the countries whose nationality he possesses, and who is in fact most closely connected with that country, shall be exempt from all military obligations in the other country or countries."

Once the Protocol has entered into force, the provision quoted above will doubtless serve to eliminate in large part the difficulties which have arisen in the past with respect to Greek military obligations.

It will be observed, however, that according to Articles 11 and 12 the Protocol will not enter into force until ninety days after the date on which ratifications or accessions on behalf of ten Members of the League of Nations or non-Member States have been deposited.¹⁸ According to the Department's information no ratifications or accessions have yet been reported.

The enclosed information is transmitted in the belief that it may be of use to you in connection with the Department's telegram under reference. Inasmuch as the Protocol in question seems to indicate that the Greek Government is, in principle, in agreement with the American point of view on the question of military service, the Department hopes that a way may be found, pending the time when the Protocol comes into force, to extend the arrangement mentioned in the Department's telegram of October 30, 1930.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

368.117/280

The Minister in Greece (Skinner) to the Secretary of State

No. 1623

ATHENS, February 11, 1931.

[Received February 26.]

SIR: I have received the Department's instruction No. 456, dated February [January] 28, 1931 in regard to exemption from military service in this country of American citizens of Greek origin who possess a double nationality. I have brought the protocol adopted at Geneva [*The Hague*] to the attention of the Hellenic Government, and have urged that its principle be put into effect in anticipation of formal ratification of the arrangements contemplated. What will be

¹⁶ Signed on December 31, 1930, *Foreign Relations*, 1930, vol. I, p. 223, footnote 18.

¹⁷ Department of State, *Press Releases*, January 10, 1931, p. 15.

¹⁸ Protocol registered with the Secretariat of the League of Nations on May 25, 1937, following its entry into force. League of Nations Treaty Series, vol. CLXXVIII, p. 227.

the result I do not know, but of this I am quite sure—that the military authorities will do their utmost to prevent final acceptance of the scheme.

The Minister for Foreign Affairs, Mr. Michalakopoulos, is (as I believe) favorable to proposals of this kind, but he is always opposed by the Military Department, which thus far has been unable to perceive that claims to military service, as far as naturalized Americans are concerned, are of no value whatever, and that the only result of insisting upon the right to demand military service is to prevent a good many thousands of decent persons from coming to Greece to pass their holidays and spend their money. Mr. Michalakopoulos, as I have said, quite sees this, and I am disposed to think that he will endeavor to carry his own point of view, but some time must elapse before he succeeds in doing so.

Respectfully yours,

ROBERT P. SKINNER

368.117/286

The Minister in Greece (Skinner) to the Secretary of State

No. 1682

ATHENS, April 3, 1931.

[Received April 15.]

SIR: I telegraphed the Department yesterday¹⁹ stating that the Hellenic Government had agreed in writing to extend through 1931 exemption from military service in this country, to American citizens of Greek origin who might return temporarily, as excursionists or otherwise, to the land of their birth. I again discussed the matter orally with the Minister for Foreign Affairs, Mr. Michalakopoulos, this morning, to whom I pointed out the desirability of a definite and permanent understanding on the subject. I stated to him that exemption from military service in the case of returning Greeks was not enough, and that we also deemed ourselves entitled to a positive assurance that on the departure of Greeks (being naturalized American citizens) individually for the United States, they should be granted exit visas on their American passports without being vexed as they are from time to time by the demand of local officials that they deny their American citizenship and take out Greek passports.

Mr. Michalakopoulos expressed to me his desire that passenger traffic between the United States and Greece should not be impeded by useless administrative methods, he looked upon the coming of naturalized citizens as a matter of considerable economic importance to the country, but he was not prepared to negotiate a treaty covering the points involved, because of the possible effect of such a treaty upon the position of Greeks in Egypt who are very numerous and whose

¹⁹ Telegram not printed.

legal and moral attachment to the home country was regarded as a matter of outstanding importance. On the other hand, he assured me that naturalized citizens coming from the United States to Greece would not be interfered with, and he gave me to understand that, though no written arrangement could be made at the present time, he would do his best to see to it that no embarrassments arose and that individual passengers could arrive and depart without occasion for complaint.

I can only hope that this arrangement, if it is an arrangement, will work satisfactorily. It will certainly work, as far as Mr. Michalakopoulos personally is concerned, but the difficulty always arises that minor officials, here and there, from time to time, are bound to take particular satisfaction in raising technical questions of an unnecessary character.

Respectfully yours,

ROBERT P. SKINNER

368.117/291

The Chargé in Greece (Fisher) to the Acting Secretary of State

No. 1817

ATHENS, August 4, 1931.

[Received August 22.]

SIR: I have the honor to enclose herewith copies in translation of Foreign Office *note verbale* No. 26357,²⁰ relating to the liability to military service of Greek subjects domiciled abroad who desire to pursue their studies in Greece.

It will be observed from the enclosure that the children of Greek citizens, whose families are established in the United States, may return to Greece for educational purposes, without molestation for military service, upon complying with certain administrative requirements.

Respectfully yours,

CARL A. FISHER

368.117/294

The Chargé in Greece (Fisher) to the Acting Secretary of State

No. 1840

ATHENS, August 28, 1931.

[Received September 12.]

SIR: Referring further to my despatch No. 1817, dated August 4, 1931, relative to Greek military service, I have the honor to report that Act No. 5237, published in the *Official Gazette* of August 14, 1931 (Vol. I, No. 279), contains a provision which affects Greeks residing abroad for at least ten years continuously. Such Greeks are liable

²⁰ Not printed.

to military service of four months upon return to Greece, which service, however, may be bought off for an amount of 3,000 drachmas or 5,000 drachmas, depending on the class to which they belong. For those who belong to classes already called to the colors, the ten-year period terminates with the date of publication of this Act; while for those who belong to classes which have not yet been called to the colors this period terminates with the date upon which they shall be called upon for enlistment.

This fee, the average of which is \$52.00, is a considerable reduction of the amount formerly demanded and it is to be presumed that these terms will be availed of in an increasing ratio by Greeks returning from a residence of ten years or more in the United States.

Respectfully yours,

CARL A. FISHER

368.117/286 : Telegram

The Secretary of State to the Chargé in Greece (Fisher)

WASHINGTON, September 30, 1931—4 p. m.

30. Your 1682 of April 3, 1931 regarding exemption from alleged military obligations. The Department must now order its supply of Notices to Bearers of Passports, for use in 1932. The text of the revised edition must be ready for the printer by the middle of October.

The question therefore arises at this time as to what advice should be given in the new publication to naturalized American citizens of Greek origin who propose to visit Greece during 1932.

It is suggested that you bring this matter to the personal attention of the Foreign Minister as urgently as possible, expressing the hope of this Government that the present favorable arrangement may be continued during the coming year.

You may add that the Department has given appropriate publicity to the liberal attitude adopted by the Greek Government with respect to the present year.

Please reply by telegram before October 15.

STIMSON

368.117/295 : Telegram

The Chargé in Greece (Fisher) to the Secretary of State

ATHENS, October 15, 1931—4 p. m.

[Received October 15—11:32 a. m.]

42. Department's 30, September 30, 4 p. m. Greek Government will not engage itself to exempt American citizens of Greek origin, naturalized since January 15, 1914 from military service during 1932. While informal exemptions may be made especially for organized groups of excursionists it is preferable to omit last paragraph of article No. 36 in Notice to Bearers of Passports.

It may be advisable to include in new pamphlets reduced term of service and payment as reported in Legation's despatch 1840.

FISHER

368.117/296

The Chargé in Greece (Fisher) to the Secretary of State

No. 1899

ATHENS, October 26, 1931.

[Received November 13.]

SIR: I have the honor to refer to despatch No. 1840, dated August 28, 1931, in which the Department was informed that reduced military service would be required from those Greeks that have resided continuously abroad for a period of ten years. The Division of Near Eastern Affairs, in its informal comment upon despatches received during the month of September, stated that it did not have a clear understanding of one part of the despatch. The obscure sentence read as follows:

"For those who belong to classes already called to the colors, the ten-year period terminates with the date of publication of this Act; while for those who belong to classes which have not yet been called to the colors this period terminates with the date upon which they shall be called upon for enlistment."

The significance of the above is the following: To secure the benefits of the law, those persons who have already been called upon for military service must have resided abroad for a period of ten years prior to August 14, 1931; those persons that are called to the colors in the future, must have resided abroad continuously for ten years immediately preceding the time that their military obligation accrues,—that is, at the time they are summoned to serve.

Respectfully yours,

CARL A. FISHER

[On February 12, 1932, the Department issued to the press the following statement:²¹

"The Department is informed that the exemption from alleged military obligations accorded by the Greek Government to American citizens of Greek origin who visited Greece during 1930 and 1931 has not been extended to cover the year 1932.

"It is understood that the persons affected by this ruling are American citizens of Greek origin and naturalized American citizens born in territory now forming part of Greece. It is accordingly suggested that any American citizens in these categories who contemplate visiting Greece in 1932 should apply, before departure from this country, to a Greek consular officer in the United States for information as to their exact status with respect to alleged Greek military obligations."]

²¹ Department of State, *Press Releases*, February 13, 1932, p. 155.

GUATEMALA

RECOGNITION OF CONSTITUTIONAL GOVERNMENT IN GUATEMALA¹

814.00/1041 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 2, 1931—3 p.m.

[Received 8:52 p.m.]

2. Assembly met this morning for third reading of Chacon's resignation and amnesty bill, after which Reina Andrade assumed Provisional Presidency. Understand only changes in the Cabinet will be of those involved in the recent events. Skinner Klee will remain at the Foreign Office and General Reyes goes to the Ministry of War. Call for elections is to be published shortly.

Everything rapidly returning to normal and I do not anticipate any further trouble. Under these circumstances hope that the Department will instruct me as soon as possible in the premises.

WHITEHOUSE

814.00/1040 : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, January 2, 1931—4 p.m.

1. Your 134, December 31, 6 p. m.² Telegraph explicitly whether the resignations of Palma and Luis Chacon were freely and voluntarily given or whether they were given under compulsion. The same regarding President Chacon's resignation and also whether the action of the Assembly in electing the new Designates and accepting the resignations was done voluntarily or whether there was duress. Please cable fully on any other aspects of the situation which the Department should take into consideration in determining its future action in the premises.

STIMSON

¹ For previous correspondence concerning the revolution in Guatemala, see *Foreign Relations*, 1930, vol. III, pp. 172 ff.

² *Ibid.*, p. 192.

814.002/118 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

[Paraphrase]

GUATEMALA, January 2, 1931—5 p. m.

[Received 10:05 p. m.]

3. Apparently Reina Andrade intends to retain the same Cabinet as General Orellana, with Reyes filling the vacancy at the War Ministry. I perceive no objection to this except in the cases of Giron y Giron, Minister of Education, who took a prominent part when McCafferty called on General Orellana at midnight, and Pivaral, Minister of Agriculture, who was one of the military junta that took power when General Orellana was successful. (See Legation's telegram No. 110, December 17, 9 p. m.)³ Please instruct me at once whether you desire these two changed, which I believe can be effected fairly easily, especially if I can offer immediate recognition as a result. I favor this.

General Orellana will leave the country on January 4.

WHITEHOUSE

814.00/1042 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

[Paraphrase]

GUATEMALA, January 2, 1931—7 p. m.

[Received January 3—12:02 a. m.]

4. Department's 1, January 2, 5 [4] p. m. The Assembly was under no duress whatever and has now adjourned. None of the resignations was made under compulsion unless one calls circumstances compulsion. There was no other solution possible. I strongly favor immediate recognition after the two Cabinet changes reported in my 3, January 2, 5 p. m., and the publication of the call for elections. Now, when everything has been done as constitutionally as possible, the non-recognition of Reina Andrade would only result in hopeless confusion.

WHITEHOUSE

814.01/40

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 289

MANAGUA, January 2, 1931.

[Received January 9.]

SIR: With reference to the Department's telegram No. 137 of December 20, 8 p. m.,⁴ I have the honor to report that I have found oc-

³ *Foreign Relations*, 1930, vol. III, p. 178.

⁴ See *ibid.*, p. 183, footnote 6.

casion to make known to numerous officials of this Government and other political leaders of Nicaragua, as instructed therein, the position of the Department in respect to the recognition of new governments in Central America with particular reference to the situation recently created in Guatemala.

My conversations in this connection have disclosed keen interest and much expectation as to what the attitude of the Government of the United States would be with respect to the Government recently set up in Guatemala. My statement of the Department's policy in the matter has invariably been received with expressions of satisfaction. I have gained the impression that the consensus of opinion here is that recognition of the Orellana Government in Guatemala would be a violation of the 1923 treaties.⁵

The Minister for Foreign Affairs called upon me this morning to inquire whether I had confirmation of press reports published here to the effect that the American Legation in Guatemala City had been instructed to notify the Orellana Government that it would not receive the recognition of the Government of the United States. He expressed the hope that the report is authentic and stated that his study of the acts by which the Orellana Government came to power, so far as they are known, has convinced him that recognition of that Government would be a clear violation of the 1923 treaties. He said that the Minister of Guatemala in this Capital had formally requested the recognition of this Government for the Orellana Government and that he had replied informally that this Government could not give a specific answer until it becomes fully informed concerning the matter.

General Emiliano Chamorro, as was to be expected, was particularly interested in the outcome of the effort to secure recognition for the Orellana Government. I saw him yesterday for the first time since receiving the Department's telegram and he immediately brought up the subject and frankly stated that he had a special interest in learning the Department's views because of its refusal to grant him recognition when he became President of Nicaragua in 1925 under somewhat similar circumstances.⁶ He appeared to be satisfied and not surprised with the information I was able to give him.

As far as I have been able to learn the reported refusal of the Department to grant recognition to the Orellana Government has been received with satisfaction as a further indication of the efficacy of the 1923 treaties. I have neither heard nor seen any criticism of the treaties nor of the Department's reported attitude in the matter.

Respectfully yours,

MATTHEW E. HANNA

⁵ General Treaty of Peace and Amity, *Conference on Central American Affairs*, p. 287.

⁶ See *Foreign Relations*, 1925, vol. II, pp. 636 ff., especially p. 639; and *ibid.*, 1926, vol. II, pp. 780 ff., especially pp. 784-785.

814.01/27 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 3, 1931—11 a. m.

[Received 2:55 p. m.]

5. German Minister authorized to recognize Reina Andrade but believe he will take no action until I have received your instructions.

WHITEHOUSE

814.01/26 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 3, 1931—1 p. m.

[Received 2:35 p. m.]

2. Department's telegram number 137, December 30 [20], 8 p. m.⁷ The Minister for Foreign Affairs has received formal telegraphic advice from the Minister for Foreign Affairs of Guatemala that the Guatemalan Congress has accepted the resignation of President Chacon and has appointed José Maria Andrade First Designate who took office as President at noon on January 2. The Minister for Foreign Affairs has just requested me to inquire if the Department can give this Government for its guidance any information concerning the attitude of the Government of the United States with respect to the Andrade government in Guatemala.

HANNA

814.01/32b : Circular telegram

The Secretary of State to the American Missions in Costa Rica, El Salvador, Honduras, and Nicaragua

WASHINGTON, January 3, 1931—3 p. m.

The Department is advised by the Legation in Guatemala that the Assembly met at 4 p. m. on December 31, and accepted the resignations of Palma and Luis Chacon as Second and Third Designates, respectively. (The ex-First Designate Leon was killed in the fighting on December 16.) The Assembly then elected Reina Andrade First Vice President by 50 votes to 11 for General Ariza and 3 for Chief Justice Midrano. General Reyes was elected Second Vice President and General Solorzano Third Designate. The first reading was then given to President Chacon's resignation. On January 2, the Assembly met for the third reading of the resignation of Chacon after which Reina Andrade assumed the provisional presidency.

⁷ See *Foreign Relations*, 1930, vol. III, p. 183, footnote 6.

After the publication of the call for new elections to be held within 6 months the Department is disposed to extend recognition to Señor Andrade as its information would seem to indicate that he has come into office as Provisional President in a constitutional manner. Please discuss the matter at once with the Government to which you are accredited in an endeavor to find out the attitude which it will take in the premises and whether it would be disposed to recognize Andrade also.

I am taking this step because I feel it appropriate and highly desirable that we act in harmony in this matter with the signatories of the General Treaty of Peace and Amity of 1923 in as much as we took a position opposed to General Orellana in order to support the action initiated and the policy laid down by the five Republics of Central America in that treaty.

Reply by cable as soon as possible.

STIMSON

814.01/32a : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, January 3, 1931—3 p. m.

2. Your 4, January 2, 7 p. m. The Department is disposed to grant recognition to Señor Andrade after the call for elections has been made. Before acting, however, the Department desires to consult with the other four Central American Governments feeling that it would be perhaps beneficial if the other four countries parties to the treaty would be disposed to take similar action. The Department has therefore telegraphed to the Legations in the other Central American countries to take the matter up with those Governments and the Department will give you definite instructions as soon as possible.

Cable at once whether there is any objection to Andrade's government or whether it meets with general support of the authorities and people of the country. Is Andrade's authority disputed and is there any tendency so far as you are aware to overthrow his Government.

If the cabinet changes mentioned in your 3 Jan. 2, 5 p. m. can be made easily the Department is agreeable thereto but feels it would be unwise to make the change a *sine qua non* to recognition.

STIMSON

814.01/31 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 3, 1931—7 p. m.

[Received 11:25 p. m.]

6. Your No. 2.^s There is so far as I am aware no objection to Andrade's government from any quarter and it is meeting with the gen-

^s *Supra.*

eral support of the authorities and people. Conditions are practically normal and no counterrevolution is to be feared.

The Cabinet changes mentioned in my 3, January 2, 5 p. m. would, I find, cause difficulties for internal political reasons and I am glad the Department does not insist on them.

The decree calling the elections for February 6, 7 and 8 will be issued tomorrow or Monday.

WHITEHOUSE

814.01/29 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 4, 1931—7 p. m.

[Received January 5—12:04 a. m.]

3. Department's telegram circular of January 3, 3 p. m. The Minister for Foreign Affairs has just told me that this Government is of the opinion that José Maria Reina Andrade's election to the Provisional Presidency of Guatemala does not violate the treaties of 1923 or the constitution of Guatemala and that this Government is disposed to extend recognition to the government of Reina Andrade.

HANNA

814.01/30 : Telegram

The Minister in El Salvador (Robbins) to the Secretary of State

SAN SALVADOR, January 4, 1931—7 p. m.

[Received 9 p. m.]

3. Department's telegram January 3, 3 p. m. Minister for Foreign Affairs informs me Government of Salvador takes attitude suggested by the Department and is extending recognition to Reina Andrade as Provisional President.

ROBBINS

814.01/33 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, January 5, 1931—noon.

[Received 4:38 p. m.]

2. Department's circular telegram January 3, 3 p. m. After I verbally conveyed the substance of the Department's telegram to President Mejia Colindres this morning he told me that his Government is also disposed to recognize Reina Andrade as Provisional President after the publication of the call for new elections to be held within 6 months and that he wishes to act in complete harmony

with our Government in this matter. President Mejia Colindres asked me if I would advise him immediately when my Government recognized Andrade as the President wishes to grant recognition simultaneously if possible or immediately ours is extended. The President informed me that he has received a personal telegram from Andrade requesting recognition but postponed replying until he heard what attitude we would take.

LAY

814.00/1044 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 5, 1931—5 p. m.

[Received 8:55 p. m.]

7. The decree calling elections for President to take place on February 6th, 7th and 8th was issued on January 3rd.

WHITEHOUSE

814.01/34 : Telegram

The Minister in Costa Rica (Eberhardt) to the Secretary of State

SAN JOSÉ, January 6, 1931—11 a. m.

[Received 3:10 p. m.]

2. Department's circular of January 3, 3 p. m. The President being ill and the Minister for Foreign Affairs absent, at my request the Private Secretary of the President discussed matter with his Chief who states that from his knowledge of the case he is disposed to recognize Andrade. He has communicated with Costa Rican Minister at Guatemala. Minister for Foreign Affairs returned today, is conferring with the President and promises me definite statement this afternoon which I will promptly cable.

EBERHARDT

814.01/35 : Telegram

The Minister in Costa Rica (Eberhardt) to the Secretary of State

SAN JOSÉ, January 6, 1931—5 p. m.

[Received 9:11 p. m.]

4. My telegram number 2, January 6, 11 a. m., Department's telegram number 1, January 6, noon.⁹ The Minister of Foreign Affairs advises me that conditional upon the call for new elections the Costa Rican Government will extend recognition to the Andrade government.

EBERHARDT

⁹ Not printed.

814.01/35a : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

[Paraphrase]

WASHINGTON, January 6, 1931—6 p. m.

3. You may extend the recognition of the Government of the United States to the Government of Señor Andrade on the afternoon of January 8. Please inform your Central American colleagues of the action you are taking in order that they may join with you if they desire to do so.

STIMSON

814.01/35b : Circular telegram

The Secretary of State to the American Missions in Costa Rica, El Salvador, Honduras, and Nicaragua

[Paraphrase]

WASHINGTON, January 6, 1931—6 p. m.

The American Minister in Guatemala has been instructed to extend the recognition of the Government of the United States to the Government of Señor Andrade on the afternoon of January 8, the call for elections having been issued. Inform the Government to which you are accredited immediately of the proposed action of the Government of the United States. The Minister in Guatemala has also been instructed to inform his Central American colleagues of the action he is taking.

STIMSON

814.00/1045 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 7, 1931—noon.

[Received 3:10 p. m.]

8. A coalition of the official Liberal and the Progresista sections of the Liberal Party, under the name of the Liberal Progresista Party, has launched the candidacy of General Jorge Ubico for President. The Independiente section of the party under the leadership of Bernardo Alvarado Tello has refused to join this coalition. Up to the present time there is no opposition candidate.

WHITEHOUSE

814.01/37 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 7, 1931—2 p. m.

[Received 4:18 p. m.]

9. Your 3, January 6, 6 p. m. Subject to your approval, I propose to answer the Foreign Office note notifying me of the changes in the Government in the following form. First acknowledge in detail the items of the note and then as follows:

"This information was communicated to my Government and I am now in receipt of instructions to inform Your Excellency that my Government recognizes the change in the Presidency of the Republic and hopes to continue with the Government of Provisional President Reina Andrade the same cordial relations as existed with the Government of President Chacon.["]

WHITEHOUSE

814.01/37 : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, January 7, 1931—6 p. m.

5. Your 9, January 7, 2 p. m. Proposed note approved.

STIMSON

814.01/44a : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, January 17, 1931—2 p. m.

8. Has the Guatemalan Government been recognized by the four other Central American Governments?

STIMSON

814.01/45 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, January 17, 1931—7 p. m.

[Received 10:40 p. m.]

14. Reply your 8, January 17, 2 p. m. The Ministers of Costa Rica, Salvador, and Nicaragua accompanied me when I called on the Minister of Foreign Affairs on January 8th and we notified him simultaneously of the recognition of President Andrade by our respective Governments. The Minister of Foreign Affairs informed me that the

Government of Honduras accorded recognition by telegram from its Minister of Foreign Affairs received here January 9th.

WHITEHOUSE

814.001Ubico, Jorge/1 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, February 14, 1931—noon.

[Received 3:15 p. m.]

16. General Ubico took office this morning as constitutional President and received the Diplomatic Corps immediately afterwards.

WHITEHOUSE

HAITI

AGREEMENT BETWEEN THE UNITED STATES AND HAITI FOR HAITIANIZATION OF THE TREATY SERVICES, SIGNED AUGUST 5, 1931¹

838.00/2915

The Secretary of State to the Minister in Haiti (Munro)

No. 30

WASHINGTON, January 14, 1931.

SIR: The Department has examined the plan for the Haitianization of the Treaty Services prepared by the Haitian Government transmitted with your despatch No. 14 of December 5, 1930.² In connection therewith especial consideration has been given to the recommendations and suggestions submitted in your several subsequent telegrams and despatches.

The specific proposals presented in the memorandum of December 2, 1930, submitted to you by the Haitian Minister for Foreign Affairs,³ involve procedures which, because of the abrupt manner in which they would have been applied and because of their broad scope, obviously are neither desirable nor practical. The Department accordingly has been gratified to note in your reports that the Haitian Government had not expected that its proposals would receive serious consideration by this Government, but had merely submitted them to serve as a basis for discussion.

It is the Department's opinion that detailed arrangements affecting each of the Treaty Services can best be worked out in Haiti, where the actual operations of those Services can most easily be studied and where authoritative opinion, based on the first hand knowledge of the Treaty Officials, regarding the practicability of the suggestions advanced can be determined. For this reason the Department approves the course you have already taken, as outlined in your personal and confidential communication to the Haitian Minister for Foreign

¹ For previous correspondence, see *Foreign Relations*, 1930, vol. III, pp. 261 ff.; for summaries of reports of the treaty services, see Department of State, Latin American Series No. 3: *Eighth Annual Report of the American High Commissioner at Port au Prince, Haiti, to the Secretary of State, 1929* (Washington, Government Printing Office, 1930).

² *Foreign Relations*, 1930, vol. III, p. 261.

³ *Ibid.*, p. 263.

Affairs dated December 20, 1930,⁴ and as described, with respect to the Service Technique, in your telegram No. 256 of December 24, 12 noon.⁵

You are, accordingly, authorized to initiate formal discussions with the Haitian Government with respect to the Haitianization of the Treaty Services, as contemplated in Item 1 of the paragraph relating to sequent steps submitted in the Report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti,⁶ along the following lines. It is desired, however, that so soon as substantial agreement shall have been reached with respect to the Haitianization program affecting each Treaty Service you shall communicate that fact to the Department, together with a succinct description of the terms of the agreement, to the end that final approval or comment with respect to desired changes therein may be furnished you by the Department:

1) *Garde d'Haiti.*

The Department is gratified to learn of the steps already taken toward the Haitianization of the Garde d'Haiti, particularly with respect to the measures in excess of those contemplated in the plan for the progressive Haitianization of that organization, and with respect to the success which has attended the reestablishment of the military school in accordance with the recommendation of the President's Commission, and the delivery to Haitian control of the entire Department of the Center.

It is believed that these measures, as well as those contemplated in the plan for the progressive Haitianization of the Garde d'Haiti, constitute the maximum advance toward the Haitianization of the Garde d'Haiti which should at this time be undertaken, and that the Haitian Government will not desire to proceed beyond them.

2) *Office of the Financial Adviser-General Receiver.*

The Department concurs in the opinion of the Financial Adviser, with which you state you are inclined to agree, that further extensive Haitianization of this Service should not be attempted. Nevertheless, it appears desirable to defer to the wishes of the Haitian Government in so far as such action would not be incompatible with the major interests of the Haitian Government itself which the Service of the Financial Adviser-General Receiver is designed to safeguard. Consequently, if during the course of your discussions it should appear advisable to make concessions with respect to the administration of the office of the Financial Adviser-General Receiver, there would appear to be no vital objection to the relinquishment of the administration of state lands.

⁴ *Foreign Relations*, 1930, vol. III, p. 273.

⁵ Not printed.

⁶ *Foreign Relations*, 1930, vol. III, pp. 217, 237.

On the other hand, however, notwithstanding the apparent opinion of the Government of Haiti that the Protocol of October 3, 1919,⁷ and the loan contracts do not constitute obstacles to the further Haitianization of the office of the Financial Adviser-General Receiver, as reported in your telegram No. 263 of December 31, 12 noon,⁸ the Department considers that such further Haitianization—which presumably would consist of the Haitianization of essential personnel branches, as described in the memorandum of December 2, 1930, and the removal of the Internal Revenue Service from American control—would be inadvisable and impractical, not only because of the injurious effect it would have upon Haitian revenues but also because of imperative obligations arising out of the Protocol of 1919.

It does not appear that the provisions of Article 8 of the Protocol of October 3, 1919, contemplated the collection of the Haitian internal revenues under American supervision until after the expiration of the Treaty of September 16, 1915.⁹ Nevertheless, as is described in the enclosed memorandum dated January 3, 1931, entitled "American Control of the Internal Revenue System of Haiti",¹⁰ it was decided by the Government of Haiti that such control should be exercised prior to the date of its obligatory initiation. It obviously would be inadvisable to discontinue this arrangement at this time, when it must inevitably be reestablished upon the expiration of the Treaty notwithstanding the difficulties which would then presumably accompany such action. Considerations of sound procedure would seem to counsel the retention of this control.

3) *Public Works Service.*

The measures already effected and those described in your despatch No. 21 dated December 22, 1930,¹¹ for the Haitianization of this Service would appear to meet any reasonable requirements of the Haitian Government. Nevertheless, in view of its statement that it desires a more rapid Haitianization of the Service, as reported in your telegram No. 263 already referred to, the Department will be glad to have you discuss with the appropriate Treaty Officials, with a view to satisfying the requirements of the Government, such measures as they may consider it possible to take beyond those now contemplated.

⁷ *Ibid.*, 1919, vol. II, p. 347.

⁸ Not printed; see note of December 30, 1930, from the Haitian Minister for Foreign Affairs to the American Minister (par. e), *ibid.*, 1930, vol. III, p. 277.

⁹ Treaty between the United States and Haiti relating to the finances, economic development, and tranquillity of Haiti; for text, and supplementary agreements and protocols signed in 1916, see *ibid.*, 1916, pp. 328-338; for additional act signed March 28, 1917, extending the duration of the treaty, see *ibid.*, 1917, p. 807.

¹⁰ Not found in Department files.

¹¹ *Foreign Relations*, 1930, vol. III, p. 266.

4) *Public Health Service.*

The Department concurs in your opinion that the Districts of Port au Prince and Cape Haitien should not be removed from American control so long as any large number of American civilians and officials continue to reside in those cities.

The program already initiated by the Director General of the Service, as described in your despatch No. 21, of December 22, 1930, would appear to meet any reasonable requirements of the Haitian Government, and the Department does not feel that any more rapid pace should be set in the Haitianization of this Service than may be readily agreed to by the Director General, whose views as to what measures may be taken without crippling the splendid and essential work which it carries on should be given the greatest weight.

5) *Service Technique.*

The Department approves the general outline for the reorganization of the Service Technique de l'Agriculture submitted in your telegram No. 256 of December 24, 12 noon, subject to the definite understanding that coincidentally with and as a part of the arrangement for such reorganization the appointment of Mr. Colvin will be consummated by the Haitian Government.

Very truly yours,

HENRY L. STIMSON

838.00/2927

The Minister in Haiti (Munro) to the Secretary of State

No. 51

PORT-AU-PRINCE, January 24, 1931.

[Received January 27.]

SIR: I have the honor to report that the Haitian Government, on January 14, 1931, addressed a further note to this Legation on the subject of Haitianization, enclosing a memorandum making specific proposals which, in some cases, were somewhat more radical than those contained in M. Sannon's earlier communication on the same subject. Translations of this note and memorandum are transmitted herewith.

The tone of this communication and the attitude which the Government had recently assumed on other questions under discussion made it seem advisable to preface any further expressions of a readiness to make concessions in Haitianization with a definite statement which would disabuse the Haitian Government of any impression that the process of Haitianization would be accompanied by a relinquishment of the authority which the American Treaty Officials now exercise over their respective departments. I, therefore, handed M. Sannon a note, copy of which is enclosed, setting forth in part the position of the United States Government as expressed in instructions

addressed to me by the Secretary of State on October 18, 1930.¹² I felt that further negotiations would be carried on in a decidedly more satisfactory atmosphere if it were clear from the start that there were definite limits to the concessions which the Government of the United States was prepared to make.

On the same day, I handed M. Sannon, informally, a tentative plan for the reorganization of the Service Technique, a copy of which is also transmitted herewith. He promised to submit the plan at once to the President and the Council of Secretaries of State but said that the Haitian Government would prefer to have a reply to all its proposals regarding Haitianization before proceeding with further negotiations. I pointed out that the Government had expressed a special desire to make arrangements which would permit the immediate opening of the schools, and said that it was for this reason that I had thought it preferable to consider the reorganization of the Service Technique first. I also pointed out that the discussing of Haitianization in all of the Treaty Services would involve a considerable delay. M. Sannon insisted, however, that the matter should be dealt with as a whole, realizing, of course, that we would probably go much farther toward meeting the Haitian Government's desires with respect to the Service Technique than with respect to other Departments. As I did not feel that there was any real justification for insisting upon dealing with the different Services one by one, I promised to send him a reply to his note as a whole in the near future.

I am, at present, going over the question of Haitianization again in detail with each Treaty Official, and I propose, within the next few days, to send M. Sannon a formal note outlining a plan of Haitianization very similar to that described in my despatch number 21 of December 22nd,¹³ and answering specifically some of the new points raised in his memorandum of January 14th. I had hoped to avoid unnecessary correspondence and exchanges of notes in conducting the negotiations regarding Haitianization, but I believe that the President and the Secretary of State for Foreign Affairs feel that they need a formal written statement from the Legation which they can use to convince their more radical associates that matters really are as they have described them. The Government is, unquestionably, being subjected to severe pressure from persons who feel that it has not been sufficiently energetic in formulating and pressing its demands and who accuse it of acquiescing in a policy of delay.

Respectfully yours,

DANA G. MUNRO

¹² *Foreign Relations*, 1930, vol. III, p. 255.

¹³ *Ibid.*, p. 266.

[Enclosure 1—Translation]

The Haitian Minister for Foreign Affairs (Sannon) to the American Minister (Munro)

[PORT-AU-PRINCE,] January 14, 1931.

MR. MINISTER: Permit me to refer to the various interviews which I have had with Your Excellency since the forwarding of the Memorandum of December 2nd to the American Legation,¹⁴ interviews which leave no doubt of our common desire to reach an accord on the Haitianization of the Treaty Services. I have the honor to submit herewith a Memorandum containing concrete proposals relating to each of the Services in question.

The Government hopes that Your Excellency will examine these proposals in such a manner as to facilitate the early conclusion of the accord envisaged, and to permit it, in so far as it is concerned, to take the administrative and legislative measures necessary in the premises.

The Ministry of Foreign Relations takes this occasion again to direct the serious attention of Your Excellency to the following:

With the opening of the Congress elected by the people and exercising the constitutional right to control the financial administration of the country and to provide annually the national budget, the Secretary of State for Finance is under the strict obligation to exercise complete control over all of the Services generally, of whatever nature, under his department.

He cannot abstain, for example, from entering into the details of budgetary credits, their use and their application to public expenditure, whatever the nature of these expenditures may be. All obstacles which the authority of this High Functionary encounters in this respect can give rise to grave difficulties in his relations with the Congress. It is this officer which the Constitution and laws of the country make chiefly responsible for the management of our financial affairs. Such is not the case with the Financial Adviser, who has no responsibility vis-à-vis the Chambers.

The Government cannot meet its Constitutional obligations unless the Secretaries of State exercise in their respective departments an authority equal to their responsibilities. It is necessary and even indispensable under these circumstances that the Treaty Officials conform to these conditions and the correct execution of the Services confided to them, and the constitutional relations of the Secretaries of State with the Chambers.

The Government desires to point out that the Financial Adviser is not the chief of the Ministry of Finance, but a "Functionary" attached to the Ministry.

¹⁴ *Foreign Relations*, 1930, vol. III, p. 263.

It is the sincere desire of this Government to remain within the limits of the Treaty until it is liquidated, but being solely responsible to the Chambers for the conduct of public affairs, it will appreciate all assistance which the American Legation will give it in order to cause the American Officials to remain within the limits of the functions assigned to them by the Treaty of September 16, 1915.

H. PAULÉUS SANNON

[Subenclosure—Translation ^{14a}]

MEMORANDUM

In accordance with the Memorandum of December 2, 1930,¹⁵ and the letter of the 20th of the same month,¹⁶ replying to the Honorable Dana G. Munro, the Government desiring to hasten the Haitianization of the Treaty Services, proposes the following nominations for the Public Works Service:

a. A Haitian engineer with the title of Assistant Engineer in Chief. The present chief engineer of the Treaty Service will continue to exercise supervision over all branches of the service and to give his assistance and technical advice to the Government for operations now in course of execution, as well as those to be undertaken, until such time as complete Haitianization has been accomplished.

b. Engineer Ethéart to take charge of the Irrigation Service.

c. Engineer Léon Ménos as director of the Telegraph and Telephone Service.

d. Engineer Maignan to take charge of the direction of Public Buildings.

e. Engineer Péreira to the Road service.

f. Engineer F. Azor to take charge of municipal engineering service.

In the conferences which will follow, the Government will make up in proportion its proposals relative to the central office of Public Works.

DEPARTMENTS AND DISTRICTS

While awaiting the appointment and nomination of a Haitian departmental engineer for the Department of the South, the Government wishes now to nominate the following Haitian engineers: Georges Cauvin, Salès and Charles Martin, chiefs of the districts of Jacmel, Jérémie and Cayes.

The inspectors now assigned to the departments of the North and the Artibonite-Northwest to be recalled to the Head Office in Port-au-Prince.

^{14a} File translation revised.

¹⁵ *Foreign Relations*, 1930, vol. III, p. 263.

¹⁶ *Ibid.*, p. 273.

NATIONAL PUBLIC HEALTH SERVICE

The Government insists upon the immediate nomination of a Haitian co-director for the General Hospital, and a co-director-general for the National Public Health Service, who will have, co-jointly with the actual American directors, the administration and control of these two important services.

The Government regards these measures as a necessary step towards the Haitianization of the National Public Health Service within the time specified in the Memorandum of December 2nd.

SERVICE TECHNIQUE

The principle of the division of the Service Technique into two distinct branches having been approved, the Government proposes to appoint and nominate very shortly a Haitian director of urban and rural primary instruction and professional instruction, who will perform his duties under the direction of the Department of Public Instruction.

The other branch (agricultural and experimental stations), requiring special knowledge, can be confided to a foreign specialist, assisted by a Haitian co-director, while awaiting the training of Haitian professional men.

CENTRAL SCHOOL OF DAMIEN

The intention of the Government, as has been already indicated in the Memorandum of December 2nd, is to make the Central School a genuine normal school, for the education of professors for the agricultural and industrial schools of the country.

Should it be so required, a foreign technical counsellor could be attached to the Ministry of Agriculture, whose functions would consist in aiding and counselling the Secretary of State for Agriculture in all questions of practical interest to agriculture and agricultural instruction.

The Government regards the immediate reorganization of the Damien School as the only means to insure, without loss of time, the reopening of that establishment, the return of the former students and the resumption of the courses of study.

FINANCIAL ADVISER-GENERAL RECEIVER

OFFICE OF CONTRIBUTIONS

As this service is already functioning perfectly and it may be Haitianized immediately, the Government proposes to nominate, without undue delay, the Haitian director of the Office of Contributions.

CUSTOMS PERSONNEL

The Haitian Government has always held that it is the prerogative of the President of the Republic to nominate and to commission Customs personnel. It has only been through regrettable circumstances that the contrary practice has prevailed up to now, because there is nothing in the Treaty of September 16, 1915, which would justify that procedure.

The fact that we are now concerned with Haitianization is a further reason for the President to reassume the right to make the personnel of the Customs service exclusively Haitian.

Assured of being in accord in this regard with the United States Legation, the Government wishes in the meantime to have with the Legation as soon as possible a complete exchange of views on this question before carrying out its intentions.

OFFICE OF THE FINANCIAL ADVISER-GENERAL RECEIVER

The Government is aware that there are many Haitian employees in the personnel of the two offices under the Financial Adviser-General Receiver.

But up to now these employees have not been nominated by the President of the Republic, as is the case, for example, with the Haitian engineers in the office of Public Works. It is, therefore, necessary that the Government commission all of the Haitian chiefs of service and employees in both offices. This is not "Haitianization". Haitianization proper is to be understood as the replacement of American "assistants" of the Financial Adviser-General Receiver by Haitians nominated by the President of the Republic.

The Government is of the opinion that the American Legation can not be otherwise but in accord in this respect.

As has already been stated to His Excellency, Mr. Dana G. Munro, the Government is disposed to negotiate with him before the expiration of the Treaty of September 16, 1915, special accord on the basis of the Protocol of 1919.

[Enclosure 2]

The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Sannon)

No. 20

PORT-AU-PRINCE, January 21, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of January 14, 1931, with its enclosed Memorandum regarding changes in personnel recommended by the Haitian Government in the American Treaty Services.

I have duly noted that portion of Your Excellency's note which refers to the general question of the relation of the American Treaty Officials to the Haitian Government as this relation is affected by the inauguration in Haiti of a Congress elected by popular vote. I fully appreciate the fact that this change in the internal organization of the Haitian Government has from a practical viewpoint placed the Haitian Secretaries of State in a new relation to the Legislative Body. Both this Legation and the American Treaty Officials will be disposed at all times to give the most sympathetic consideration to the problems which this new relation presents. A special effort will be made to furnish promptly as heretofore all information regarding activities of the Treaty Services which may be helpful in enabling the Secretaries of State to give an account to the Legislature of the work of these Services.

To prevent any misunderstanding, however, I must point out that the installation of a popularly elected Congress has in no way affected the valid force of the Treaty of 1915 and the collateral agreements which have hitherto governed the relations between Haiti and the United States. My Government desires to discuss with the Haitian Government such changes in these arrangements and in the existing organization of the Treaty Services as it may now be proper to make with a view to the orderly and efficient transfer of the control of these Services by the date of the expiration of the Treaty; but it can enter upon these discussions only on the basis of a frank recognition of the validity of existing agreements between the two Governments. These agreements are of course binding upon the Legislative branch as well as upon the Executive branch of the Government of Haiti. So long as the Treaty continues in effect and insofar as its provisions have not been changed by mutual agreement, the Government of the United States must insist upon the full recognition of the rights and authority granted to it thereunder, for it cannot otherwise fulfill the responsibilities which it has assumed towards the Haitian Government and towards the Haitian people.

Pending the discussion of possible changes in the existing arrangements, therefore, I am instructed to say that the Government of the United States will expect that the Haitian Government will promptly appoint officials nominated by the President of the United States under the Treaty, that it will give them full authority with respect to the administration of the Services under their control, and that it will cooperate with them and with the American Legation for the fullest realization of the purposes of the Treaty. It will otherwise be extremely difficult to carry out the program of Haitianization upon which both Governments appear to be in accord in principle.

Accept [etc.]

DANA G. MUNRO

[Enclosure 3]

The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Sannon)

TENTATIVE PLAN FOR THE HAITIANIZATION OF THE SERVICE TECHNIQUE

Coincidentally with the formal acceptance by the Haitian Government of the appointment of Mr. Colvin as Director General of the Service Technique, with salary from July 1, 1930, the following plan for the reorganization and Haitianization of the Service Technique would be put into effect:

(A). The position of Assistant Engineer would be abolished. In the absence of the Director General, a member of his staff designated by him would be Acting Director General.

(B). *Educational Work.*

1. A Haitian nominated by the Director General of the Service Technique would be appointed at once as Director of Educational Work. This official would work under the direction of the Director General insofar as matters relating to the budget and to vocational education in the industrial and farm schools were concerned until October 1, 1931. Thereafter, he would report directly to the appropriate Secretary of State.

2. Haitian co-directors would be appointed in the Departments of Farm Schools and Industrial Schools and would be made Directors of these Departments on October 1, 1931. The present American Directors of these Departments would thereafter serve as Special Advisers under contract for two years at a salary of \$5000.00 per annum. During this period they would form a part of the staff of the Director General of the Service Technique.

3. The new schools at Port-au-Prince would be opened at once. They would be organized as primary schools including industrial courses and two American specialists in industrial work would be retained to assist in them until not later than the end of this scholastic year (i. e. July 1931).

4. The other industrial schools would continue as at present during the remainder of this year. From now on they would operate under the new Director of Educational Work and the Director of Industrial Education.

(C). *Agricultural Work.*

1. The Ecole Centrale and the school at Chatard would remain under the direction of the Director General and the Haitian co-director, but arrangements could be made to give normal school courses at the Ecole Centrale under a plan formulated by the Haitian Director of Educational Work appointed in accordance with the suggested arrangement.

The present faculty of the Ecole Centrale would probably be adequate for this purpose. The dormitory at the Ecole Centrale would be maintained for industrial and agricultural students. The Ecole Centrale would be placed under a Haitian director in April 1931. Certain American experts would be available to advise and assist in the instruction of the students.

2. It is contemplated that the positions now occupied by Americans should be filled by Haitians as follows:

In 1931:—Superintendent of Damien Farm and
Head of Department of Agronomy.
Supervisor of Shop Work.
Supervisor of Girls' Education.
Director of Ecole Centrale.

In 1932:—Head of Industrial Education.
Department of Ecole Centrale.
Head of Department of Horticulture.

In 1933:—Adviser in Department of Farm Schools.
Adviser in Department of Industrial Education.
Head of Department of Entomology.
Head of Chemistry Department.

In 1934:—Superintendent of Hinche Experiment Station.
Director of Printing.

In 1935:—Head of Botany Department.
Director of Extension.

In 1936:—Director of Experiment Stations.
Executive Officer.
Director General.

838.15/253 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

[Paraphrase]

PORT-AU-PRINCE, February 7, 1931—11 a. m.

[Received 9:04 p. m.]

9. I have come to the conclusion that under present conditions it would be advisable to Haitianize almost completely the Public Works Service, to withdraw all our commissioned engineers and to leave at most only two or three Americans under contract for technical assistance in such activities as road maintenance and operation of telegraphs and telephones. The Engineer-in-Chief concurs in this with me. Under present financial conditions there is no probability that there will be any funds for several years for construction projects, and I do not believe that we would be justified in maintaining our present large organization solely for maintenance work. It is Commander Dun-

can's opinion that the Haitian engineers whom he has trained are as able now to direct such work as they ever will be. Commander Duncan feels, however, that as long as he is responsible for the service he cannot reduce his present American staff, for it would be impossible to prevent the inefficiency and graft which would inevitably appear as soon as the Haitians were given more responsibility and authority without very full and complete supervision. From the attitude of the present administration it appears clear that so long as we maintain the present organization the Public Works Service will be subject to increasingly bitter attacks and obstruction and its usefulness will be greatly diminished from now on. If the Department approves, I hope that it will authorize me to work out the details of the above recommendation and take the same up with the Government at such time as I deem most appropriate. This is a delicate matter unless carefully handled, for if we grant a far reaching concession of this kind, it will encourage the Government and press to a similar campaign of obstruction against the other treaty services. It is also urgent because long delay may permit the development of a situation where any acceleration in the Haitianization of this service might involve serious loss of prestige.

MUNRO

838.105/365

The Minister in Haiti (Munro) to the Secretary of State

No. 59

PORT-AU-PRINCE, February 7, 1931.

[Received February 10.]

SIR: I have the honor to transmit herewith a copy of a note which I addressed to the Minister for Foreign Affairs on February 6th, and also a copy of a note addressed to him on January 23rd, containing a tentative schedule for the promotion of Haitian officers in the Garde.¹⁷

Respectfully yours,

DANA G. MUNRO

[Enclosure]

The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Sannon)

No. 24

PORT-AU-PRINCE, February 6, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of January 14, 1931,¹⁸ and to say that I have given careful study to the proposals therein contained.

¹⁷ Note of January 23 and its enclosure not printed.

¹⁸ *Ante*, p. 408.

The Government of the United States desires to replace as rapidly as practicable the Americans now serving in the Treaty Services by the Haitian citizens who have been receiving training and experience in these Services, in order that it may be possible not later than 1936 to withdraw entirely the American personnel. If this process is to be carried out in such a way as to provide for the efficient operation of the Services during the intervening period, the necessary changes in personnel must of course be made in an orderly manner, taking into consideration in each instance not only the capacity and the practical experience of the individual to be appointed, but also the desirability of avoiding the impairment of the efficiency of the Service as a working organization by too abrupt and sweeping changes. I am confident, however, that the replacement of American by Haitian personnel can be effected with a maximum of efficiency and rapidity if the two Governments work in harmony toward this end.

I have already advised Your Excellency informally of the measures of Haitianization which my Government is prepared to adopt in the near future if a satisfactory accord on points under discussion between the two Governments can be reached. In my personal letter of December 20, 1930,¹⁹ I discussed the matter in some detail. On January 21, 1931, I handed Your Excellency an informal Memorandum regarding the Service Technique,²⁰ the contents of which I hereby confirm, and on January 23, 1931, I transmitted a plan which this Legation would be prepared to put into execution for the promotion of Haitian officers in the Garde d'Haiti.²¹

With regard to the other matters discussed in Your Excellency's note and memorandum of January 14th., I have the honor to reply as follows:

THE PUBLIC WORKS SERVICE

Your Excellency proposes the immediate appointment of a Haitian engineer as Assistant Engineer in Chief. M. Jeannot is now acting as principal assistant to the Executive Officer of the Public Works Service. In this position, he is kept in direct contact with all business which is transacted and every opportunity is given to him to study and participate in the work of the Service so that he may receive training which would make him capable of assuming the entire direction of the Service upon the expiration of the Treaty. I believe that this arrangement will achieve the purpose which Your Excellency has in mind.

¹⁹ *Foreign Relations*, 1930, vol. III, p. 273.

²⁰ *Ante*, p. 413.

²¹ Not printed.

With respect to the other proposals which Your Excellency makes regarding specific appointments, I am prepared to adopt the following program if a satisfactory accord on other points under discussion can be reached :

Engineer Ethéart to be appointed Director of Irrigation and Engineer Maignan Director of Public Buildings immediately; Engineer Ménos to be appointed Director of Telegraphs and Telephones, and Engineer Péreira, Director of Roads within one year; and a Haitian Engineer as Director of Municipal Engineering within two years. The execution of this program must of course be dependent upon the continued satisfactory performance of their present duties by the Engineers referred to during the remainder of their training.

With regard to the District Engineers, I understand that M. Cauvin is now serving in this capacity at Jacmel. M. Martin could be appointed Departmental Engineer at Aux Cayes immediately upon the conclusion of an accord on other questions. The Engineer in Chief is not prepared to appoint M. Salès immediately as District Engineer at Jérémie for reasons which have been fully explained to M. Salès himself.

With regard to the proposal that the present inspectors be recalled from the Department of the North and Artibonite Northwest, I regret to say that I cannot assume any commitment which would restrict the full liberty of the Engineer in Chief to make use of such inspectors as he may deem necessary so long as he has the responsibility for the direction and the control of the Service.

THE PUBLIC HEALTH SERVICE

While it is essential that the American Administrator of the Haitian General Hospital should have full responsibility and authority in the management of that Institution until its complete Haitianization, the Director General of the Public Health Service is prepared immediately upon the conclusion of a general accord to appoint a Haitian Co-director to be associated with the American Director in the latter's work, with a view to training him to take full control of the Institution upon the withdrawal of the American personnel.

With regard to the proposal that a Haitian Co-director be appointed for the National Public Health Service as a whole, I may say that Dr. Torchon is already occupying the position of Executive Officer and principal Assistant of the Director General and in this position is being given every opportunity for training in the work of directing the Service as a whole.

With further reference to this Service, I may point out that five out of the ten sanitary districts have already been placed under Haitian

officials, and that according to present plans the district of Jacmel will be turned over during the coming year and the districts of Gonaïves and Cayes during 1932 or 1933.

THE OFFICE OF THE FINANCIAL ADVISER-GENERAL RECEIVER

The Government of the United States considers that any further extensive Haitianization of this Service would be inadvisable and impracticable at the present time. As I have stated in my informal letter of December 20, 1930, the situation of this office is different from that of the other Treaty Services because its major activities will continue after the expiration of the Treaty, until the amortization of the existing debt, under the provisions of the Protocol of 1919 and the loan contracts. Furthermore, in view of the world wide financial depression and the very difficult present financial situation of the Haitian Government, it is necessary to proceed with the greatest caution in taking any steps which might result in a reduction of revenue or which might make more difficult the problem of keeping expenditures within the revenue available. For these reasons, I am unable to accede to the proposal that a Haitian Director of the Bureau of Contributions be appointed at present, or to agree with Your Excellency that the time has arrived to withdraw all American personnel from the Customs Service. I take due note, however, of Your Excellency's statement that the Haitian Government is prepared to negotiate with the Government of the United States a special accord on the basis of the Protocol of 1919, to cover the situation existing after the expiration of the Treaty, and I have the honor to suggest that the discussion of questions relating to the financial services be postponed until they can be considered in connection with these proposed negotiations. It is obviously far more urgent to deal at the present time with the other Treaty Services from which all American personnel will presumably be withdrawn during the next five years, in order that adequate provision may be made now for the sweeping changes which it will be necessary to make during this rather short period.

In discussing the question of Haitianization as a whole, I wish to assure Your Excellency that the steps which the Government of the United States is now prepared to take or commit itself to take in the future do not represent a maximum but rather a minimum to be achieved in the process of Haitianization. The Government of the United States desires that the functions now exercised by American officials in the Treaty Services be turned over to Haitian citizens as rapidly as practicable, and it will always stand ready to expedite the process of Haitianization if the conditions existing in the Treaty Services make it seem proper and possible to proceed faster than is now contemplated.

Accept [etc.]

[File copy not signed]

838.15/253 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

[Paraphrase]

WASHINGTON, February 9, 1931—6 p. m.

7. Your 9, February 7, 11 a. m. The Department authorizes you to prepare a program for the virtually complete and immediate Haitianization of the Public Works Service, and to discuss with the Government of Haiti at such time as you may deem appropriate the manner of its application.

This authorization has been granted because the Department has confidence in your judgment and discretion. It assumes that you have given full consideration to all factors and possible consequences involved. When you initiate discussion of the matter it would seem particularly desirable to record the fact that this acceleration of the Haitianization program is a voluntary matter, and that it does not denote any general departure from the program you were authorized to initiate in Department's 30 of January 14, or from the recommendations of the President's Commission for the study and review of conditions in the Republic of Haiti.

STIMSON

838.00/2932

The Minister in Haiti (Munro) to the Secretary of State

No. 73

PORT-AU-PRINCE, February 26, 1931.

[Received February 28.]

SIR: I have the honor to report that I have recently been holding long conferences three or four times each week with the Minister for Foreign Affairs in an effort to work out final details of a plan for the Haitianization of the Treaty Services. At the Minister's request, these conferences were at first held at the Legation, but they were subsequently transferred to the National Palace because of popular criticism of the Minister's being seen so often at my office.

We have now nearly concluded the discussion of the plan for the Public Works Service, although there are details in which we are not as yet in agreement. The tentative agreement which we have reached follows closely the plan set forth in my note of February 6, 1931, a copy of which was transmitted in my despatch No. 59, of February 7, 1931.

Mr. Sannon was especially desirous that Mr. Jeannot be given the title of Assistant Engineer in Chief. I explained that I had no objection to this title, provided it was clearly understood that the

principal American Assistant would always be Acting Engineer in Chief in the absence of the head of the Service. I pointed out that it would be contrary to our practice in Haiti and in other countries where American officials were serving under foreign governments, to place these officials under the direct administrative control of a native superior and that the United States Government must retain effective control of the Treaty Services through its own officers so long as it continued to be responsible for their efficiency and proper conduct. In order to obviate any difficulty on this point, we have tentatively agreed to give the American Executive Officer also the title of Assistant Engineer in Chief, with the understanding that he would assume responsibility for the conduct of the Service in the absence of the Engineer in Chief. Mr. Jeannot, when consulted informally by the Government, said that he himself would prefer this arrangement as he felt that a Haitian Acting Engineer in Chief would be at a great disadvantage in dealing with other Treaty Services.

We have had more difficulty in connection with the Haitianization of the various Services in the headquarters of the Direction Générale des Travaux Publics. Mr. Sannon, after some discussion, accepted the principle that these Services should not all be turned over to Haitians at once but insisted that the periods mentioned in my note of February 6th. were too long. I said that the periods represented a maximum rather than a minimum and that it would doubtless be possible to shorten them if the Public Works Service received better cooperation and support from the Ministry of Public Works. I pointed out that the unsatisfactory relations now existing between the Service and the Government made the proper conduct of the work exceedingly difficult and that I was, therefore, unwilling to risk the disorganization of the Service by agreeing to relieve so many of the American engineers within a period which might prove too short. I pointed out also that the attitude of the Haitian engineers as evidenced by their recent strike illustrated the difficulties which an American Engineer in Chief would doubtless encounter if he did not have adequate American assistance. The Minister is not yet satisfied on this point, but I do not feel that it would be advisable to agree at this moment to a further reduction of the very short period in which all of the principal divisions of the Public Works Service will be placed under Haitian direction in accordance with the plan which I have submitted.

In connection with the appointment of Haitian departmental and district engineers, the only difficulty has been due to the fact that Commander Duncan has been unwilling for disciplinary reasons to appoint Mr. Salès immediately as District Engineer at Jérémie. It appears that Mr. Salès has on several occasions shown a spirit of insubordination and that he has been informed by Commander Duncan that his appointment as District Engineer would depend upon an improvement

in his conduct. I have explained this situation to Mr. Sannon and have assured him that there was no question that Mr. Salès would be appointed District Engineer at Jérémie in the very near future if his conduct during the intervening period was satisfactory; but that I felt that it would be fatal to the discipline of the whole Service to make the appointment immediately for political reasons. As this was not entirely satisfactory to Mr. Sannon, we considered the possibility of transferring another engineer from the Port-au-Prince headquarters to Cayes as departmental engineer and appointing Mr. Martin, who is now at Cayes, as district engineer at Jérémie. This, however, seems impracticable because the man selected for the post at Cayes has expressed the greatest reluctance to leave Port-au-Prince and avers that he is unable because of the state of his health, to live at Cayes. I shall, therefore, have to inform Mr. Sannon that all departments and districts except Jérémie can immediately be placed under Haitian engineers, but that I shall not agree to the appointment of Mr. Salès until this appointment is recommended by the Engineer in Chief.

The Haitian Government has been equally insistent on the withdrawal of the American inspectors from the Department of the North and the Artibonite-Northwest area. Mr. Sannon admits in principle that the Engineer in Chief must have full liberty to make such inspections as he deems necessary, but he maintains that the presence of American inspectors alongside of and apparently in control of the Haitian departmental engineers makes it appear that the Haitianization of the departments is more a matter of form than of substance. I have pointed out that the departmental engineers themselves appear very glad to have the advice and counsel of the American inspectors and to have their support in dealing with local politicians, and that it would be ridiculous to have the inspectors making the long trip between Port-au-Prince and the North several times a month simply to avoid having them live in the districts which they covered. I did not emphasize the other reason for maintaining the inspectors on the ground, which is that the Engineer in Chief feels that he could not possibly assume the responsibility for the conduct of work and the handling of funds by Haitian departmental engineers if he were not able to watch every detail of the work at all times. I explained to Mr. Sannon that the necessity for the assistance of inspectors would naturally diminish as the Haitian engineers became more familiar with their work and that when this occurred, it would be easier to withdraw the inspectors to Port-au-Prince, although I was unwilling to fix any period of time for this. The Minister indicated that he would at least like to have a "formula" which would meet a part of his demands on this point and that he would be satisfied with a formula which stated that the inspectors would be retained provisionally in their

departments. I have, therefore, proposed a formula reading as follows:

"Inspectors will remain provisionally in the departments where there are Haitian departmental engineers, until the requirements of the Service permit their withdrawal to the main office at Port-au-Prince and the conduct of their inspections from there".

As I have already informed the Department, I believe that it will be possible in the near future to embark on a more rapid Haitianization of the Public Works Service than was contemplated in my note of February 6th.^{21a} I have considered it inadvisable, however, to discuss this matter under present conditions because any substantial concessions to the demands of the Nationalist element at a time when the Minister of Public Works is systematically trying to break down the Public Works Service would merely encourage the adoption of similar tactics against one or more of the other Treaty Services, and would thus increase rather than diminish the probability of further serious friction with the Haitian Government. I do not plan therefore, to take up the possibility of accelerating the Haitianization of the Public Works Service until after a satisfactory general accord has been reached, and until there has been a change in the general situation of the Service.

The Public Health Service has not yet been discussed in so much detail. We are in apparent accord as to the appointment of a Haitian co-director of the hospital at Port-au-Prince under the conditions outlined on page 5 of my note of February 6th. and I think that it will be practicable to agree upon the appointment of an Assistant Director General of the Public Health Service under the same conditions as in the case of the Public Works Service. Dr. Stewart, however, has indicated that he would like to give further consideration to questions of personnel before definitely recommending a Haitian doctor for this latter position and the matter is, therefore, still pending. Mr. Sannon has not fully accepted in principle the appointment of an American as well as a Haitian Assistant Director General, but I think that he will do so.

As the Department will have noted, the Public Health Service plans to retain American officials in charge of the sanitary districts of Port-au-Prince and Cape Haitien throughout the life of the Treaty and to retain Americans in the districts of Gonaïves and Cayes for two or three years. I arranged to have Dr. Stewart discuss with Mr. Sannon the special sanitary problems which still remain unsettled in these two latter districts and further information on these problems will be subsequently submitted for the Haitian Government's consideration. While Mr. Sannon is still insisting in principle upon the most rapid possible Haitianization of all of the sanitary districts, I do not think

^{21a} *Ante*, p. 415.

that he or the Government will feel so strongly about this matter as about the Public Works, and I suspect that the strong reluctance of Haitian doctors to leave Port-au-Prince will make it more difficult for the Government to press any specific proposals.

We have thus far touched only in a very general way upon the Financial Service. The Minister indicated that the Haitian Government cannot accept our position that further extensive Haitianization of this Service is impracticable. He has argued insistently for the appointment of additional Haitian collectors at the ports and still more insistently for the full Haitianization of the Internal Revenue Service, and he has also taken up the question of the land title registry, where he considers the present situation thoroughly unsatisfactory from the point of view of Haitian law and procedure. I have promised to study any proposal which he may make with regard to this last item. In connection with the Customs and the Internal Revenue, I have told him that I had rather definite instructions from my Government and that I thought that there was little probability that these instructions would be changed. I have pointed out that an adequate consideration of the Internal Revenue question, where the Haitian Government advances legal arguments to support its position, would require further study by the Department of State and would thus be a matter of some weeks or months and I have suggested that it would be preferable to postpone for the present the consideration of questions affecting the Financial Services in order to reach a prompt agreement on the other Services where the problems involved were less difficult. If the Haitian Government accepts this suggestion, I shall go into the matter in detail with the Department at a later date. It seems apparent that the provisions of the Protocol of 1919 will have to be implemented by a specific agreement after the expiration of the Treaty, and I am inclined to believe that it would be possible at this time to work out a satisfactory agreement for this purpose.

Throughout our discussions, the attitude of the Minister for Foreign Affairs has on the whole been reasonable. We are apparently in full accord outwardly as to the desirability of an orderly and carefully worked out plan of Haitianization which will not interrupt the proper administration of the Treaty Services. Mr. Sannon, however, is under great pressure from some of his colleagues in the Government and from the more radical elements in the Nationalist party, to insist upon the most rapid possible plan of Haitianization and to demand everything which there is any possibility of obtaining. Because of this pressure, he has felt it advisable to keep the press and the people very fully informed not only of the general progress but of the minor details of our negotiations, including even such matters as the delay for disciplinary reasons in appointing Mr. Salès at Jérémie. Repre-

sentatives of the newspapers appear to have seen the entire text of most of the communications which have been exchanged and they have commented freely on points involved in a manner designed to make it very difficult for the Government to reach a satisfactory understanding with the Legation. I am even inclined to suspect, although the suspicion may be an unjust one, that Mr. Sannon and his colleagues have deliberately encouraged such comment with a view to extracting further concessions from us, or at least with a view to impressing upon the Legation the intense public interest in Haitianization.

The Government finds itself in a very difficult position because the more vociferous and active political leaders and newspaper men and probably the mass of the Haitian elite in general expected and desired a much more rapid process of Haitianization than is likely to occur. The more extreme elements have violently criticized the Government for not repudiating the Treaty, or at least demanding its immediate abrogation, and even the more moderate ones have expressed keen disappointment that three months have passed since the inauguration of the new President without any evident decrease in the interference of the United States in Haiti's internal affairs. There is unquestionably a very strong desire among the majority of people here, both in the elite and in the lower classes of the city population, that all Americans should leave Haiti at once, regardless of the effect upon public order or the efficiency of the Government, and there is a deep seated suspicion which I fear is shared even by the highest officials of the Government that we do not really intend to leave Haiti at all unless we are forced to do so. I hope that the dissatisfaction and agitation which now exists will to some extent be alleviated when we are able to announce that the two Governments have definitely agreed upon a plan for Haitianization, but, in the meantime, the situation is an exceedingly disagreeable one and contains possibilities of serious trouble.

I do not believe that these conditions would be improved materially by our making further concessions with regard to the rate of Haitianization. I have given much thought to this matter but I am inclined to believe that the Haitian temperament would simply see in any concession an evidence of weakness and that a concession on one point would merely encourage new and increasingly bitter attacks elsewhere. There appears to be no disposition whatever to appreciate the fact that a very great deal has already been done toward the Haitianization of the Treaty Services and that the Legation has to a great extent relaxed the control which was formerly exercised over actions of the Government, which seem to our representatives here unwise and improper. Our abstention from interfering in such matters as the President's decree restoring the old prohibitions on trading in the interior or his action in giving a Haitian politician permission to operate a lottery,

appears merely to have encouraged proposals to still more unwise governmental action. It is becoming clear that the process of withdrawing from the position hitherto occupied in Haiti will be an exceedingly difficult and disagreeable one and that it will very probably be accompanied by more friction and more evidence of discontent among the Haitians than a policy of strict control. I look forward to the meeting of the Congress in April with a feeling of dismay, which is only mitigated by the very evident terror with which the members of the Government anticipate this same event.

Respectfully yours,

DANA G. MUNRO

838.00/2934 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, March 11, 1931—10 a. m.

[Received 3:40 p. m.]

17. The Haitianization negotiations have made little progress recently because the Haitian Government has insisted that it could not sign an agreement which did not include some definite provisions regarding the financial services. I have indicated our willingness to detach the Title Registry Office from the Bureau of Internal Revenue but have insisted that it would be impossible to assume any obligations regarding further Haitianization of the Customs and Internal Revenue Services. I suggested, however, that the agreement to be signed now might contain a clause stating that the two Governments would enter into a special accord regarding the financial control to be constituted after 1936 and that this clause might state that this accord would contain provisions for the further Haitianization of the financial services. After long discussions the Minister for Foreign Affairs said yesterday that my suggestion might be acceptable provided that the special accord were entered into in the very near future, say by October or December next. He proposed a clause reading approximately as follows:

"In order to assure the service [of the] interest and amortization of the loan of \$40,000,000 issued in series, the high contracting parties declare themselves ready to conclude (insert here a period of time) a special accord on the basis of article No. 8 of the protocol of October 3, 1919. They agree to Haitianize by the same accord those services under the Financial Adviser-General Receiver which shall not have been Haitianized by the present general accord".

This formula appears satisfactory except that it may be well to bring out more clearly the intention of the two parties that the Haitianization contemplated in the second sentence will be a gradual process as in the case of the tentative accords reached for the Public Works and the Public Health Services.

[Paraphrase.] Inasmuch as there is a strong element here which advocates the repudiation of the protocol as illegal, I think it would be a great advantage to obtain a definite recognition by the Government of Haiti of its obligation under article 8 of the protocol. [End paraphrase.]

I recommend therefore that I be authorized to accept the inclusion in the Haitianization accord of a paragraph along the general lines proposed by the Minister for Foreign Affairs the exact language to be worked out by me with him. I should be glad if the Department would send instructions at its earliest convenience.

MUNRO

888.51/2243 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, March 14, 1931—11 a. m.

[Received 9:55 p. m.]

18. The Haitian Government in its memorandum of January 14²² indicated its desire that the Haitian personnel of the Customs Service should be commissioned by the President of Haiti. At present all employees except the Financial Adviser-General Receiver and his deputy are simply employed and discharged by the General Receiver on his own authority. In 1924 the High Commissioner requested that commissions be issued to all Haitian and American employees holding positions of authority and trust in the Customs in accordance with the treaty but disagreements as to the form of commissions made it impossible to accept those which were issued.

When it became clear that there were practically no other concessions which we could make in regard to the Haitianization of the financial services the Minister for Foreign Affairs said that the Government would at least like to issue commissions to Haitian employees in the Customs Service. The General Receiver informed me that he had no objection to this procedure provided that it would not restrict his liberty of action in employing and discharging employees and that the issue of the commissions was a mere [formality?]. I have therefore tentatively suggested the following paragraph for inclusion in the Haitianization accord.

"The President of Haiti will issue commissions to Haitian employees occupying positions of authority and trust in the Customs Service upon the recommendation of the General Receiver. The form of these commissions will be agreed upon by the Minister of Finance and the General Receiver. If the services of a commissioned employee should not be satisfactory or if his removal should be deemed necessary for

²² *Ante*, p. 408.

other reasons, the General Receiver will terminate his services and will at the same time recommend such action as he considers advisable regarding his replacement making a temporary appointment if necessary until a new commission is issued."

I made this suggestion subject to the Department's approval because it involves a question of treaty interpretation. Since the treaty has lately been interpreted as requiring the nomination by the President of those of only the very highest officials in the Customs Service, I do not see that there is any obstacle to such an agreement as the two Governments may wish to make regarding the manner of appointment of subordinate employees.

If this meets with the approval of the Department the accord regarding the financial services will comprise the above paragraph, the paragraph contained in my telegram number 17 of March 11, and a provision regarding the land title registry. I have been given to understand that the accord in this form will be accepted by the Haitian Government.

MUNRO

838.00/2936a : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, March 18, 1931—6 p. m.

14. Department is giving very careful study to the Haitian matter and hopes to send you detailed instructions in a few days. The Department is inclined to feel that extensive concessions can be made with regard to the non-financial Treaty Services only on a recognition and re-affirmation by Haiti of effective control by the Financial Adviser-General Receiver over the financial services, such control to continue so long as any of the bonds are outstanding. It is likely that the Department's definite instructions will take the position that without effective control of the non-financial services it is preferable not to have responsibility therefor and to turn these services back to the Haitian Government. This of course does not apply to the constabulary which is specifically provided for in Article V and X of the Treaty.

We are therefore considering proposing to Haiti a revised Convention which will confirm and extend the financial control throughout life of present outstanding bonds, while at same time it turns back to Haitian Government as rapidly as possible the non-financial services, excluding the Garde. But the Department's position will be that if it has responsibility it must have control and will insist upon the observance of the present Treaty until modified by such a new Conven-

tion. Department will therefore reply to the Bellegarde note supporting position you and Commander Duncan have taken.

In part the Treaty provisions are confined to the interests of the two Governments and can be modified by them but in part the provisions of the Treaty have been made to protect the interests of third parties who have become creditors of Haiti on the faith of these provisions of the Treaty and the faith of the United States and Haiti has been pledged as to the performance of these stipulations. Those parts of the Treaty can not therefore be changed until all the bonds issued in reliance on the safeguards provided in that Treaty are retired.

The Department desires you to know its feelings in the matter as it feels that difficulties will be cleared away in getting the Haitians to understand our program if the bases of our policy and our limitations are understood from the beginning.

STIMSON

838.00/2938 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, March 20, 1931—noon.

[Received March 21—2:20 a. m.]

22. Department's telegram No. 14, March 18th, 1931. From the standpoint of local conditions here there are several objections to proposing a new treaty which would extend the present financial control while providing for a more rapid turnover of the other treaty services.

The extension of the financial control in the form now exercised would be bitterly opposed in Haiti and a proposal to this effect at this time might create an exceedingly disagreeable and even dangerous situation. When Congress meets there will probably be a violent attack on the Government for failing to repudiate the treaty and to demand immediate withdrawal of all Americans. This attack which will be purely political in its nature, and inspired by persons who hope to profit if the present Government should be forced out of office, will be much more effective if we provide the Government's enemies with a new issue. The present administration on the whole has shown a more reasonable disposition than we could expect from any other group which might come into power under present conditions, but the comparatively satisfactory working relations which we have built up with it would be destroyed and the Government itself would be compelled to change its policy, if we came forward now with a proposal for an indefinite extension of the present financial control.

The control as now exercised goes much farther in my opinion than will be necessary adequately to protect the interest of the bondholders after 1936. Under the present organization the Financial Adviser

controls all activities of the Haitian Government to an extent which will be unjustifiable and undesirable when we have ceased to control the other treaty services and which will be extremely offensive to Haitian national sentiment. I am personally convinced that it is advisable from our point of view that the powers of this office should be greatly restricted after 1936 and I had been planning to discuss this matter in detail personally with the Department when I go on [leave?] next summer. The Haitian Government has already recognized its obligation to accept a sufficient control to protect the interest of the bondholders and I think that an agreement for this purpose can be worked out after the Haitianization program is disposed of and after Congress is out of the way. My experience in dealing with the Haitian Government, however, convinces me that it will be easier to work out this agreement on the basis of the rights granted by the treaty and the protocol than on the basis of a bargain regarding further Haitianization.

With respect to the other services I am entirely in accord with the Department's views that we should retain no responsibility after we have given up effective control and that we should give up both responsibility and control as early as practicable. I think, however, that we owe it to ourselves as well as to Haiti to turn over the services as efficient working organizations and under such conditions as to afford a maximum probability that they will continue to [function?] satisfactorily. This means that the process of Haitianization must be carefully worked out and also that the problem must be dealt with as a whole, avoiding action in one service which might cause us embarrassment in connection with another.

The Minister of Foreign Affairs and I, after months of very difficult negotiations, have finally practically completed an accord for the Haitianization of the treaty services which will, I believe, be satisfactory to the Department and which is on the whole satisfactory to the Haitian Government except with regard to the financial services and the Garde where substantial concessions on our part are not now possible. I hope that this accord will be ready for signature in the very near future and I feel that it will settle most of the outstanding problems except those relating to finances. It even seems probable that the Government will make no serious difficulty about the appointment of Colvin provided that no untoward incidents disturb the very satisfactory progress which we have been making. I fear that a proposal such as the Department has in mind would undo most of what we have already accomplished without improving our prospects for the future.

Both the Haitianization question and the question of future financial control can best be dealt with, it seems to me, by executive agreements which will not precipitate a new controversial discussion of the

Haitian question in the Haitian Congress and the United States Senate. It would be extremely difficult to obtain ratifications of a new convention by the Haitian Congress.

There are several considerations which have made it seem inadvisable to propose at this time the more rapid Haitianization of the Public Works, Public Health Service, and Agriculture Services. In the first place, it will be necessary in the new budget greatly to reduce the appropriations for these services. If we do this before further Haitianization, there will probably be little difficulty with the Government or the Congress, but if we are compelled to insist upon the great reduction of expenditures in these services after they have been turned over to Haitian control there will be much opposition and we shall be accused of withholding financial support in order to wreck the services and demonstrate that they cannot operate under Haitian control. I had intended, therefore, to postpone measures of Haitianization in favor of the plan already tentatively agreed upon until after the budget for next year had been decided upon.

In the Public Health Service, there are some sanitary projects at Gonaïves and Cayes which ought, if possible, [to] be completed before Haitianization. We must also consider the necessity for maintaining proper sanitary conditions in Port au Prince so long as we have any large number of Americans here. These considerations have made me reluctant to push Haitianization of the Public Health Service, particularly as the Haitian Government has shown no disposition to urge a rapid Haitianization.

In the Service Technique, I think that we should keep several agricultural experts if the Haitian Government wishes their help in a program for increased production. We have a heavy responsibility for aiding the Haitian people in their present desperate economic conditions and I have had a committee of treaty officials working to devise a practical plan to be proposed to the Haitian Government in the near future. I think that the Government may be glad to accept this plan and to avail itself of the agricultural experts for execution.

The Public Works Service as I have already reported can be Haitianized almost completely in the very near future. If, however, we withdraw the Americans from the service at a time when the service is under fire we should find it exceedingly difficult to maintain that authority in any of the other treaty services. After the Haitianization plan has been worked out and finally agreed upon and after the question of the budget has been disposed of it will be possible to announce further measures of Haitianization in the Public Works Service, not as something which has been forced upon us by criticism and obstruction but rather as a demonstration of our purpose to turn over all of the treaty services as rapidly as our responsibility to the Haitians themselves permits.

I feel in short that we are making satisfactory progress now toward the solution of this exceedingly complex and difficult problem and that a change in our general policy would do more harm than good. I hope that the Department will take into consideration in dealing with the matter that there are very numerous factors, personal, political and temperamental, which enter into this problem which cannot possibly be brought out hereabove but which have influenced me in forming the considered opinions above expressed.

MUNRO

838.00/2938 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, March 26, 1931—7 p. m.

18. Your 22, March 20, noon. The Department feels that when you have its full views on the Haitianization program they will be found not to differ very materially from yours, except with regard to the advisability of entering into a new Convention. It is the Department's view that in order to make the program effective it should have legislative sanction both in Haiti and in the United States. The term of office of the present Government of Haiti expires before the Convention of 1915 expires and considerably before the retirement of all the outstanding Haitian bonds. The question will have to be faced sooner or later and the Department therefore feels that now is the best time to meet the issue squarely and settle it once and for all. In this thought the Department is transmitting to you herewith the telegram which it had drafted and had under consideration for some days. It was the Department's intention, in view of the letters exchanged between the National City Bank and Secretary Hughes in 1921 and 1922, in which the latter made rather categorical statements concerning the carrying out of the Treaty of 1915, to advise officials of that Bank of its proposed action before telling you definitely to go ahead. The Department has not yet advised the bankers and will not do so until it hears further from you. You are therefore to understand that the instruction quoted below is sent to you for your comment and suggestion but not for action until you receive further instructions to that effect. If you consider it advisable the Department will order you and the Financial Adviser to Washington by air plane to discuss this matter. The Department, however, does not want you to leave Haiti while Senator King is there or at least until you have received him and given him assistance in getting in touch with the situation. The proposed instructions are as follows:

Department desires you to say to the Haitian Government that it has been giving most careful thought and consideration to the whole

Haitian problem. While it has noted with satisfaction the steps which have been taken toward Haitianization of the Treaty Services, it feels that the time has come when a definite concrete proposal along this line should be made to the Haitian authorities. The Department has been glad to learn that in its note of January 14, 1931,²³ the Haitian Government stated its disposition to negotiate with you before the expiration of the Treaty of September 16, 1915, a special accord on the basis of the Protocol of 1919. The Department feels that the negotiation of such a special accord by means of a Convention is an essential step in the readjustment of Haitian-American relations.

In part the provisions of the existing Treaty are confined to the interests of the two Governments and can be modified by them, but in part the provisions have been made to protect the interests of third parties who have become creditors of Haiti on the faith of these provisions of the Treaty and the faith of the United States has been pledged as to the performance of these stipulations. Therefore, the Department could not agree to modifications of the last mentioned provisions of the existing Treaty until all the bonds issued in reliance on the safeguards provided in that Treaty are retired.

Nevertheless, the Department is willing to enter into a convention providing for extensive concessions in regard to the non-financial Treaty Services. But this can only be done if it is made perfectly clear at the same time that the fiduciary obligations of the United States towards the beneficiaries of the bonds are not impaired. Therefore, the proposed convention must also contain a recognition and reaffirmation by Haiti of the effective control by the Financial Adviser-General Receiver over the financial service, such control to continue so long as any of the present bonds are outstanding.

In order to expedite the Haitianization program we are submitting a plan which turns back to the Haitian Government as rapidly as possible the non-financial services, excluding the Garde. This plan can be put into effect as soon as the proposed Convention is adopted and ratified by the Haitian Government, thus avoiding any delay which might otherwise be caused by the fact that the American Senate is not in session.

The position of this Government is that so far and so long as it remains under responsibility for the security of any of these bondholders it must have control sufficient to discharge effectively this responsibility and it must therefore insist upon the observance of the present Treaty until modified by such a new Convention.

The Department feels that difficulties will be cleared away in having the Haitian Government understand our program if the bases of our policy and our limitations are made clear from the beginning.

²³ *Ante*, p. 408.

This Government is limited, as stated above, in what it can accord to the Haitian Government on account of the interests of third parties who have become creditors of Haiti. With respect to this, no concessions can be made; in fact, it is necessary to provide in the new Convention for the effective continuance of the financial control during the life of the outstanding bonds as contemplated by the Protocol of 1919 and the law of June 26, 1922. On the other hand, however, this Government would be prepared to turn back as rapidly as possible and almost immediately the other Treaty Services with the exception of the constabulary.

Please inform the Haitian Government that upon the approval by the Haitian Legislative Assembly, which the Department understands meets on April 6 next, of the Convention quoted below, the Department will be ready, without awaiting action thereon by the Senate of the United States, to put into immediate effect the following program of Haitianization:

The Financial Adviser-General Receiver's Office: The Department is willing in this connection to separate the Land Title Office from the Financial Adviser's control and also to turn over to Haitian control the collection of the internal revenues. This concession would be possible only upon the putting into operation of the new Convention, by which the Haitian Government will agree not to issue any more of the \$40,000,000 bonds authorized in the Protocol of 1919, so that the proportionate value of the revenues pledged to the outstanding bonds shall not be diminished. The Department notes that in its communication of January 14, last, the Haitian Government stated that it has always held that it is the prerogative of the President of the Republic to nominate and to commission customs personnel. In this connection, attention is called to the provision of Article II of the Treaty of September 16, 1915, which clearly states that "the President of Haiti shall appoint, upon nomination by the President of the United States, a General Receiver and such aids and employees as may be necessary, who shall collect, receive and apply all customs duties on imports and exports accruing at the several custom houses and ports of entry of the Republic of Haiti". The Department therefore must insist upon the observance of this Treaty provision and that all aids and employees of the General Receiver shall be appointed upon nomination by the President of the United States.

You will please call the attention of the Haitian authorities to the second paragraph of the Preamble of the Treaty, to Articles I and XIII thereof, and to the third paragraph of the Additional Act of March 28, 1917, which states that the United States and Haiti "have decided to conclude an additional act to this Convention, with a view

to facilitating a prompt realization of the loan and to offer to the capitalist the serious guarantee which they claim of an uninterrupted stability indispensable to the development of the wealth of the Republic of Haiti". The Department would be well founded in maintaining, should that be its desire, that these provisions require it to insist upon the integral maintenance of the Treaty Services in order to maintain uninterrupted stability indispensable to the development of the wealth of the Republic of Haiti, which was one of the conditions on which, in a time of great financial difficulty for Haiti, the capitalists of this country loaned them the money indispensable for the reorganization of Haiti's finances and the founding of its present economic stability and progress.

The Department, however, is animated by the sincere desire to help Haiti obtain its desire for greater control of its own Governmental operations and to this end is willing to turn over many of these functions to the Haitian authorities. The good faith of Haiti and of the United States to third parties will not permit, however, any change in the Customs Receivership.

The Guard: Articles V and X of the Treaty of 1915 obligate Haiti to maintain a constabulary organized and officered by Americans, these officers to be replaced by Haitians as the latter are found by examination, conducted under direction of a board selected by the senior American officer of the constabulary, to be qualified to assume such duties. The determination of the Haitianization of the Guard must therefore be left to the discretion of the American authorities. The Department understands that the schedule of Haitianization set forth in your note of January 23, 1931 ²⁴ to the Haitian Government represents the considered views of the American military authorities in Haiti. The Department is therefore willing to accept this scheme of Haitianization which should be most gratifying to the Haitian authorities as it represents a more rapid Haitianization than was recommended even by the President's Commission to Haiti a year ago.

Public Health: The Department will be willing to have the whole public health service, outside of Port au Prince and Cape Haitien, turned over at once to the Haitian authorities. The American Director General of this service will therefore have complete charge of all sanitation matters in the two cities mentioned. The Haitian Co-Director would have exclusive authority outside of those two districts. Of course, he might, if he desired, ask the American Director General for suggestions and help which the American Director would be glad to give, but only upon request. You will point out to the Haitian authorities that in tropical countries one of the essentials is sanitation and public health, and that while the American Treaty Officials

²⁴ Not printed.

and others, and its Marine forces remain in the cities mentioned, it is essential for their protection that the sanitation of those districts be under American direction. The Department is perfectly willing that Haitians should endeavor to carry out the sanitation of the rest of the Republic.

Public Works: The Department is willing, in accordance with the recommendation made in your telegram No. 9 of February 7, 11 a. m. to turn over the whole public works service to the Haitian authorities. If the Haitian authorities desire to enter into contract with two or three American civilians for technical assistance, the Department would of course have no objection but would want this to be a private contract between the individuals in question and the Haitian authorities, a contract for which this Department would assume no responsibility.

Service Technique: The Department notes that the Haitian Government approves the principle of the division of the Service Technique into two distinct branches. One branch would comprise urban and rural primary instruction and professional instruction, and the other branch, agricultural and experimental stations. The Department is willing that the first section, namely the educational branch, should be turned over immediately to Haitian direction, the American teachers already engaged in Haiti of course being retained or else paid their salaries through the present scholastic year. The Central School at Damien would of course be included in the section turned over to the Haitians.

Mr. Colvin to be appointed without delay Director General of the agricultural and experimental stations with salary as of July 1, 1930. On January 1, 1932 this service would also be turned over completely to the Haitians. If the Haitian Government desires to retain American civilians under private contract as experts in agricultural matters, this is of course a matter for them to determine.

The above scheme is an integral whole with the new Treaty and will be put into effect immediately by this Department as soon as the new Convention is approved by the Haitian legislative body and Mr. Colvin has been appointed.

The Department requests your opinion as to whether it would be desirable either by adding a clause to the proposed treaty or by a separate agreement to provide that a portion of the present surplus in the Treasury of the Haitian Government be applied to the reduction of the existing bonded debt.

You will of course understand that the Haitianization program set out above represents what the Department is eventually willing to come to. The Department feels that you should not tell the Haitians immediately the full amount that the Department is willing to concede

but should reserve certain points for concession in the negotiations as, for instance, the giving up of the collection of the internal revenues.

A strong point in favor of the cancellation of the remainder of the \$40,000,000 bonds proposed by the Protocol of 1919 is that any bonds hereafter to be issued would have to be 30 year bonds under the Protocol and their issuance would necessarily prolong the financial control.

The draft Convention is as follows:

"Preamble. The United States and the Republic of Haiti desiring to confirm and strengthen the amity existing between them by the most cordial cooperation in measures for their common advantage;

And the Republic of Haiti desiring to maintain the present sound condition of its revenues and finances, and to maintain the tranquillity of the Republic, and to this end to reaffirm the effective control by the Financial Adviser-General Receiver over the financial services so long as any of the bonds are outstanding, in order adequately to protect the interests of third parties who have become creditors of Haiti on the faith of the provisions of the Treaty signed at Port au Prince on September 16, 1915, and of the Protocol for the Establishment of a Claims Commission signed at Port au Prince on October 3, 1919;

And the United States being in full sympathy with all of these aims and objects and desiring to contribute in all proper ways to their accomplishment, as well as to promote harmonious relations between the United States and Haiti by relinquishing control over the non-financial treaty services, except the constabulary;

The United States and the Republic of Haiti have resolved to conclude a Convention with these objects in view to take the place of the Treaty signed at Port au Prince on September 16, 1915, and have appointed for that purpose, Plenipotentiaries,

The President of the United States, (blank)

And the President of the Republic of Haiti, (blank) who, having exhibited to each other their respective powers, which are seen to be full in good and true form, have agreed as follows:

ARTICLE I

The Government of the United States will, by its good offices, aid the Haitian Government in the maintenance of the finances of Haiti on a firm and solid basis. To this end it is agreed by the High Contracting Parties that no further issues of the national loan of \$40,000,000 gold authorized in the Protocol for the Establishment of a Claims Commission, signed at Port au Prince October 3, 1919, shall be issued.

ARTICLE II

Same as Convention of 1915 with addition of the following sentence: It is agreed that the offices of General Receiver and Financial Adviser will be occupied by the same individual.

ARTICLE III

Same as Convention of 1915.

ARTICLE IV

Same as Convention of 1915 omitting the words 'upon the appointment of the Financial Adviser'.

ARTICLE V

Same as Convention of 1915.

ARTICLE VI

Same as Convention of 1915.

ARTICLE VII

Same as Convention of 1915.

ARTICLE VIII

Same as Convention of 1915 but add following paragraph:

It is further agreed by the two High Contracting Parties that until all the outstanding bonds issued under the provisions of the Protocol for the Establishment of a Claims Commission, signed at Port au Prince on October 3, 1919, shall have been retired, no bills appropriating money beyond the amount set forth in the budget approved by the Financial Adviser shall be enacted into law except upon agreement between the two Governments.

ARTICLE IX

Same as Convention of 1915.

ARTICLE X

Same as Convention of 1915.

ARTICLE XI

Same as Convention of 1915.

ARTICLE XII

Same as Article XIV of Convention of 1915.

ARTICLE XIII

Same as Article XV of Convention of 1915.

ARTICLE XIV

All acts of the Government of the United States during the presence of its military forces in Haiti are ratified and validated.

No Haitian can be subject to civil or criminal prosecution for any act executed by virtue of the orders of the representatives of the United States or under their authority.

The acts of the courts martial of the military forces of the United States will not be subject to revision, without however abridging the right of pardon.

ARTICLE XV

The present Treaty shall remain in full force and virtue only until all the outstanding bonds issued under the provisions of the Protocol for the Establishment of a Claims Commission, signed at Port au Prince on October 3, 1919, shall have been retired.

ARTICLE XVI

Upon the coming into force of this Convention the Treaty signed at Port au Prince September 16, 1915, shall cease and determine.

In faith whereof, the respective Plenipotentiaries have signed the present Convention in duplicate, in the English and French languages, and have thereunto affixed their seals.

Done at (blank), the (blank) day of (blank) in the year of our Lord one thousand nine hundred and thirty-one."

STIMSON

838.00/2943 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, March 30, 1931—noon.

[Received 11:20 p. m.²⁵]

25. Department's telegram No. 18, March 26, 7 p. m. While I am entirely in accord with the Department's view that the non-financial services should be rapidly turned over to Haitian control and that the future status of the financial services should be settled as soon as possible, I feel that there are grave objections from our standpoint to several details of the procedure which the Department has in mind. Since the matter is extremely complicated I think it would be very helpful if I should discuss it personally with the Department before final action is taken. I feel especially that it would be difficult to justify a demand that a new convention be ratified before a plan of Haitianization is put into effect. While I have made it clear throughout the negotiations that the final result would have to be submitted to the Department for approval I have felt that [I had?] the Department's justification in making rather definite commitments on particular points and the Haitian Government having before it a general statement of what we would expect in regard to each service has relied on these commitments in settling controversies which have arisen. I feel therefore that our good faith is involved and that I personally should be very much embarrassed if I had to bring forward new demands before winding [*returning?*] to the present negotia-

²⁵ Telegram in three sections.

tions. Furthermore the local situation which is still very delicate makes it highly desirable to announce a general plan and put into effect immediately some concrete measures of Haitianization.

I believe that a new convention in the form proposed would encounter violent opposition and that it would be unsatisfactory from our point of view. The intense feeling here about the present treaty would make it much more difficult to obtain acceptance of new treaty repeating most of the old articles, than to obtain acceptance of another treaty which gave us the same authority but in different language. There would be a decided advantage from our point of view in redrafting the provisions about financial control because the present provisions are subject to very great interpretations and their language is inadequate to meet the situation which will exist under an elected congress. Furthermore, I feel strongly that it will be impracticable and unnecessary as we give up our control of other activities here, to maintain the complete financial control now exercised and that the interest of the bondholders can be amply secured by a different arrangement.

I do not think that we shall materially weaken our plan in negotiating a new convention if we conclude the present plan of Haitianization first. The relinquishment of the control of the revenues would be a sufficient inducement to persuade the Haitian Government to accept almost any reasonable new arrangement. Furthermore I cannot too strongly emphasize the fact that it is inadvisable in dealing with the Haitian Government to appear to bargain for what we must insist upon as a right. If there is any suggestion of bargaining instead of simply stating what we can do and what we must insist upon, the negotiations will be immeasurably more difficult.

I should recommend, therefore, that the Department instruct me to proceed by airplane to Washington, with the Financial Adviser, about April 12th, and to endeavor to conclude before that date an accord on Haitianization, the general details of which the Haitian Government could announce informally. This would also give us time to deal with the exceedingly urgent and critical question of the budget. I could then state that I was proceeding to Washington to lay the Haitianization plan before the Department for final approval and also to obtain instructions regarding the new accord on the financial service. I think that my visit to Washington should be as brief as possible and I will be prepared to expedite matters by having a concrete plan to lay before the Department on my arrival. If the Department approves this recommendation I hope advance instructions may be sent to me at once so that I can make suitable preparations. In the meantime I hope that the Department will reply further to my telegrams number 17 of March 11th, 1931 and number 18 of March 14th, 1931.

With regard to the commissioning of customs employees it seems to me that it is unnecessary to insist upon a literal application of article II of the treaty at present when as a matter of fact during the last 15 years we have ourselves observed literally the provisions of this article, apparently interpreting it to apply only to the highest American officials in the service. It would be obviously important [*impossible?*] to apply it to all aids and employees down to clerks and office boys and it would be inadvisable in my opinion to apply it to Haitian aids of any rank since the President of the United States should hardly assume responsibility for the [appointed?] Haitians. At present the Haitian employees are appointed and removed by the General Receiver without reference to article II.

The proposed change would permit the more important of these to be commissioned by the President as are many Haitian officials in other treaty services but would not materially affect the General Receiver's control over them. The proposed arrangement is certainly no more inconsistent with the treaty in force than the existing arrangement and while the change means nothing to us it would give the Haitian Government much satisfaction.

MUNRO

838.00/2943 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, March 31, 1931—1 p. m.

21. Your 25, March 30, noon. April 12 would be a convenient time for you and the Financial Adviser to come to the Department and you are hereby instructed to come to Washington at that time accompanied by Mr. de la Rue.²⁶

The Department of course would be glad to have you continue your conversations with the Haitians in order to lay before it when you come up as fully as possible their point of view. The Department, however, can not authorize you to enter into any agreement such as is quoted in your telegrams No. 17 and 18.²⁷ The second sentence in the clause quoted in your telegram No. 17 apparently means a complete Haitianization in due course of the entire personnel except the General Receiver. This is inconsistent with Article II of the Treaty which provides specifically that "such aids and employees as may be necessary" are to be appointed upon nomination of the President of the United States. An agreement now completely to Haitianize these Services admits in advance that after 1936 there will only be one American official to collect the customs. As set forth in its No. 18 of

²⁶ Sidney de la Rue, Financial Adviser-General Receiver of Haiti.

²⁷ Dated respectively March 11, 10 a. m., and March 14, 11 a. m., pp. 425 and 426.

March 26, 7 p. m., the Department can not agree to any arrangement under which the fiduciary obligations of the United States toward the beneficiaries of the bonds are impaired and that the proposed Convention must contain a recognition and reaffirmation by Haiti of the effective control of the Financial Adviser-General Receiver over the financial Services, such control to continue so long as any of the bonds are outstanding.

Furthermore, the Department is inclined to feel that your task in negotiating the new Convention will be far easier if Haiti still has something to gain by it and is not merely called upon to give something to the United States, namely an effective continuance of financial control. The Department feels that this can be done without bargaining merely by stating what the United States is willing to do and standing on that ground, but there must be some inducement to the Haitian Government or it will not conclude the Convention. If the Haitianization is all agreed upon in advance, the Department fears that you will have great difficulty over the Convention.

The Department desires therefore that you discuss fully with the Haitian Government its point of view on all outstanding matters but that you do not make any definite commitments until after you have had an opportunity to discuss the matter fully with the Department.

STIMSON

838.00/2947

The Minister in Haiti (Munro) to the Secretary of State

No. 94

PORT-AU-PRINCE, April 4, 1931.

[Received April 13.]

SIR: I have the honor to refer to my despatch No. 73 of February 26, 1931, and to report that my conversations with the Minister for Foreign Affairs regarding the Haitianization of the Treaty Services have continued since that date. I feel that we have made fair progress toward a final accord although the discussions have repeatedly been interrupted by other troublesome questions arising between the Government and the Treaty Services. These questions, which have for the most part been provoked by the Secretary of State for Finance and for Public Works, Mr. Thoby, have not only caused us to lose much valuable time, but have also tended to create an atmosphere unfavorable to a frank and friendly discussion of the general problems of the Treaty Services. Nevertheless, Mr. Sannon and I have reached a tentative agreement regarding the Public Works and Public Health Services and have thoroughly discussed the problems of the Financial Services and the Garde. I have been hoping, before the receipt of the Department's recent instructions, that it would be possible to conclude the entire agreement early in the present month.

In the Public Works, Mr. Sannon finally accepted the program suggested by the Engineer in Chief with regard to the Services at Headquarters in Port-au-Prince. Under this program, Haitian engineers would be appointed directors of irrigation and public buildings immediately; of telegraphs and telephones and of roads during 1931; and of municipal engineering, shops supply and transportation, and cadastre, during 1932. Haitian engineers would also be placed in charge immediately in all districts and departments, with the possible exception of Jérémie.

The question of the American inspectors resident near the departmental offices caused much difficulty. Mr. Sannon insisted that there would be no real Haitianization of the Service so long as these inspectors continued to reside in their districts and to exercise a virtually complete control over every action of the Haitian engineers. I could not but feel that there was much force in his arguments and that a continued insistence upon maintaining so close a supervision over the Haitian engineers in the field was unnecessary in view of the rapidity with which we have contemplated Haitianizing the whole Service. After several discussions with the Engineer in Chief, the latter said that he would feel justified in withdrawing the inspectors to Port-au-Prince, provided that he were relieved of personal responsibility for their management of funds. It was a little difficult to find a formula on this point which was not objectionable to the Haitian Government, but I finally proposed a statement reading as follows, which Mr. Sannon indicated his readiness to accept:

"While the Engineer in Chief shall continue to exercise the authority conferred upon him by existing laws and agreements to supervise and control the Public Works Service, it is the intention of the two Governments that the Haitian Departmental and District Engineers should be responsible for the execution of the work confided to them by the Engineer in Chief so far as is compatible with the latter's general supervisory authority. To this end the Departmental and District Engineers shall be personally responsible for the expenditure of funds entrusted to them and the Engineer in Chief while retaining full authority to examine their accounts and to take such steps regarding those accounts as he may deem necessary for the proper administration of the Service, shall not be personally responsible for the correctness of expenditures made under their direction".

I informed Mr. Sannon that an arrangement of this nature would make it possible to withdraw the inspectors not later than the end of this calendar year. The Engineer in Chief will, therefore, of course continue to make such inspections as he deems proper through inspectors sent out from the main office at Port-au-Prince.

During the conversations, Mr. Sannon again raised the question of the non-commissioned American employees, the legality of whose presence in the Public Works organization has never been admitted

by Mr. Thoby. I informed Mr. Sannon that five of these employees, out of eleven who had been on the rolls last November, had already left, and that the other six would leave as the requirements of the Service permitted. I said, however, that I was very much indisposed to enter into any discussion with him on the question of these employees because of the way in which it had originally been brought up by Mr. Thoby and because I had understood that the question had been satisfactorily settled in our informal discussions last December when I had informed him that five of the employees were to be dismissed. I pointed out that it would have been easy to settle the matter by friendly discussion in the first place, but that a peremptory order couched in objectionable language to dismiss a large number of essential American employees in one of the Treaty Services was not the way to bring about Haitianization. Mr. Sannon dropped the matter for the time being but stated that he would return to it later. While I have considered it advisable under present circumstances to assume a somewhat unsympathetic attitude on this point, I think that we shall be able to eliminate several more of these non-commissioned employees before very long and subsequently to reach a satisfactory understanding with the Government regarding the remainder.

In discussing the Public Health Service, Mr. Sannon showed a rather surprising lack of interest in any real measure of Haitianization. I was able to accede to his proposal that Haitian assistants be appointed not only in the general administration and in the Haitian General Hospital, but also in the health center and the sanitary office at Port-au-Prince and the insane asylum at Pont Beudet. With the acceptance of this proposal, which will enable the Government to say that Haitian doctors are being trained to assume all of the principal positions now occupied by Americans, Mr. Sannon seemed entirely willing to follow the ideas of the Director General of the Public Health Service regarding the appointment of Haitian doctors in the provinces and particularly to leave American doctors in charge of Gonaïves and Cayes until the sanitation projects in those cities are completed. The Public Health Service is the object of very little criticism and its work is in general highly appreciated. Furthermore, there is apparently little desire on the part of Haitian doctors to obtain positions in the provinces so that the political considerations, which impel the Government to seek to obtain full control of the Treaty Services, are not quite so evident.

In connection with the Financial Service, Mr. Sannon was profoundly disappointed that it was not possible for him to obtain any concrete agreement regarding the process of Haitianization. I told him that I could accept his proposal to separate the land title registry from the Bureau of Contributions, but that I could not assume any

engagement whatever regarding the replacement of Americans by Haitians in specific positions in the Customs Service and the Internal Revenue Service. When Mr. Sannon advanced legal arguments to show that the Internal Revenue Service was in an entirely different position from the Customs Service and that the Government was under no obligation to accept American control in the Internal Revenues, I pointed out that this was a matter which would entail long study and discussion and that it would be better in the interest of an early agreement on other points to leave it until we took up the special accord regarding the study of the Financial Service after 1936. Mr. Sannon said that this might be acceptable provided that there was some assurance that the special accord would be concluded in the very near future and also that further measures of Haitianization in the Financial Service would be considered when the special accord was drawn up. He, therefore, proposed the following formula, which I submitted to the Department by cable on March 11, 1931:

"In order to assure the service of the interest and amortization of the loan of \$40,000,000. issued in series, the high contracting parties declare themselves ready to conclude (insert here a period of time) a special accord on the basis of Article 8 of the Protocol of October 3, 1919. They agree to Haitianize by the same accord those services under the Financial Adviser-General Receiver which shall not have been Haitianized by the present general accord".

In connection with this formula, I pointed out to him that we could not in any event consider the immediate Haitianization of any great number of the activities of the Financial Adviser-General Receiver, or the complete Haitianization of the Service at any time before the final payment of the bonds. He said that he fully understood this, but that the point which he wished to make was that the office of the Financial Adviser-General Receiver as constituted by the Treaty would cease to exist in May 1936, and that any new organization which might be created by the special accord would have different and restricted functions so that the functions of the present office should be Haitianized in the meantime. I made it clear that I thought that the functions of the new office might not be so restricted as he thought, but said that I saw no objection to contemplating the gradual Haitianization of any activities of the Financial Adviser-General Receiver which would not be carried on under the new office. As I informed the Department in the cable referred to, I felt that the language of Mr. Sannon's formula would require modification but I transmitted it as made by him in the hope that the Department would draft an acceptable counter-proposal.

Mr. Sannon was very insistent that the Government must have something to announce in connection with the Haitianization of the Financial Service. He said that it would materially assist the Government

in presenting the Haitianization accord to the public if we could at least agree to the commissioning of the customs personnel. He pointed out that the American High Commissioner in 1924 had formally requested Presidential commissions for all of the principal employees of the Customs Service, both American and Haitian, and that commissions had been issued. There were, however, a number of employees at present who had been appointed since that date and who had not received commissions and the Government felt that the appointment of these employees without reference to it was an irregular procedure.

Upon looking into the matter, I found that the commissions issued in 1924 had never been delivered to the employees because their form was considered unsatisfactory. The Financial Adviser-General Receiver has continued since that time to appoint and remove all employees except the Deputy General Receiver without reference to other authority. After discussion with Mr. de la Rue, I informed Mr. Sannon that I would submit the following formula to the Department provided that it was acceptable to him. He said that he would accept it:

"The President of Haiti will issue commissions to Haitian employees occupying positions of authority and trust in the Customs Service upon the recommendation of the General Receiver. The form of these commissions will be agreed upon by the Minister of Finance and the General Receiver. If the service of a commissioned employee should not be satisfactory or if his removal should be deemed necessary for other reasons, the General Receiver will terminate his services and will at the same time recommend such action as he considers advisable regarding his replacement, making a temporary appointment if necessary until a new commission is issued".

Mr. Sannon has frequently inquired whether I had received replies to the cables in which I submitted the above proposal and the proposal regarding the special accord for the Department's consideration. I have found it increasingly difficult to give him satisfactory replies and I fear that the Haitian Government may at any time avail itself of this delay as a pretext to inform the public that the Department is delaying the Haitianization negotiations. There has been much bitter criticism already regarding the length of time which has elapsed between the inauguration of the new Government and the conclusion of an accord regarding Haitianization, and the Government has continually sought in self defense to throw the blame for the delay on our shoulders. I should not take the matter seriously except for the fact that there is a spirit of uneasiness and distrust among the people as a whole, which has been greatly aggravated by the failure to announce a definite plan of Haitianization and which may at any time find expression in more or less violent popular demonstration against our continued occupation of Haiti.

Mr. Sannon and I are at present discussing the plan for the Haitianization of the Garde. This subject has been made somewhat more difficult by the fact that President Vincent himself, who has taken a great interest in the Haitianization of the Garde, had personally presented a counter-project providing for complete Haitianization by 1934. A translation of this counter-project and a copy of the report of a special board convened by the Commandant of the Garde to study it, are transmitted herewith.²⁸

Before undertaking to discuss any particular project, I spoke very seriously to the Minister for Foreign Affairs about the conditions which have threatened to affect the morale and efficiency of the Garde since the inauguration of the new administration. I pointed out that any plan which might be agreed upon would represent a minimum of the Haitianization which we proposed to effect, but that every effort would be made to run ahead of the plan provided that the conditions surrounding the Garde made it possible to do so with safety. I said, however, that the criticism of the Garde emanating from high officials of the Government, the attitude of the Minister of Justice in seeking to hamper the Garde in its right to make arrests, and the sharp decrease in the percentage of convictions in the local courts, had all tended to discourage the Garde in the performance of its duty and to affect its morale and efficiency to an extent which made it very difficult to train and promote Haitian officers. I pointed out that the first requisite was to maintain the Garde in such condition that there could be no danger that the Marine Brigade would be called upon to assist in maintaining order, and that I was not prepared to consider any program of Haitianization which might produce such a danger or which might cause the withdrawal of the Marine Brigade to be delayed. There appears to have been a marked improvement in the attitude of the Haitian authorities toward the Garde since this conversation.

We have recently been discussing in detail the plan prepared by the Commandant of the Garde and submitted by the Legation. I have endeavored to impress upon Mr. Sannon by reference to individual cases the impossibility of promoting officers with sufficient rapidity to carry out a more rapid Haitianization. I believe that he is personally convinced at the present time that the plan submitted to us should be, or at least will have to be, accepted.

Mr. Sannon said that the Government would find it very difficult under any conditions to accept a table which showed that thirty-four American officers would not be dropped until the very day of the expiration of the Treaty. I proposed, therefore, that we prepare a plan which would show the rate of Haitianization up to January 1,

²⁸ Report of special board not printed.

1935, with a general statement that American officers still remaining in the Garde would be replaced as rapidly as possible after that date and at any event before the expiration of the Treaty. I also submitted a draft of agreement which shows the process of Haitianization in somewhat clearer form than the tables which we have hitherto been discussing, as the latter proved extremely difficult to deal with. A copy of this draft is transmitted herewith. It will be noted that it contains slight changes from the table in the Forbes report, since the Haitianization of the Garde has been proceeding in the meantime more rapidly than the Forbes report contemplated. I may say that I have not considered it advisable, in view of the fact that the time remaining before 1936 will be rather too short in any event for the proper training of the Haitian officers, to delay the Haitianization of the Garde pending the discussion of the agreement.

The negotiations above referred to have consumed a very great amount of time. We have wasted hours discussing points of minor importance and it has often taken several days of argument to convince the Government that concessions on more important points were impossible. I think that Mr. Sannon and the President are on the whole disposed to accept the program which we have proposed, but their failure to obtain more sweeping and immediate changes has unquestionably been a disappointment to the more ardent Nationalists and to public opinion as a whole.

Respectfully yours,

DANA G. MUNRO

[Enclosure 1—Translation]

The Haitian Secretary of State for Foreign Affairs (Sannon) to the American Minister (Munro)

NOTE

In reference to the letter of January 23rd from His Excellency the American Minister and to the plan submitted for the Haitianization of the Garde d'Haiti,²⁹ the Secretary of State for Foreign Affairs has the honor to submit the enclosed counter-project, prepared by His Excellency the President of the Republic.

PORT-AU-PRINCE, February 9, 1931.

[Subenclosure—Translation]

Observations on the Plan Presented by the Legation of the United States of America

1. The outstanding idea of the plan is that the American officers should retain until 1935 their dominance in the Garde d'Haiti, with-

²⁹ Neither printed.

out giving to Haitian officers in the interim, an opportunity to familiarize themselves during a reasonable period, with their future military duties or to be trained to exercise a command.

On the other hand, complete Haitianization can be effected in 1934 by a proper arrangement of these same elements. It is only necessary that the promotions be made in such a manner that the standing of the Haitian officers benefiting thereby be not diminished in any way.

That is precisely what is established by the plan drawn up by the President of the Republic.

2. According to the table for progressive Haitianization presented by the Legation of the United States, if the departure of American Garde officers is to take place in 1935, nothing would be changed up to that time; that is, the Corps would remain as it is today, not only with regard to the superior grades but also the subordinate grade of captain.

The table only provides for the promotion of four Haitian first lieutenants to the rank of captain during the period January 15, 1931, to December 31, 1935. It, therefore, appears that on the 31st of December, 1935, there would still be fourteen Haitian first lieutenants, of whom some would have been lieutenants for nearly five years, stagnating for an average of seven years in the same grade.

3. Moreover, it is astonishing to note that only one Haitian major is provided for in the table for the end of December, 1932, when at the time of Haitianizing of the Military Department of the Center, on December 4, 1930, it was announced that this Department was being placed under the command of Major Calixte. Unless [*Thus?*] the Major Calixte presented as such in December, 1930, wearing all the insignia of this rank, signing official documents in that capacity, has not yet, in reality, the rank of major,—which it is rather difficult to understand.

It must be added that the President of the Republic, after the solemn ceremony of December 4, 1930, expected to sign the commission of Captain Calixte as major, but he is still waiting for this commission to be presented for his signature. According to the indications of the table, it would appear that the major of 1930 will only be really a major at the end of December, 1932, as it is only on this latter date that the first Haitian major of the Garde is provided for. In any case, it is not apparent what objection there could be to Major Calixte, who it appears is only a provisional major, being made a permanent major immediately, as his superiors have had enough confidence in him to give him the command of an entire military department.

4. The present students of the Military School will be ready in July, 1931, to replace the American second lieutenants as well as the American second lieutenants who will be made first lieutenants, except-

ing for the twelve Haitian second lieutenants who will remain in that grade.

To effect the Haitianization of the Garde in a normal and efficient manner within the period provided for in our counter-project, namely in 1934, it is only right to return to the Marine Corps all of the sergeants of that organization who are now Garde officers. This would bring about a compliance with the terms of Article X of the Treaty of 1915, which provides only for American officers for the organization of the Garde, and not for non-commissioned officers, namely, the Marine Corps sergeants who are now members of it in the capacity of officers. Among the officers of this category, of whom some have been serving in Haiti for nearly sixteen years, there are six with the rank of captain in the Garde. By replacing them with six Haitian lieutenants chosen from the most deserving, we obtain the figure of ten Haitian captains, included in the table accompanying our counter-project.

MEDICAL SERVICE

5. The Medical Service of the Garde d'Haiti can be Haitianized immediately, as the graduate doctors who are to form the service can be furnished by the Service d'Hygiène, of which the Medical School has been a part for some time.

Aside from the Colonel at the head of this Service, the four majors, and perhaps the captain, the Haitian Government has never been informed that the first and second lieutenants were holders of a regular diploma from an American medical school which authorized them to practice medicine. It is probably this lack of diplomas by the American officers which explains the fact that two Haitian doctors, Dr. Perez and Dr. Alexandre, were able to enter this service with the rank of captain.

In the case where the first and second lieutenants are not graduate doctors, but rather mere nurses or pharmacists, would it not be a further reason for replacing them immediately by regularly qualified Haitian doctors already having had some experience in the practice of their profession; doctors who can be taken either from the Service d'Hygiène or from the many other graduate doctors practicing in civil life, who would willingly accept a post in the Medical Service of the Garde?

The Colonel could be retained as adviser to the service until 1934.

COAST GUARD SERVICE

To provide for the Haitianization of this service within the period established, four scholarships could be created immediately for four

young Haitians, who, on examination, would be sent to some foreign naval school.

These four Haitians, on their return, would replace the American officers in this service.

GARDE D'HAÏTI

GENERAL ORGANIZATION

In the general organization of the Garde d'Haïti, which is destined to become the future military force of the country when it shall have been restored in its sovereign rights, it is most essential to take into consideration the experience of our entire history in the connection and to make provisions so that the new Haitian army shall be solely the guardian of public order and of the stability of the Government.

The function of the army in maintaining internal order must be the primary consideration in the present preparation of a military system.

In order that the army shall retain exclusively this function, the General Staff of the Garde d'Haïti must be so constituted that the direction and the effective command thereof shall be delegated to a Council of Superior Officers, operating under certain determined conditions, rather than to a single commander, who at a given moment might be tempted to have political ambitions, and to use the force at his disposal to realize them, through a *coup d'état* or a *pronunciamiento*.

It is primarily in this light that the President of the Republic has worked out a plan for a general organization which he résumés as follows:

I. Military organization.

II. Administrative organization.

I. Military Organization

Council of Directors, composed of seven colonels, inspectors of the Garde.

The council to be presided over by one of the members, designated annually by his colleagues through an election, and appointed by the President of the Republic for a period of two years.

The colonel, who shall be president of the Council of Directors, to fill the post of Chief of Staff of the Garde. He shall retain his rank of colonel and wear simply some distinctive insignia.

The Chief of Staff shall attend the meetings of the Council in a consultive, not in a deliberative character. He shall execute the decisions of the Council after they have been approved by the President of the Republic.

The President of the Republic shall preside once a year over a special meeting of the Council of Directors of the Garde, at which meeting the events of the year shall be reviewed.

In the event of disorders requiring military operations, the President shall delegate his powers as Commander in Chief of the Army, either to the Chief of Staff, or to any other colonel, a member of the council of seven.

This delegation of authority shall terminate at the end of the military operations in question, or even during them, for reasons of which the President of the Republic shall be the sole judge.

During periods of disorder, the Council shall meet under the presidency of the President of the Republic, to take any measures called for by the situation, and the decisions shall be communicated for execution to the Chief of Staff or to the colonel who shall have been indicated, as above, for the conduct of operations.

Functions of the Council. Inspection of the troops. Promotions. Decisions in all questions of discipline. Preparation and modifications in the regulations. Troop movements. Transfer of garrisons. Changes of commands. Organization and supervision of the military school. Regulations of that school. Question of effectives. Recruiting. Retirement. Reserves. Organization of the Medical Service.

II. Administrative Organization

Commissariat. The commissariat shall be a civilian service in charge of a director responsible directly to the Minister of the Interior and not to the Council of the Garde.

Functions. Munitions. Equipment. Foodstuffs. Rations. Paymaster. Supplies in general. Munitions shall only be delivered on the requisition of the Chief of Staff, approved by the Minister of the Interior.

The Chief of Staff shall approve all other requisitions sent to the commissariat to be filled.

General regulations shall be prepared to fix precisely the relations between the military organization and the commissary service.

COUNTER-PROJECT

NOTES ON THE TABLE FOR THE HAITIANIZATION OF THE GARDE

1. If the Haitian contingent is not very large at present, it is because the Garde d'Haiti has not been organized in accordance with the spirit of the Treaty. It has been forgotten that this organization was to have been arranged so as to provide for the replacement of American by Haitian officers throughout the period of ten years provided for

the duration of the Treaty. This circumstance, for which Haitians are not responsible, does not permit of an immediate Haitianization of the grades of first and second lieutenants, but it does not preclude the organization of the following military personnel by the end of 1931, utilizing the forty-five second lieutenants who are to leave the military school next July.

2 majors
10 captains
27 lieutenants
40 second lieutenants
14 aspirant officers

2. The rank of Aspirant officer will be abolished in 1932, as this title generally indicates the cadets of a military school and, consequently, does not constitute a grade.

3. In July, 1931, the military school shall have at least seventy-five cadets, so as to have at the end of 1932:

2 majors
15 captains
60 lieutenants
69 second lieutenants

4. In July, 1932, with a new class of fifty cadets in the military school, the Haitianization of the ranks of the Garde toward the end of 1933 will be provided for as follows:

2 colonels
7 majors
23 captains
60 lieutenants
69 second lieutenants

5. Toward the end of 1934, the Garde shall be entirely Haitianized, through the appointment of three new colonels and two new majors, so that at that time the staff of superior officers shall be complete.

6. At this time, the Commandant of the Garde and the Assistant Commandant, to whom three other American officers shall be attached, shall constitute, following an accord with the Haitian Government, a special military mission, with the rôle of observers, and when necessary, they may present through the Government suggestions for the proper conduct of the service.

The Government expects the immediate Haitianization of the district of the National Palace. Here all the elements of Haitianization are united. None is lacking.

If the military Department of the Center, one of the furthest removed from the surveillance of the central military authority, could be Haitianized, it is certain that the district of the National Palace

should already have been, since it is under the eyes of the said military authority which can exercise a constant surveillance, and as besides, it is only separated by regulation from the most important Military District, that of Port-au-Prince. [Here follows "Table of Progressive Haitianization of the Garde d' Haiti," not printed.]

[Enclosure 2]

*Draft of Agreement Submitted by the American Minister (Munro)
Regarding the Haitianization of the Garde d'Haiti*

1. The American Officers now serving in the Garde d'Haiti will be replaced as rapidly as practicable by Haitian Officers to the end that the Garde may be commanded entirely by Haitian Officers before the expiration of the Treaty.

2. Since both Governments consider it essential that the process of Haitianization should be carried out in such a manner as to insure the proper training and efficiency of each officer who is placed in a position of responsibility and to insure the maintenance of efficiency and discipline of the Garde as a whole, they have not considered it advisable to adopt a rigid program for the Haitianization of specific activities of the Garde. It is contemplated, however, that the plans which are now under way for the Haitianization of the Department of the West, with headquarters at Gonaïves, and subsequently of the Department of the South, with headquarters at Cayes, should be carried out as rapidly as practicable provided that conditions of public order in those Departments and conditions of administration and discipline in the Garde itself make it possible and practicable to continue with these plans.

3. The following promotions of Haitian Officers will be made in the Garde d'Haiti during 1931, and each of the three years thereafter. The figures indicate in each case promotions to the ranks indicated:

In 1931, one Major, two Captains, fifteen First Lieutenants, seventeen Second Lieutenants, and twenty-nine Aspirant Officers, in the Line and Quartermaster Department; two First Lieutenants and four Second Lieutenants in the Medical Service.

In 1932, one Colonel, one Major, three Captains, seven First Lieutenants, ten Second Lieutenants, and seven Aspirant Officers, in the Line and Quartermaster Department; one Major, one Captain, one First Lieutenant, one Second Lieutenant in the Medical Service.

In 1933, one Major, two Captains, four First Lieutenants, seven Second Lieutenants, and thirty Aspirant Officers, in the Line and Quartermaster Department; six Second Lieutenants in the Medical Service.

In 1934, one Major, one Captain, four First Lieutenants, six Second Lieutenants, and five Aspirant Officers, in the Line and Quartermaster Department; one Captain, three First Lieutenants, one Second Lieutenant in the Medical Service.

4. The preceding paragraph indicates the minimum number of Haitian Officers to be promoted, but every effort will be made to increase the number promoted during each year to the end that the Garde may be placed under the command of Haitian Officers at the earliest practicable date. The American Officers remaining in the Garde on January 1, 1935, will be replaced by Haitian Officers as rapidly as practicable thereafter, in order to make possible the withdrawal of all American Officers not later than the date of the expiration of the Treaty.

838.00/2951

Memorandum by the Assistant Secretary of State (White)

[WASHINGTON,] April 22, 1931.

PROPOSED PROGRAM IN HAITI

As soon as he returns to Haiti Mr. Munro will at once resume negotiations on the Haitianization plan.³⁰ This plan is nearly completed and it is understood will be as follows:

Public Works:

Mr. Munro will conclude the negotiations now nearly terminated regarding the Public Works Department, it being understood, although he will not so advise the Haitians immediately, that the Public Works Service will be completely Haitianized not later than January 1, 1932. Mr. Munro will be at liberty to turn over the whole Public Works Department to the Haitians any time after his return to Haiti that he thinks advisable.

Sanitation:

Mr. Munro will work out at once the administrative details in order to permit complete Haitianization of the Public Health Service with the exception of the Public Health Services in the cities of Port au Prince and Cape Haitien. This will mean an allocation by the Director of the Public Health Service of the budget to show just how much is expended by the two cities in question. This amount will be retained by him and the balance turned over to the Haitian authorities.

³⁰ In telegram No. 26, April 24, 7 p. m., the Secretary informed Mr. Munro that he might proceed with his negotiations on the basis of the program and draft convention drawn up and discussed with him on April 22 (838.00/2956a).

The sanitation of the towns of Gonaïves and Cayes has not yet been accomplished. Mr. Munro will therefore suggest to the Haitians that they permit the completion of this work. If the Haitians wish that done, it will be done; if not, the scheme above set forth will be followed.

Service Technique.

The whole educational control will be immediately turned back to the Haitians. As regards agriculture, Mr. Munro will insist that Mr. Colvin be appointed as of July 1, last, giving the Haitians the understanding that he will retire from the Service on January 1, 1932, and that he will actually leave Haiti as much prior to that as he has leave of absence with pay due him. Of course Mr. Colvin would leave Haiti at once should the Haitians desire to pay him now in advance, say six months' salary, in order to enable him to find employment up here. The other agricultural engineers will also remain not later than January 1, 1932. If, as Doctor Munro anticipates, the Haitian Government should desire some of these engineers to remain longer to keep up the agricultural work, especially until Haitian students in the United States can return and take over the work, this would be arranged on the basis of private contracts between these engineers and the Haitian Government. They would therefore cease to be Treaty Officials.

The above Treaty Services depend on Article XIII of the Treaty of 1915 and are the result of an agreement between the two Governments. The two Governments can therefore agree to suspend or abolish these Services. The Financial Services are based on Articles II to IX inclusive, and are a direct obligation on the part of Haiti as is the Constabulary, established by Article X, by which Haiti obligated itself for the creation of a Constabulary. These two Services therefore are in an entirely different category from the three others and, furthermore, third parties have interests based thereon, so that the Haitian Government can not change these except as the United States agrees.

Constabulary.

As there is no provision for a Constabulary after the Treaty expires on May 3, 1936, an agreement has been drawn up by which the Constabulary will be Haitianized by that time. Mr. Munro will stand on that basis and will decline any quicker Haitianization. As a matter of fact, the Haitianization drawn up by the Marine officers in charge is somewhat more rapid than the Forbes' Commission suggested.

In the Financial Services the administration of the land registration will be given up. In order to carry out the provisions of Article VIII of the Protocol of 1919, a new Convention will be negotiated,

negotiations to begin immediately after the signing of the Haitianization program above mentioned. This Convention, although signed immediately, will go into effect on May 3, 1936, the date of the expiration of the Treaty of 1915, and will remain in full force and effect so long as any of the bonds issued under the Protocol of 1919 are outstanding. A draft of this proposed Convention is attached hereto.

F[RANCIS] W[HITE]

[Annex 1]

Draft Agreement Between the United States and the Republic of Haiti

PREAMBLE

The United States and the Republic of Haiti desiring to confirm and strengthen the amity existing between them by the most cordial cooperation in measures for their common advantage;

And the Republic of Haiti desiring to maintain uninterrupted financial stability indispensable to the development of the welfare of the Republic, and to carry out its contractual guarantees provided for by obligations of its present authorized bonded indebtedness;

And the United States being in full sympathy with all of these aims and objects and desiring to contribute in all proper ways to their accomplishment;

The United States and the Republic of Haiti have resolved to conclude an agreement with these objects in view, and have appointed for that purpose, Plenipotentiaries, etc.

ARTICLE I

The President of Haiti shall appoint, upon nomination by the President of the United States, a Financial Adviser-General Receiver, with such aides and employees as may be necessary, who shall collect, receive and apply all customs duties on imports and exports accruing at the several custom-houses and ports of entry of the Republic of Haiti.

The Financial Adviser-General Receiver will supervise and control the Bureau of Contributions in accordance with the organic law of June 6, 1924, establishing the Service called Administration Générale des Contributions, and in accordance with such other laws and amendments thereto as may be hereinafter agreed upon by the two Governments parties hereto.

ARTICLE II

The Government of the Republic of Haiti will provide by law or appropriate decrees for the payment of customs duties, internal revenues, receipts, and miscellaneous receipts from all sources whatsoever,

to the Financial Adviser-General Receiver, and will extend to the Financial Adviser-General Receiver, all needful aid and full protection in the execution of the powers conferred and the duties imposed herein; and the United States on its part will extend like aid and protection.

ARTICLE III

All sums collected and received by the Financial Adviser-General Receiver shall be applied, first, to the interest and sinking fund of the public debt of the Republic of Haiti; and, second, to the payment of the salaries and allowances of the Financial Adviser-General Receiver, his assistants and employees and expenses of the financial service, including the expenses of the Administration Générale des Contributions; and the remainder shall then be available for the current expenses of the Haitian Government, as referred to in Article X and Article XII of this agreement.

In making these applications the Financial Adviser-General Receiver will proceed to pay salaries and allowances monthly and expenses as they arise, and at the end of each calendar month will set aside in separate funds the reserves for interest and amortization and operating allowances from the collections and receipts of the previous month from the customs and from the internal revenues.

ARTICLE IV

The expenses of the Financial Adviser-General Receiver, including his salary and allowances and those of his assistants and employees, excepting, however, those of the Administration Générale des Contributions, shall not exceed five per centum of the collections and receipts from customs duties, unless by agreement of the two Governments.

The expenses of the Direction Générale des Contributions, including the salaries and allowances of the Director General, his assistants and employees, shall not exceed fifteen per centum of the collections and receipts from internal revenues, unless by agreement by the two Governments.

ARTICLE V

The Financial Adviser-General Receiver shall maintain an adequate system of public accounting and shall make monthly reports of all collections, receipts and disbursements to the appropriate officer of the Republic of Haiti, which reports shall be open to inspection and verification at all times by the appropriate authorities.

ARTICLE VI

The Republic of Haiti shall not issue further series of the loan issued under the provisions of the Protocol signed at Port-au-Prince

on October 3, 1919, in excess of \$3,000,000.00 and to that extent only with the consent of the President of the United States and no such series shall be issued after 1940. Nor shall the Republic of Haiti otherwise increase its public debt, except by previous agreement with the President of the United States, and shall not contract any debt or assume any financial obligation unless the ordinary revenues of the Republic available for that purpose, after defraying the expenses of the Government, shall be adequate to pay the interest and provide a sinking fund for the final discharge of such debt.

ARTICLE VII

The Republic of Haiti will not without the previous accord of the Financial Adviser-General Receiver, modify the customs duties nor internal revenue taxes in a manner to reduce the revenues therefrom.

ARTICLE VIII

The Government of Haiti agrees to enact annually an appropriation law which will fix the amount of the appropriations for the ensuing fiscal year, and agrees that the budget shall be prepared in the following manner, which is in accordance with the present practice under existing law and international agreements:

BUDGET OF WAYS AND MEANS

The Financial Adviser-General Receiver shall prepare an estimate of receipts in detail, which shall be considered to be the sum receivable for the ensuing fiscal year. This sum shall not exceed the total amount of the revenue received for the twelve calendar months ending January 31 of the current year except when changes in the revenue laws should make it desirable in his opinion to increase or decrease the estimate.

The Financial Adviser-General Receiver shall forward the estimate of receipts prepared as above to the Minister of Finance, to the end that a law fixing the ways and means, establishing such taxes and revenues for the ensuing year, shall be voted to insure the collection of the sums agreed upon from the sources mentioned in the estimates. The Law of Ways and Means shall conform to the provisions of the law of the 16th of August, 1929, except in so far as any change may be agreed upon hereafter, before enactment, by the Minister of Finance and the Financial Adviser-General Receiver.

BUDGET OF EXPENDITURES

The Minister of Finance shall prepare annually the budget of appropriations in the following manner, viz:

Under Chapter I shall be included :—

1. Provision for service of the public debt setting out in detail the various obligations, contractual commissions and contractual expenses.

2. Provision for the service of the Financial Adviser-General Receiver and for the Service of the Administration Générale des Contributions.

3. Provision for reserves for currency, unless by agreement with the Financial Adviser-General Receiver he shall determine that the existing reserve is adequate, and such other reserves as may be hereafter provided by law.

4. Provision for contractual obligations which will include annual quotas for international institutions.

The sum total of Chapter 1 shall be subtracted from the sum total of the estimates of revenue fixed by the Law of Ways and Means, which shall have been arrived at as set out above.

The balance available thereafter will represent the amount expendable for the various current expenses of the Haitian Government, and shall include all non-capital operating expenses of the Government for the ensuing fiscal year.

Each department shall be shown under a separate chapter heading and each expenditure shall be shown in detail, setting out each position and salary. Each appropriation for rent, office supplies, telegraph and telephones, post, entertainment expenses, official bulletin, expense of mission, of travel, and of replacement of employees in foreign posts, or for any other purpose, shall be entered separately with appropriate description.

The sum total of the budget so prepared shall not exceed the sum total of the expendable balance arrived at in the manner set forth above and it shall be the duty of the Financial Adviser-General Receiver to examine the proposed budget to ascertain the correctness of the estimates for the public debt and for the amounts specified to be included in Chapter 1. Likewise he shall advise the Haitian Government of the omission of any item which, in his opinion, should have been included in said Budget.

The Financial Adviser shall give his accord to the budget so prepared providing he has ascertained that all items with reference to the public debt, contractual commissions and expenses of the service of the Financial Adviser-General Receiver, service of the Administration Générale des Contributions, reserves for currency, provisions for international institutions and special contractual obligations have been duly included in Chapter 1 in accordance with the schedule of priorities provided in Article III, and in accordance with the amounts specified by agreement between the two Governments, in so far as the service of the Financial Adviser-General Receiver and the Administration Générale des Contributions are concerned; and when he shall have ascertained that the total of the proposed budget does not exceed

the total of available revenues in accordance with the estimates of revenue which have been prepared as herein provided.

ARTICLE IX

The Financial Adviser shall communicate such accord to the Haitian Government in writing, through the Minister of Finance, and in case his accord is not given, before the commencement of any fiscal year, to the budget for that year, then the preceding budget shall continue in operation for the next year, and thereafter until such accord is given in accordance with the provisions hereof.

ARTICLE X

The expenditures for each fiscal year shall be made in conformity with the provisions of the Law of Expenditure, as enacted for the fiscal year 1929-30, which shall be enacted annually in accordance with constitutional provisions and which shall have the same form as the Law of Expenditure for 1929-30 except for the following amendments:

The assent of the Financial Adviser-General Receiver shall not be required in respect of the provisions of Article 8 of said law.

In case the Financial Adviser-General Receiver during the course of any fiscal year shall find that the revenues of that year will be below those estimated and budgeted, he shall notify the Minister of Finance of the amount of such deficiency, and the balance available for the current expenses of the Haitian Government for the remainder of that fiscal year shall be reduced accordingly, provided however that the Financial Adviser-General Receiver in accord with the Minister of Finance may determine that all or part of any such deficiency shall be met from reserves.

ARTICLE XI

The Law of Ways and Means and the Law of Expenditure shall be prorogued by implication unless specifically reenacted in accordance with the provisions of this agreement.

Further amendments to the Law of Expenditure may be made with the accord of the Financial Adviser-General Receiver and shall be valid only if they receive such accord.

ARTICLE XII

Until the retirement of all of the bonds issued under the provisions of the Protocol signed at Port au Prince on October 3, 1919, no appropriations in excess of the amount set forth in the budget approved by the Financial Adviser-General Receiver shall become effective or constitute a charge upon the Treasury unless such appropria-

tions have received the accord of the Financial Adviser-General Receiver.

ARTICLE XIII

This agreement shall remain in full force and effect from May 3, 1936, until the complete retirement of the bonds issued or to be issued under the provisions of the Protocol signed at Port au Prince on October 3, 1919, and upon the payment or retirement of all bonds which may have been issued by virtue thereof, it shall become null and void and of no effect.

[Annex 2]

Memorandum by the Minister in Haiti (Munro), Temporarily in Washington

[WASHINGTON,] April 22, 1931.

SUPPLEMENTARY HAITIANIZATION AGREEMENT REGARDING THE FINANCIAL SERVICES

This agreement would be discussed at the time when the new convention is negotiated, and its aim would be to provide for the turn-over to Haitian control of those functions of the Financial Adviser-General Receiver's office which will not continue under the new convention. This will include particularly the administration of state lands, and any functions connected with the internal revenue collection which the Department considers it advisable to give up. Very little Haitianization of personnel will be possible.

In the agreement which we are now discussing with the Haitian Government we shall probably give up the Land Title Registry and the Division of Markets.

838.00/2943 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, April 23, 1931—11 a. m.

25. Your 18, March 14, 11 a. m. Department has no objection to proposed paragraph regarding commissioning of customs employees.

STIMSON

838.00/2960

The Minister in Haiti (Munro) to the Secretary of State

No. 113

PORT-AU-PRINCE, May 5, 1931.

[Received May 8.]

SIR: With reference to previous despatches and telegrams on the subject of the Haitianization of the Treaty Services, I have the honor

to report that I called on the Minister for Foreign Affairs immediately after my return from Washington and explained to him very frankly the point of view of the Department of State as it had been conveyed to me during my visit to Washington. I told him that the Government of the United States desired to terminate its intervention in Haiti's internal affairs at the earliest practicable time, but that it was compelled in considering the Haitianization of the Treaty Services to take into account the promises which had been made by both Governments to the holders of Haiti's bonds and particularly the fact that the holders had purchased these securities in reliance upon the faithful execution of the provisions of the Treaty and the Protocol. For this reason I said it would be impossible for me to consent to a more rapid Haitianization of the Garde than was contemplated in the plan which I had already proposed since the process of Haitianization must not be permitted to affect Haiti's obligation to maintain an adequate police force. I explained also the necessity for maintaining throughout the life of the bonds an adequate financial control and said that I could make no concessions with regard to the financial services except those to which I had already agreed and that any further changes in these services would have to await the negotiation of the new agreement which would cover the financial control after 1936. I explained, however, that we were prepared to proceed with the rapid Haitianization of the other Treaty Services and that I had obtained the approval of the Department of State for the plan of Haitianization which the Minister and I had already substantially worked out so far as the Public Works and Public Health Services were concerned.

Mr. Sannon appeared on the whole to be well satisfied with this outline of the situation and was especially pleased when I told him that I had come back with adequate instructions to proceed at once with the negotiation of the new financial agreement. He said that it would be very helpful if he could have an idea of what this agreement would have to contain in order that there might be no unsettled questions to cause suspicion among the Nationalist politicians when the Haitianization accord was signed. I therefore handed him informally and unofficially a brief outline of the main features of the projected convention, explaining to him why the Government of the United States considered that a convention rather than an informal accord was necessary and the principles upon which the new plan was based.

Somewhat to my surprise, Mr. Sannon appeared very much pleased with the plan as presented to him and I took advantage of his apparent satisfaction to suggest that I would have been prepared, if he had desired, to proceed with the negotiation of the new convention simul-

taneously with the conclusion of the Haitianization accord, if it had not been for my desire to inaugurate some concrete measures of Haitianization at once and my fear that we should meet with delay if we took up the convention now. Mr. Sannon said that he felt sure that we should have no difficulty in concluding the convention very promptly and that he would prefer to conclude the convention and the Haitianization agreement at approximately the same time if it were practicable to do so. He also assured me that the ratification of the Haitian Congress could without doubt be obtained during its present session. I said, therefore, that I thought that my Government would be willing to have me proceed at once with the discussion of the new convention at the same time that we were working out the final details of the Haitianization accord. I am reporting in my despatch No. 114, dated May 5, 1931,^{30a} some observations which Mr. Sannon made regarding the details of the plan for the new convention.

During the same conferences at which the conversations above recorded took place, we also discussed several of the unsettled points in the Haitianization accord itself. Mr. Sannon has apparently finally accepted our position that no modification can be made in the project for the Haitianization of the Garde. With this out of the way we were able to proceed with the question of the Service Technique which we discussed in a preliminary way last Saturday. I told Mr. Sannon that there could be no compromise with respect to the acceptance of Dr. Colvin's appointment and the payment of his back salary as Director General of the Service Technique, but that the future organization of this service would depend upon what the Haitian Government wished to do for the promotion of agriculture and industrial education, and that our own attitude toward it would be influenced only by our desire to help the Haitian Government in taking urgently needed steps to develop its agricultural resources. I said, however, that we would insist that if the Haitian Government no longer desired the service under contract of the American experts now employed in the Service Technique, we would be compelled to insist that it at least give them a fair opportunity to obtain new employment and that we would not consent to their immediate dismissal without adequate notice. I urged, however, the desirability from Haiti's own point of view of retaining several of these American experts under contract until the Haitians now being trained in the United States were available to replace them.

Although the Minister did not definitely commit himself, it seemed clear that the Haitian Government was prepared to accept Dr. Colvin's appointment and to pay him his back salary although the Minister appeared doubtful whether the Government would wish for political reasons to continue him in his present or any other

^{30a} *Intra.*

capacity. The Minister did, however, readily admit the desirability of retaining several of the other American experts under contract and admitted the justice of our position regarding the necessity for giving those who are to leave a fair notice of dismissal. He pointed out that the question of the reorganization of the Service Technique was not properly speaking a diplomatic matter but rather a technical one, and he proposed, therefore, that we should entrust to the Minister of Agriculture and Dr. Colvin the task of preparing a plan for our consideration. I agreed to this upon the condition that it did not involve too long a delay and Dr. Colvin is now preparing a plan for the Minister's consideration.

I have also discussed the question of the Service d'Hygiène with Mr. Sannon and with Dr. Stuart. I informed Mr. Sannon that Dr. Stuart and I considered it very desirable to retain American Public Health officers at Gonaïves and Cayes for at least a year or a year and a half longer, but that this was a matter which directly concerned only the people of those cities and the Haitian Government and that I would, therefore, accept any decision which the Haitian Government might make in this matter. I have not yet been informed of the Government's decision. I explained further to Mr. Sannon that we should have to maintain sanitary control in Port-au-Prince and Cape Haitien probably throughout the life of the Treaty.

While Mr. Sannon and I have conferred almost every day since my return, it has been difficult to make entirely satisfactory progress in the negotiations because of the Cabinet crisis provoked by Mr. Thoby's conflict with the Senate and the resultant difficulty encountered by Mr. Sannon in obtaining the approval of the Council of Ministers on points which he considered it necessary to submit to them. I believe, however, that the conclusion of a definite accord regarding the Haitianization of the Treaty Services is dependent now only upon the formulation of the plan for the reorganization of the Service Technique. Since the problem here involved has been the subject of close study by Dr. Colvin and his Haitian associates ever since the inauguration of the new Government, the only possibility of delay lies in the difficulty of obtaining the consent of the Minister of Agriculture, who is well disposed but not especially intelligent or practical. When Mr. Sannon proposed that the elaboration of a plan be left to Dr. Colvin and the Minister, I pointed out that Dr. Colvin had been endeavoring for several months to interest the Minister in problems of the Service Technique but without any very noticeable result and that I feared that we should simply complicate matters by waiting on his decision. Mr. Sannon assured me, however, that the Minister had simply been unwilling to make any decisions regarding the Service Technique until the matter came up

for definite settlement and that he thought that the Minister would now reach a prompt agreement with Dr. Colvin on all of the questions involved.

Respectfully yours,

DANA G. MUNRO

838.00/2961

The Minister in Haiti (Munro) to the Secretary of State

No. 114

PORT-AU-PRINCE, May 5, 1931.

[Received May 8.]

SIR: As I had the honor to report in my despatch No. 113, of May 5, 1931, I informed the Haitian Minister for Foreign Relations on May 4, 1931, of the general outline of the new financial convention which I had been authorized to conclude. The Minister made two or three observations upon which I should be glad to have the Department's instructions. A copy of the outline which I handed him informally and unofficially to indicate the main provisions of the new convention is transmitted herewith.

I told the Minister that the official to be appointed to collect the pledged revenues was referred to in the outline merely for convenience as the Financial Adviser-General Receiver, but that I had pointed out to the Department that this title would probably be unacceptable to the Haitian Government and that I understood that the Department would have no objection to the adoption of any other suitable title as, for example, that of "fiscal agent". The Minister said that he would much prefer the adoption of another title and that "fiscal agent" seemed to him entirely satisfactory.

Mr. Sannon, on glancing over my outline, inquired at once about the reference to aids and employees in paragraph 1. He said that this phrase had given rise to questions of interpretation under the present Treaty and that he felt that the number of aids and employees should be strictly limited in the convention and that other employees in the customs service should be appointed by the President of Haiti. I said that I would be prepared to recommend that all employees in the financial service, except the head of the service and perhaps one or two other officials, should be appointed in accordance with the procedure already agreed upon for the commissioning of employees in the customs service. This procedure is set forth in the following paragraph which, in accordance with the Department's instructions, is to be incorporated in the Haitianization accord:

"The President of Haiti will issue commissions to Haitian employees occupying positions of authority and trust in the Customs Service upon the recommendation of the General Receiver. The form of these commissions will be agreed upon by the Minister of Finance and the General Receiver. If the services of a commissioned employee should

not be satisfactory or if his removal should be deemed necessary for other reasons, the General Receiver will terminate his services and will at the same time recommend such action as he considers advisable regarding his replacement, making a temporary appointment if necessary until a new commission is issued."

This procedure would appear to be entirely consistent with the provisions of the Protocol and I recommend, therefore, that I be authorized to incorporate a paragraph similar to that above quoted as the second paragraph of Article I of the draft convention and to insert in the first paragraph of that article the words "a fiscal agent and deputy fiscal agent" instead of the words "a Financial Adviser-General Receiver with such aids and employees as may be necessary".

Mr. Sannon also said that he thought that the new convention should clearly set forth the right of the Haitian Government to free itself from outside financial control by the conversion of the existing public debt. I said that this would apparently be covered by a provision that the convention should become null and void upon the retirement of all bonds issued under the provisions of the Protocol of 1919. Mr. Sannon felt, however, that the Haitian Government would desire a still more explicit statement and I said that I did not believe that there would be any objection to such a statement on the part of the Government of the United States.

I have not yet submitted to Mr. Sannon the full text of the draft convention because I considered it preferable to place the matter before him and the Government first in a more simple and understandable form and to commit him definitely to the acceptance of the general plan, before beginning the discussion of the details. In all probability, however, it will appear desirable in the not distant future to hand him the full text of the proposed convention with such changes as the Department may authorize in the meantime. In the discussion of this text many points of minor importance will arise both in respect to phraseology and with respect to procedure upon which it will appear advisable to accept the views of the Haitian Government in order to obtain the latter's consent to the general principles involved. It will greatly facilitate and expedite the conduct of negotiations if the Department is disposed to give me authority to accept such minor changes if they do not materially affect the essential provisions of the convention, and I respectfully request that the Department convey such authority to me by cable if it is willing to do so.

Respectfully yours,

DANA G. MUNRO

[Enclosure]

General Outline of Proposed Financial Convention

1. In order to carry out the provisions of Article 8 of the Protocol of 1919, the new Convention would provide that the President of

Haiti shall appoint, upon the nomination of the President of the United States, a Financial Adviser-General Receiver with such aids and employees as may be necessary, who shall collect, receive, and apply all customs duties on imports and exports accruing at the several customs houses and ports of entry of the Republic. This official would also supervise and control the Bureau of Contributions.

2. This official would apply sums collected, first: to the interest and sinking fund of the public debt; second, to the expense of collection and would then make the balance available for the current expenses of the Haitian Government.

3. He would also maintain an adequate system of public accounting and make monthly reports of all collections, receipts, and disbursements, to the appropriate officer of the Republic of Haiti.

4. In order to assure the termination at the earliest practicable moment of the financial control required by the provisions of the bond contracts, it would be agreed that no further series of the loan authorized under the provisions of the Protocol of 1919 would be issued unless it were considered necessary by the two governments to make a new issue of not exceeding three million dollars (\$3,000,000). The purpose of this would be to provide for emergency financing or urgently needed public works in case of necessity. It would also be provided for the protection of the bondholders, that the Republic of Haiti should not otherwise increase its public debt except by previous agreement with the President of the United States.

5. It would be agreed that the Republic of Haiti would not reduce customs revenues or internal revenue taxes without the consent of the Financial Adviser-General Receiver.

6. It would be agreed that the Haitian Government would maintain a balanced budget and would not make appropriations in excess of the amount of revenue as estimated by the Financial Adviser-General Receiver on the basis of the revenues of the preceding year. It would be the duty of the Financial Adviser-General Receiver to ascertain that proper provision was made in the budget for the service of the public debt and for other contractual obligations, for the expenses of collection and for adequate reserves for the currency; but the official referred to would exercise no further control over the allocation of the amounts expended so long as they remained within the total estimated revenues. The Haitian Government, therefore, would be free to make such distributions of its income as the legislative and executive powers might see fit after provision had been made for the contractual obligations, etc. above referred to.

7. The existing law of expenditure would be maintained and would be reenacted annually with certain amendments to be agreed upon between the two governments.

8. Expenditures in excess of the sums voted in the annual budget would require the accord of the Financial Adviser-General Receiver in order to make certain that adequate funds were available in the treasury to meet them.

9. Suitable provisions would be incorporated in the Convention regarding the authority given to the Financial Adviser-General Receiver to collect customs revenues, the form of the laws of ways and means, and of expenditures, the proroguing of the budget in case of failure by Congress to act, etc.

10. The Convention would take effect on May 3, 1936, and would become null and void upon the retirement of the bonds issued under the provision of the Protocol of 1919.

838.00/2961 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, May 16, 1931—2 p. m.

31. Your despatch No. 114, May 5, 1931. The Department has no objection to the use of the title "fiscal agent" for the official who will be appointed to collect pledged revenues.

You are authorized to recommend that all employees in the financial service, except the head of the service, and perhaps one or two other officials, shall be appointed in accordance with the procedure already agreed upon for the commissioning of employees in the customs service. This procedure will be incorporated in the Haitianization accord in the following paragraph:

"The President of Haiti will issue commissions to Haitian employees occupying positions of authority and trust in the Customs Service upon the recommendation of the Fiscal Agent. The form of these commissions will be agreed upon by the Minister of Finance and the Fiscal Agent. If the services of a commissioned employee should not be satisfactory or if his removal should be deemed necessary for other reasons, the Fiscal Agent will terminate his services and will at the same time recommend such action as he considers advisable regarding his replacement, making a temporary appointment if necessary until a new commission is issued."

In connection with the number of American officials to be provided for in the Financial Service, the Department is inclined to question the wisdom of limiting this number to a fiscal agent and deputy fiscal agent. If this number is fixed in a convention it will be difficult to increase it later should it be necessary. There appear to be about 14 ports of entry outside of Port au Prince and if such ports should be entirely manned by Haitians, might not the result prove unfortunate? Also may it not be found necessary to use American officials for auditing or inspection duties or for work in connection with the Internal

Revenue System? Please let the Department have your views on this question.

The Department perceives no objection to incorporating a statement in the new convention to the effect that the convention will become null and void upon retirement of all bonds issued under the provisions of the protocol of 1919.

The Department agrees that in discussing the text of the proposed convention many points of minor importance will arise upon which it will be advisable to meet the wishes of the Haitian Government and you are authorized to accept such minor changes if they do not materially affect the essential provisions of the convention.

CASTLE

838.00/2965 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, May 18, 1931—noon.

[Received 3:55 p. m.]

40. Referring to Department's telegram No. 31, May 16, 2 p. m., I did not intend recommending that the number of Americans in the Customs Service be limited to two. Such would in my opinion be impossible. I think, however, that the new convention might provide that only the Fiscal Agent and his deputy should be appointed upon nomination by the President of the United States and that other employees, American as well as Haitian, should be appointed upon the recommendation of the Fiscal Agent in the manner outlined by the paragraph agreed upon for the commissioning of Haitian employees in the Customs Service. The paragraph would then read, "The President of Haiti will issue commissions to employees occupying positions of authority and trust, et cetera."

To avoid any possible misunderstanding, however, it might be well to have the first paragraph of article number I include a sentence stating that the Fiscal Agent shall have such aids and employees as he may consider necessary for the proper performance of his functions.

MUNRO

838.00/2973 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, May 26, 1931—11 a. m.

[Received 4:40 p. m.]

44. Yesterday morning the Minister for Foreign Affairs said that he will be ready to resume the Haitianization discussions next week. He suggested that it would be desirable to put into execution at once those

measures of Haitianization upon which I had already tentatively agreed with his predecessor. I replied that the only obstacle to such action was the question of Colvin's appointment; that if this could be settled at once I should be prepared to inaugurate an extensive program of Haitianization without waiting for a final accord on other details. The Minister pretended to be surprised to learn that the Government of the United States still insisted upon Colvin's appointment. He asserted that he had not been informed that the question was still alive and said that if the Government of the United States intended to make Colvin's appointment a condition precedent to Haitianization he would have to consult with the other members of the Cabinet to determine whether they would assume the responsibility for conducting the Haitianization negotiations or whether it would be necessary for them to resign. I urged him to do so as soon as possible pointing out that the settlement of this question was the one obstacle to the immediate adoption of an extensive program of Haitianization.

[Paraphrase.] I doubt statement of Minister for Foreign Affairs that he was not fully informed about the Colvin matter. I think the Minister's threat to resign is probably a bluff. On the other hand it is very probable that he thinks we will recede from our position rather than face a sensational conflict with the Government of Haiti or a complete breakdown in the Haitianization negotiations. Since it is clear that all political leaders at present are now much more interested in purely internal political questions than they are in the Haitianization question it is also possible that the new Cabinet would not be unwilling to precipitate a conflict with the United States for internal political purposes.

Having no instructions to the contrary I shall maintain my position that there can be no agreement regarding the Haitianization question until the Colvin question is settled. I intend to inform the Minister that the Government of the United States desires to settle the Haitianization question as soon as possible; that we are dissatisfied with the long delay; and that since Haitianization by agreement with the Government of Haiti will depend on that Government's action regarding the Colvin question, I believe it useless to discuss further the minor details of Haitianization until we know definitely where we stand on the Colvin matter.

If our efforts to reach an agreement with the Government of Haiti should break down, it would probably be advisable for us to inaugurate rather extensive measures of Haitianization in those services from which the United States desires to withdraw at an early date. In view of the present political situation this may be the only way in which we can accomplish anything. [End paraphrase.]

MUNRO

838.61/210 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, May 29, 1931—10 a. m.

[Received 7 p. m.]

46. The Minister for Foreign Affairs informed me yesterday that the Colvin question had been discussed by the President and his Cabinet and that they had unanimously decided that they could not ratify the appointment. They asked me to make it clear that they had no wish to show any disrespect to the President of the United States and that they appreciated Colvin's ability and qualifications but that the events of the past 18 months had created a situation where no government could accept the appointment without creating the gravest political difficulties.

The Minister said, however, that if Colvin would resign of his own accord without any appearance of pressure from either Government the Haitian Government would be willing upon his departure to pay him as an indemnity the difference between his present salary and that of the Director General since July 1, 1930. He felt, however, that the resignation should take effect in the very near future.

[Paraphrase.] I informed him that I would submit this proposal to the Department.

If we should accept such an arrangement, we would in effect surrender our position that an officer nominated by the President of the United States under the treaty must be commissioned by the Government of Haiti. Thus a precedent would be established which might cause us grave embarrassment if a similar case arose in the future. If the Government of the United States intended to continue to exercise an effective control over the treaty services, we could not afford to consider such a proposal. However, since the Department desires to withdraw from our responsibilities in the treaty services as rapidly as possible, I feel that the arguments against the acceptance of such an arrangement are probably outweighed by the following considerations:

1. If Mr. Colvin resigned, it would not be necessary, so far as the records disclose, for either Government to give in on the question whether the Government of Haiti is obligated to accept nominations made by the President of the United States.

2. The personal interests of Mr. Colvin would be protected.

3. We could proceed immediately with the Haitianization of the treaty services. I regard this as extremely important because the delay in the Haitianization negotiations has given rise to a very tense situation and there is always the possibility that the opponents of the President and the radical native element will inaugurate a series of strikes and riots like that which, as they believe, led to the

sending of the President's Commission in an endeavor to bring about another complete change in our policy.

4. In all fairness we cannot hold the Government of Haiti entirely responsible for Mr. Colvin's appointment. The failure of the Department to insist at the beginning on his appointment and the statement made at the time by Dr. Moton and others whom the people of Haiti might reasonably regard as in a position to express the views of the Government of the United States aided in creating a situation where it would be extremely difficult from the political standpoint for any administration to ratify the appointment and where too much pressure by us might easily cause the present administration to be replaced by one whose policy toward us would be far more obnoxious and obstructive.

5. It would be extremely unfortunate if there were a complete breakdown in the Haitianization negotiations. Presumably we should find ourselves compelled to Haitianize the treaty services anyway by our own action and there would then be slight opportunity to secure an even partially satisfactory solution of the Colvin matter. If we permit the negotiations to reach an impasse from which neither side could retire with credit, I can see only unfortunate consequences.

If the Department should accept this arrangement, I think we might stipulate that the resignation of Mr. Colvin should not take effect until January 1, 1932, and also that Mr. Colvin should receive some statement from the Government of Haiti in appreciation of his technical services.

I strongly recommend that the proposal be definitely accepted or rejected at once. If we permit ourselves to become engaged in a further argument about the principle involved, we shall only lose ground and create new difficulties.

If the Department is not [*now?*] disposed to accept this proposed arrangement, I should like to have a strong and explicit statement of its views in such form that I could show it to the Government of Haiti and state that it represented our Government's last word on the subject. I believe that such a statement would very possibly lead the Government of Haiti to accept Mr. Colvin's appointment because I consider it possible that the present attitude of the Government of Haiti is largely bluff. It is, of course, quite impossible to ascertain whether our definite insistence upon the Colvin appointment would or would not settle the matter, because the attitude which the Government of Haiti would assume would depend to a very large extent on the domestic political situation at the moment. At the present time this situation is both uncertain and difficult and it is most probable that if the difficulties between the President and Congress should grow more

acute, the new Cabinet would seize the opportunity to resign upon a popular issue. [End paraphrase.]

MUNRO

838.61/211 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 1, 1931—11 a. m.

[Received 7:30 p. m.]

47. Referring to my telegram No. 46, May 29, 10 a. m. During our discussion of the Haitianization plan in Washington the Department instructed me to accept if necessary an arrangement under which all American personnel would be released from the Service Technique by January 1. After further consideration I feel that such action would be most unjust to men who were brought here by the United States Government with every reasonable assurance of a permanent tenure and who until very recently have been given no definite warning that they would not have employment throughout the coming academic year. Practically all of the Americans in the Service Technique will have to look to unserviceable [*sic*] positions when they leave here and there is practically no hope now of their being able to obtain positions until September 1932. Last January and February when they should have been seeking to obtain positions for the coming year there seemed to be every probability that the Haitianization of the Service Technique would be spread over a period of years and that each man would have an opportunity to know when he would be relieved and to make his plans accordingly. I entirely agree that the continuance of the Service Technique under present conditions would serve [no?] useful purpose but I nevertheless feel that the men who are employed [should?] be protected by receiving pay throughout the coming academic year.

I understand that the Americans released by the Philippine Government were given one full year's salary on resignation. In the case of the men here I think that we would be entirely justified in demanding an indemnity of 6 months' salary after January 1 if the Haitian Government wishes to have them go. We would presumably be in a position to keep them here until June 1, 1922 [1932?] if the Haitian Government did not wish to accept such an arrangement.

I earnestly recommend that the Department consider this matter in connection with my telegram above referred to.

MUNRO

838.105/368 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 1, 1931—2 p. m.

[Received 11 : 50 p. m.]

49. Since last November we have had difficulties on several occasions regarding appointments and promotions in the Garde and particularly regarding delays in commissioning American officers nominated under the treaty. These difficulties which were provoked entirely by the President were apparently finally terminated through the influence of the former Minister of Foreign Affairs.

More recently however the President has refused to commission a Haitian officer who has qualified for promotion but whom the President accuses of having made disrespectful remarks regarding him. His objection to the officer is apparently solely political. I have been endeavoring to persuade him that promotions in the Garde must be made on a merit basis and in accordance with the treaty and that he should cooperate in a full investigation of the charges against the officer referred to and then accept the result of the investigation and sign the commission if the officer is proved innocent. The President has thus far refused to modify his position that he would not sign the commission under any circumstances.

Today I received a note from the Minister for Foreign Affairs expressing the Government's reluctance to make further appointments of American officers in the Garde and stating that the Government wishes to have more control over promotions of Haitian officers in the future. In view of the fact that the Haitian Government is assuming this attitude I think that it would be well, if the Department is disposed to accept the suggested compromise in the Colvin case, to make such acceptance conditional upon the most explicit assurances that the treaty provisions governing the Garde will be respected and that American officers will be promptly commissioned upon nomination and Haitian officers will be promptly commissioned upon recommendation by the Commandant.

MUNRO

838.61/210 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 2, 1931—1 p. m.

34. Your 44, May 26, 11 a. m., and 46, May 29, 10 a. m. You may advise the Minister for Foreign Affairs that this Government is willing to acquiesce in the arrangement proposed by him whereunder

Mr. Colvin will resign his position as Assistant Director General of the Service Technique, in return for which the Haitian Government will pay to him as an indemnity the difference between his salary as Assistant Director General and that as Director General from July 1, 1930, to the date of his departure. Should this arrangement be effected this Government would expect that although by mutual consent Mr. Colvin might depart sooner, or immediately, as an act of justice to him his resignation be made effective as of January 1, 1932, and that he be furnished at the time he receives the additional compensation specified a letter or copy of a public statement by the Haitian Government expressing appreciation of his technical services. This you may explain will offset to some extent the injury done Mr. Colvin's professional career and possibly facilitate his employment elsewhere.

Please say to the Minister for Foreign Affairs that in acquiescing in this arrangement this Government has been animated by the desire to avoid the danger to which he has referred of further disorders in Haiti, and by the desire to make every reasonable concession to the wishes of the Haitian authorities as a means of facilitating the early completion of the Haitianization program. You may add that to the end that the purposes of this Government may not be misunderstood, you have been instructed to state that this Government has been very reluctant to acquiesce in the departure by the Haitian Government in this instance from the provisions of the Treaty of September 16, 1915, and that this instance must not be regarded as establishing a precedent.

The Department assumes that no difficulty will be encountered on the part of Mr. Colvin in carrying out the foregoing arrangement.

The Department's acquiescence in this procedure is based on its understanding that it will facilitate your general negotiations with the Haitian authorities regarding the Haitianization plan, and that you will be able to resume those negotiations at once with reasonable expectation of their early conclusion. If you have any reason to fear that this result would not follow, please so report to the Department before complying with the earlier part of this instruction.

STIMSON

838.00/2978 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 3, 1931—noon.

[Received 4:31 p. m.]

52. Department's telegram No. 34 of June 2, 1 p. m. last paragraph. While I hope that it will be possible to conclude the Haitianization negotiations promptly, I am becoming less confident of this because

of internal political situation. There is a strong possibility that we shall see further changes in the Cabinet during the next few weeks. No faction here is so much interested in Haitianization as it is in internal politics. The opposition is making much political capital of the Government's alleged subservience to the United States and the Government, partly for this reason, is becoming more difficult to deal with. On the basis of information given out by the former Cabinet and information received from Washington, the opposition leaders are assuming as already obtained most of the concessions which we shall be able to make and centering their attack on questions like the continued existence of the treaty itself and the continued presence of marines with regard to which they know that the Government cannot and would not wish to obtain any immediate changes. Under the circumstances it is very probable that the Government will be afraid when the time comes to accept any general plan of Haitianization and the leaders who for their own political purposes are promoting the present agitation, will doubtless make the conclusion of an agreement as difficult as possible.

It is obvious, however, that we cannot permit this internal political situation to prevent us from executing our own policy of withdrawal. I assume that what the Department desires is Haitianization either by agreement or by our own action. If we once obtain settlement of the Colvin question, we shall have no particular interest in a general agreement. If the Government is in a position to conclude promptly the general agreement, this will obviously be desirable, but if it is not we shall be free to proceed ourselves with such measures of Haitianization as we consider advisable. I think, in fact, that we should proceed to do whatever seems immediately advisable in each service while still continuing the general negotiations. I believe that this procedure will be satisfactory to the Haitian Government.

It probably would not be very difficult under this procedure to reach agreements regarding the Public Works, Public Health Service, and the Service Technique. With regard to the Garde, the Department will doubtless wish to consider my telegram number 49, of June 1, 2 p. m., before sending further instructions. In the financial services, I should withhold all concessions except those to which we have already committed ourselves until the signature and [?] of the proposed new treaty.

MUNRO

838.105/368 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 3, 1931—5 p.m.

36. Legation's 49, June 1, 2 p. m. 1. You are authorized to withhold acquiescence in the compromise arrangement regarding the

Colvin appointment until explicit assurances shall have been given that the treaty provisions governing the Garde will be respected, and to make that acquiescence conditional upon such assurances.

2. So inform President Vincent and say that while the Government of the United States, for the reasons cited in the Department's telegram No. 34 of June 2, 1 p. m., was willing to facilitate the Haitianization discussions by a compromise agreement regarding the Colvin appointment, it cannot consent to further departures from the treaty arrangements now in effect between the two Governments.

3. Point out to the President that the provisions of Article 10 of the treaty, which govern the Garde, are mandatory upon the Haitian Government. Call to his attention the fact that the Haitianization program in so far as it affects the Garde provides for the rapid turning over of that organization to Haitian control and that this program constitutes the maximum which this Government will concede. State definitely that pending the completion of the program affecting the Garde the present arrangements relating to personnel must be observed.

Recall to President Vincent that this Government, in agreeing to undertake the Haitianization of the non-financial Treaty Services, made it clear that as regards the financial Services it would have to insist upon the maintenance intact of those Services as set up in the Treaty. One of the conditions on which Haiti obtained the outstanding loans was that law and order should be established and maintained in the Republic and the Garde was established for this specific purpose by Article X of the Treaty, and in Article V of the Treaty the importance of the constabulary to the security of the outstanding indebtedness is clearly set forth because in that Article the General Receiver is directed to apply all sums collected and received by him, after paying the expenses of the Receivership and the interest and sinking fund of the public debt, to the maintenance of the constabulary. Except to the extent you have already indicated to the Haitian Government, the constabulary must be maintained unimpaired and intact during the life of the bonds. This Government will insist on this.

4. You may also state to the President that this Government has earnestly endeavored to make unmistakably apparent to the Haitian Government and people its readiness and desire to carry out as quickly as may be practicable the recommendations of the President's Commission to Haiti, and that in fact the instructions whereunder you are prepared to prosecute the Haitianization program make provision in some respects for the accomplishment of this program at a rate much in excess of that contemplated by the Commission. You may add that this Government has been surprised and disappointed by what appears to be a failure on the part of the Haitian Government to reciprocate

this spirit, pointing out that every controversy which is provoked and every effort which is made to depart from clearly established treaty obligations must result only in delay and misunderstanding and make more difficult the final consummation of the Haitianization program.

5. You are directed to convey the substance of the foregoing to President Vincent firmly and courteously, making it unmistakably clear that the discussions of the Haitianization program must be confined within the limits of the obligations imposed by the Treaty of 1915.

STIMSON

838.61/211 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 3, 1931—6 p. m.

37. Legation's 47, June 1, 11 a. m.

1. The Department assumes that the arrangement which you have been authorized to acquiesce in regarding Colvin adequately protects his interests in so far as salary and date of resignation are concerned.

2. With respect to the other American personnel which will be affected by the Haitianization of the Service Technique, the Department shares your opinion that protection should be afforded them in so far as may be possible. This apparently can best be accomplished by retaining them up to a certain definite date after January 1, next, with the understanding that in the meanwhile they might be at liberty to undertake to establish new connections, or if they are released on January 1 by paying them an indemnity amounting to their salaries for several months.

3. You are authorized to base your discussions with respect to the Haitianization of the Service Technique on the foregoing considerations, and to work out in your own discretion a satisfactory plan.

STIMSON

838.00/2979 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 4, 1931—10 a. m.
[Received 9:33 p. m.]

53. Congress has passed, and the President has promulgated, a law giving to each Senator and Deputy an expense allowance of \$100 per month retroactive to November 10, 1930. De la Rue had agreed in principle to the granting of this allowance starting from the beginning of the session on April 6th subject to the President's promise to present

a balanced budget but it was clearly understood that the text of the law must be submitted to him for formal accord before presentation to Congress. I had reluctantly approved this arrangement for the reasons explained in pages 6 and 7 of my despatch No. 130 dated May 23.³¹

The President however presented the law without further reference to de la Rue and it was passed and promulgated in the greatest haste.

I have instructed de la Rue to make no payments under the law on the ground that the project should have received the prior accord of the Legation under the agreement of 1918.³²

If we did not take this stand after the President's flagrant disregard of his agreement with the Financial Adviser regarding the procedure to be followed, it would be extremely difficult for us to maintain any financial control in the future. We shall emphasize particularly the objection to the retroactive feature of the law which is especially indefensible at the time when the Haitian treasury is facing a large deficit. Our action may create a serious situation in the Congress.

Please inform me whether the Department will approve my maintaining this position.

MUNRO

838.00/2978 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 6, 1931—5 p. m.

39. Legation's 52, June 3, noon. The Department has given careful consideration to the views you have submitted with respect to the probable eventual unwillingness of the Haitian Government to conclude the Haitianization plan.

It is, as you indicate, the intention of this Government to carry into effect the Haitianization program covered by your instructions. It is deemed by the Department, however, to be preferable that such action should result from and be governed by an agreement with the Haitian Government. In the event that such an agreement cannot be reached, this Government will of course proceed in its own manner to carry out the program.

For this reason the Department believes that it would be preferable now for you to comply with its instruction No. 34 of June 2, 1 p. m., as modified by its instructions No. 36 of June 3, 5 p. m., and No. 37 of June 3, 6 p. m.

STIMSON

³¹ Not printed.

³² Agreement of August 24, 1918, *Foreign Relations*, 1919, vol. II, p. 309.

838.00/2979 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 6, 1931—6 p. m.

40. Legation's 53, June 4, 10 a. m. The Department will support you fully in the position you have assumed and you may so inform the appropriate Haitian authorities.

You may point out that as stated in the Department's telegram No. 36 of June 3, 5 p. m. this Government will insist on full observance of the existing treaty commitments affecting the financial service. Direct particular attention to the agreement of August 24, 1918, wherein the Haitian Government has agreed that any project of law bearing upon any of the objects of the treaty, prior to being submitted to the legislative body of Haiti, shall be communicated to the representative of the United States for the information of his Government and if necessary for discussion between the two Governments. You may add in this connection that the Department regards the failure of the Haitian authorities to comply with this commitment as especially incomprehensible in view of the clear understanding on that point which had been arrived at in the prior discussions with de la Rue.

STIMSON

838.00/2965 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 13, 1931—noon.

41. Your 40, May 18, noon. The Department feels that it would be wiser in the new convention to provide for the appointment of the employees in the customs service by appointment of the President of Haiti upon nomination by the President of the United States. There would be no objection, of course, in practice to continuing the procedure which it is understood is now being followed and which substantially amounts to the commissioning by the President of Haiti of employees who have been nominated by the Financial Adviser.

It is, of course, apparent that this Government must be able to insist on the employment of a sufficient number of Americans in the Financial Services to insure their orderly and satisfactory operation and it is believed this result can best be assured by retaining the control provided for in Article I of the new convention, as drafted in the Department. Making the changes in titles which you suggest, the first paragraph of this article would then read :

"The President of Haiti shall appoint, upon nomination by the President of the United States, a Fiscal Agent and Deputy Fiscal Agent with such aides and employees as may be necessary, who shall

collect, receive and apply all customs duties on imports and exports accruing at the several custom-houses and ports of entry of the Republic of Haiti."

In discussing this question you may make it clear that this Government is in full accord with the Haitian Government as to the desirability of operating the Financial Services with the minimum number of Americans possible and desires to replace Americans by Haitians as rapidly and as fully as may be found feasible.

STIMSON

838.00/2985 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 18, 1931—10 a. m.

[Received (June 19?) 3:40 a. m.]

61. The Minister for Foreign Affairs said yesterday that he was authorized to accept a general arrangement along the following lines:

1. The Haitian Government would give us the assurances requested regarding the commissioning of American officers and the promotion of Haitian officers provided however that we did not insist upon the commissioning of Captain Aarons. The Government would reserve however the right to discuss further the plan of Haitianization.

2. The Colvin case would be settled as already indicated. Colvin would leave October 1st receiving his back pay from July 1, 1930 plus 9 months additional pay at the rate of ten thousand per annum.

3. The public works, sanitary and agricultural services would be turned over to the Haitian Government on October 1st and American civilians in these services would receive 9 months pay as an indemnity.

I did not express any opinion on the plan as a whole. I pointed out that we must retain sanitary control in Port au Prince and Cape Haitien and promised to give the Minister later a definite statement as to what this would imply. I also said that I was not disposed to drop the Aarons case but that any definite action on this case must await the decision of the board of investigation which General Williams would now reconvene without waiting further for the President's cooperation. The Minister said that the President would prefer to break off negotiations entirely rather than to give in in this case.

With reference to turning over the Treaty Services I see no material difference between October 1st and January 1st. Neither the public works nor the agricultural services can do anything very useful under present conditions because of the systematic obstruction of the Government and the continued presence of Americans in them only leads to difficulties and controversies. I think that we should make it clear that the decision to turn over the services at once instead of adopting a rational plan of Haitianization which would have made possible

their continued efficiency, was taken simply because of the insistence of the Haitian Government and against our better judgment.

I do not feel however that we should give in on the Aarons case. If the board of investigation clears Aarons of the charges against him I think that we should insist upon the commission even if this leads to a final break in the Haitianization negotiations. Any other action will seriously affect the morale of the Garde and our own control over it and any assurances which we might receive for the future would be of little value if we gave in on this important question of principle. I have tried to disassociate this case from the general negotiations by suggesting that we postpone a final decision until the report of the Board has been received and proceed meanwhile with a general agreement on other points including assurances regarding the Garde but the Haitian Government insists that it must have assurances that we will not attempt to compel the President to commission Aarons before it gives the general assurances which we request.

Please inform me whether the Department is disposed to accept the general arrangement outlined above with the exception of the stipulation regarding Aarons and also whether the Department will authorize me to make a proper solution of the Aarons case an absolute condition to the acceptance of an agreement regarding Haitianization even though this causes a final break in the negotiations.

MUNRO

838.00/2986 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

[Paraphrase]

PORT-AU-PRINCE, June 18, 1931—11 a. m.

[Received 5 p. m.]

62. My 61, June 18, 10 a. m. If the Haitianization negotiations should result in an impasse, I think we should immediately announce a plan of our own and proceed to put the same into effect, but making an announcement thereof in such a way as not to close the door to further negotiations with the Government of Haiti. In order to prevent an outburst of popular feeling and possible disorders here it will be essential to make the announcement at the moment when the negotiations are broken up. Such a course would be unsatisfactory in many ways, but I am of the opinion that it would be better than a further protracted discussion of the Haitianization question especially in view of the Government's increasingly obstructive tactics toward the treaty services and the increasingly hostile attitude of public opinion. If the occasion should arise, I shall telegraph the Department an outline of

the announcement I should like to make. I hope that this stage will not be reached. It is quite possible, however, that there will be a definite break over the Aarons case, and if we should give in in this case, I think that the Government of Haiti would provoke other controversies which would prevent the execution of any agreement we might sign.

MUNRO

838.00/2987 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 19, 1931—1 p. m.

[Received 10:50 p. m.]

64. Department's telegram No. 40, June 6, 6 p. m. The Financial Adviser this morning received orders from the Minister of Finance to pay the representation allowances to the Senators and Deputies from April 7th on. I have authorized him to reply that he has been instructed by the Government of the United States to make no payments under this credit until further notice.

I have discussed the agreement of 1918 with the Minister for Foreign Affairs on several occasions and he has not attempted to deny its continued validity although pointing out the difficulty of applying it under present conditions. He proposed an arrangement under which the two Governments would rescind the agreement of 1918 on condition that every project of law relating to financial affairs be submitted to the Financial Adviser for his accord before presentation to the Legislature. I have understood that we would discuss the matter further after dealing with the more urgent questions.

I see no objection to an arrangement providing that any project of law directly affecting one of the services under American control must be submitted to the head of the service for his accord before presentation by the Government to the Legislature and I think that such an agreement would be more in accord with our present policy here and easier to endure than the agreement of 1918 which is certain to give rise to bitter feeling and violent controversies if we insist upon its strict observance. Neither an arrangement of this character, however, nor the agreement of 1918 would cover adequately laws introduced by individual Congressmen and not by the Government and it would still be necessary to insist upon our right to regard as inoperative even after promulgation a law which we considered inconsistent with the treaty. I should like to be informed of the Department's views regarding the proposed modification of the agreement of 1918.

MUNRO

838.105/372 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 20, 1931—noon.

[Received 11:03 p. m.]

66. Referring to my telegram No. 61, June 18, the final report of the Board of Investigation completely cleared Aarons of the charges against him.

MUNRO

838.00/2987 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, June 22, 1931—2 p. m.

44. You are authorized to conclude an agreement in substitution for that of August 24, 1918 in the terms of your telegram No. 64, June 19, 1 p. m., provided that every project of law relating to financial affairs be submitted to the Financial Adviser for his accord before presentation to the Legislature and, further, provided that any project of law directly affecting any other Service of which there is an American at the head, be submitted to such head of Service for his accord before presentation to the Legislature.

STIMSON

838.105/376 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

[Paraphrase]

WASHINGTON, June 22, 1931—6 p. m.

43. Your 61, June 18, 10 a. m., and 62, June 18, 11 a. m. We have given most careful consideration to this matter and we sympathize with your feelings. We do not feel, however, that the issue presented in the Aarons case is one which would justify jeopardizing the entire Haitianization program. Although the Garde d'Haiti is under American officers, yet it is operating as a Haitian force and as long as it does not interfere with the proper discharge of its duties, it will sometimes be necessary to give consideration to the views of the President regarding it. In this case it boils down to the question of whether Aarons shall be a First Lieutenant or a Captain and while it is unfortunate and may cause a certain amount of resentment among the Haitian officers, this is not a matter in which public opinion would justify taking a stand which would result in virtual military occupancy of Haiti.

The situation, if the program of Haitianization is carried out as a unilateral act, will be one of virtual military occupation. In the natural course of events it will not be long before American officers will have to be commissioned in the Garde d'Haiti to replace those whose tours of duty are up. It seems safe to expect that if the Haitianization program is carried on without the cooperation of the Government of Haiti, the President of Haiti will refuse to commission any more Americans in the Garde d'Haiti. In that event these men will then have to operate purely on the nomination by the President of the United States and as officers of the Marine Corps. This is a military occupation. Again, there would be no authority to pay Colvin and the other American officials in the non-financial Treaty Services with the indemnities which you said have been tentatively agreed upon by the Government of Haiti. Even if the payments were made by the Financial Adviser, it would be considered in many quarters as a high-handed act, one without justification under the treaty.

Taking all things into consideration, the Department does not feel that the Aarons case is one on which we can take a stand that would jeopardize the Haitianization program. You are authorized, therefore, to make an arrangement with the Government of Haiti to the effect that upon receiving formal explicit assurances in writing that the Treaty provisions regarding the Garde d'Haiti will be respected; that the Colvin case will be settled as indicated in your 61, June 18, 10 a. m.; that the American civilian treaty officials in the Public Works, Sanitary, and Agricultural Services will be indemnified as set forth in your 61; and that the other specific agreements of the Haitianization program already outlined will be respected, you will acquiesce in the refusal of the President of Haiti to commission Lieutenant Aarons.

You state in paragraph number "1." of your 61, June 18, 10 a. m., that the Government of Haiti would reserve the right to discuss further the plan of Haitianization. In as much as most of the provisions are apparently agreed upon, the Department feels that you might use your acquiescence in the President's point of view regarding the Aarons case as a bargaining point to offset further discussion of the Haitianization plan.

STIMSON

838.124/181 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 23, 1931—11 a. m.

[Received June 24—2: 35 a. m.]

68. I have worked out with Dr. Stuart a plan to be proposed to the Haitian Government as part of the general Haitianization agreement

under which we would turn over all public health work except sanitation in Port au Prince and Cape Haitien. We would retain three Navy doctors and six other Americans as a separate sanitary organization doing the work now performed by the public health offices in the two cities and operating the public health garages.

We can give up the control of the hospitals and the public health laboratories, which cannot well be separated from the hospitals, provided that the Navy Department will authorize the brigade hospitals to take care of American civilians connected with the Treaty Services, and provided that the laboratory facilities at the Port au Prince field hospitals can be slightly enlarged to perform work for the American Sanitary Service. And brigade surgeon tells me that he sees no difficulty about this but I think it would be well for the Department to ascertain informally the views of the Navy Department.

I think that the agreement should contain provisions allowing us to assume control of all sanitary work in case of epidemic or other grave emergency and to supervise and if necessary control the chlorination of water. The Haitian Government should obligate itself to give all necessary support through its courts and other authorities and to provide annually in its budget \$180,000 for the use of the Sanitary Service. There are minor details which have to be worked out by agreement.

Will the Department please inform me as soon as possible whether it perceives any objection to this proposal and whether the Navy Department is willing to cooperate as above outlined.

MUNRO

838.105/377 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, June 25, 1931—noon.

[Received 9:44 p. m.]

69. Department's 43, June 23 [22], 6 p. m. The Haitian Government's proposal reported in my telegram 61,³³ was that American officials should be withdrawn from the Public Works, Public Health Service, and the Agricultural Services, on October 1st with indemnification. The proposal apparently does not imply any agreement at present regarding the Financial Services and it stipulates that the Haitian Government would reserve the right to discuss further the plans for the Haitianization of the Garde. This latter stipulation was what paragraph numbered 1 in my 61 referred to. Do I understand that the Department would be disposed to accept such an arrangement, particularly with reference to October 1st as the date of

³³ Dated June 18, 10 a. m., p. 481.

withdrawal? Also is the arrangement outlined in my telegram 68, June 23, 11 a. m. satisfactory?

In view of the emphatic oral instructions about the Garde which I received from the Secretary of State personally last April, it seems to me my duty to make it clear that the Aarons case involves far more than the Department appears to realize. It is not a question of my feelings. Every officer of the Garde regards this as a test case to determine whether we can protect Haitian officers in carrying out the orders of their American superiors or whether they will be compelled in order to obtain promotion to yield to political pressure in such matters as the appointment of rural police by sub-district commanders, the making of arrests, and the assurance of immunity to offenders who have political influence. The question is especially important because it will be difficult under any conditions to keep the Garde out of politics as next January's elections approach. It will not be solved by any assurances which we may obtain for the future, for experience has clearly shown that the Haitian Government's promises are of little value unless we are in a position to enforce compliance with them. Furthermore, such assurances would do nothing to counteract the effect upon other Garde officers. I do not like to appear importunate but both General Williams and I are convinced that failure to give proper protection to Haitian Garde officers would make it almost impossible for the American officers to discharge properly their responsibilities.

It has always been customary in the Garde to give officers temporary appointments, pending the issue of commissioning, and to pay them from the date of such appointments. In the case of Haitian officers, this has been a part of the Haitianization program since it has been considered advisable to try out an officer in a given rank before recommending him for a permanent commission. Aarons is now a temporary captain. If the deadlock in the matter should continue, we might be compelled to operate the Garde partly with officers holding such commissions, but this would not make any very serious change in the situation now existing. Furthermore, regardless of any assurances which the Haitian Government might give us I feel certain that we would increase the probability of being placed in this same position at some time in the future if we do not take a firm stand now.

[Paraphrase.] The Haitianization program I intended to recommend in case the Haitianization negotiations broke down did not imply the establishment of any such military control as the Department feared. I intended to make a friendly statement expressing our regret that it had been impossible to reach an agreement with the Government of Haiti and to outline definite Haitianization measures which we would at once adopt, as follows: Haitianization of the Garde d'Haiti slightly more rapidly than recommended in the Forbes

plan; on January 1, 1932, Haitianization of the Public Works Service with the appointment of Haitian engineers to most of the administrative positions at once; Haitianization by January 1 of the district offices of the Sanitary Service; Haitianization of the Service Technique not later than July 1, 1932, with the immediate surrender of all educational work; further, that we are ready to accept substantial changes in the Financial Services when we could reach an agreement with the Government of Haiti which would safeguard the rights of the bondholders; and that we should Haitianize all other activities of the Public Health Service upon making an agreement for American sanitary control in Cape Haitien and Port au Prince.

This plan would not only leave the door open for negotiations but would almost compel the Government of Haiti to continue negotiations. At the same time it would allay suspicion and anxiety on the part of public opinion in Haiti. Likewise it would protect the interests of Americans in the Service Technique and we could always offer to withdraw these Americans sooner upon making an agreement regarding indemnification. This plan would not settle the Colvin case. I think, unless we could reach a separate agreement about the Colvin case, that the Department should consider the possibility of instructing the Financial Adviser to pay Colvin his back salary on the ground that Colvin had been duly nominated by the President of the United States of America and had performed the duties of Director General since July 1, 1930. This procedure, I think, would be more satisfactory from our point of view than an acceptance of the proposal of the Government of Haiti as outlined in the first paragraph of this telegram, if the latter should involve a weakening of our position with regard to the Garde d'Haiti. [End paraphrase.]

MUNRO

838.105/377: Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 3, 1931—2 p. m.

47. Legation's urgent 69, June 25, 12 noon. The Department has carefully and sympathetically reconsidered the situation with respect to Aarons as it has been presented in your several telegrams. While recognizing the importance of the reasons you have advanced in support of your contention that Aarons' promotion should be insisted upon by this Government, the Department has again reached the conclusion that the case is not of sufficient importance, either in itself or because of the principle it involves, to warrant a definite rupture of the negotiations with respect to the general plan of Haitianization. . . .

.

You are authorized therefore to conclude with the Haitian Government a written agreement substantially along the following lines :

a) The Government of the United States acquiesces in the resignation of Mr. Colvin and the Government of Haiti will indemnify him in the manner already agreed upon;

b) The Government of the United States acquiesces in the views of the Haitian Government with respect to Lieutenant Aarons;

c) The Government of the United States acquiesces in the proposal of the Haitian Government that the American personnel be withdrawn on October 1 from the Public Works, Public Health, and Agricultural Services with the indemnification specified;

d) The Government of Haiti acquiesces in the program regarding the Public Health Service set forth in the Legation's telegram No. 68, June 23, 11 p. m. (to which the Navy Department perceives no objection) ;

e) The Haitian Government formally and explicitly obligates itself to respect the treaty provisions governing the Garde, as well as the Garde Agreement.

f) The Government of the United States is prepared to effect with the Government of Haiti the further Haitianization of the Garde, within the scope of the Haitianization schedule prepared by the Commandant of the Garde and submitted by the Legation as transmitted with the Legation's despatch No. 94 of April 4, 1931,

g) With respect to the Financial Service this Government is prepared to relinquish the administration of the land registration within the scope of the instructions issued to you at the time of your last visit to Washington, including of course the negotiation of a new financial convention.

The Department feels that you should change your tactics in the negotiation. As long as you are discussing piecemeal the Haitianization plan, individual cases such as the Colvin and Aarons cases arise and the Haitians focus full attention on these incidents and make their settlement a condition to further progress, and minor matters, such as the Aarons case, then grow into very much larger proportions. This is not a case, as already stated, on which this Government can make a fight. We absolutely can not get support in this country in this individual case. The Department feels therefore that you should at once draw up and submit in writing to the Haitian Government your whole program of Haitianization and discuss it as a whole. Of course this does not mean that minor changes of detail could not be made as desirable, but, by discussing the whole matter en bloc, you will get away from the position of having everything depend on one individual case. The Department feels that you should do this and push it to a decision as quickly as possible before other similar cases are brought up. If the Haitians refuse to discuss the matter, or break off the negotiations, then you have a reasonable plan that you have submitted which they have

rejected or have blocked and this Government is in a position in which it can get public support. Then you can go ahead and make a public statement of the facts and put into effect unilaterally our own plan of Haitianization as suggested in your cable No. 69 of June 25, noon.

Under the present method of negotiation you are fighting a trench battle, falling back from individual trench to individual trench, whereas under the plan outlined above you would be carrying on a fight along the whole front and should be able to advance and make progress.

The Department is not unmindful of the fact that acquiescence in the views of the Haitian Government in respect of the Colvin and Aarons cases may encourage that Government to advance new demands before it fulfills the commitments it has tacitly made on the basis of such acquiescence. You may, should you deem it advisable, inform the Haitian authorities that this Government's attitude, as has been frequently stated, is governed by its sincere desire to meet the wishes of the Haitian Government and to facilitate the Haitianization program and that these concessions will be immediately withdrawn should there be any endeavor on the part of the Haitian Government to evade wholehearted compliance with its commitments.

CASTLE

838.124/181 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 3, 1931—3 p. m.

48. Your telegram 68, June 23, 11 a. m. Navy Department acquiesces in the broad aspects of the proposal outlined by Dr. Stuart for the Haitianization of the Public Health Service.

The Navy Department concurs in your belief that three Navy doctors and six other Americans will be sufficient personnel to administer the sanitation work of Port au Prince and Cape Haitien provided the necessary funds are made available to them.

With respect to the medical care and hospitalization of American civilians connected with the treaty services, the Navy Department points out that there is no authority in law for the admission of non-naval personnel into the field hospital of the First Brigade of Marines at Port au Prince. However that Department proposes that, in view of the separate hospital facilities maintained in Port au Prince by private subscription and operated in conjunction with the field hospital under the supervision of naval medical personnel for the care of naval families, no objection would be perceived to the extension of these

separate hospital facilities to Americans connected with the treaty services, provided that the treaty personnel concerned will undertake to bear its proper share of the expense involved and provided further that naval funds or supplies are not used for the expansion, maintenance or operation of these facilities. Any necessary enlargement of the laboratory facilities at the Port au Prince field hospital can be accomplished without difficulty.

The Navy Department confirms your viewpoint that it is essential to include in the proposed arrangement a provision whereby the treaty officials could resume control in the case of epidemic or other grave emergency. It assumes that the term "all sanitary work" used in your telegram under reference is intended to cover all public health work. That Department likewise suggests the necessity in the proposed arrangement for a provision that in case complete control should be resumed in an emergency by the treaty officials the Haitian Government will make available to them such funds as may be needed.

You are authorized to discuss the plan outlined by Dr. Stuart with the appropriate officials of the Haitian Government as a part of the general Haitianization agreement, upon which specific telegraphic instructions (No. 47)³⁴ are being sent to you simultaneously with this telegram, making such modifications as may be necessary in accordance with the observations of the Navy Department above quoted.

CASTLE

811.458 Haiti/10 : Telegram

The President of Haiti (Vincent) to President Hoover

[Translation]

PORT-AU-PRINCE, July 4, 1931.³⁵

I take very special pleasure in expressing to Your Excellency my most sincere and cordial good will on the occasion of the glorious date of the independence of the United States. On this occasion I believe that I should address a supreme appeal for the more vigorous execution of the recommendations approved by Your Excellency for a rapid cessation of the effects of the Convention and the Military Occupation. Such a step would calm greatly agitated Haitian public opinion and would safeguard the excellent relations which exist between the two peoples.

STENIO VINCENT

³⁴ Dated July 3, 2 p. m., *supra*.

³⁵ Received in the Department of State, July 6, 1931.

838.105/381 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 7, 1931—9 a. m.

[Received 6:55 p. m.]

75. General Williams, Commandant of the Garde, has today received a letter from the President of Haiti in which he states:

"I am disposed to reconsider with the greatest benevolence the case of Lieutenant Aarons and to consider it within the plan of arrangements which we have been awaiting for some time."

I shall present a note today to the Haitian Government in accordance with the Department's No. 47 of July 3rd without making specific reference to the Aarons case which it will now presumably be possible to settle in a satisfactory manner.

MUNRO

838.00/2999

The Minister in Haiti (Munro) to the Acting Secretary of State

No. 168

PORT-AU-PRINCE, July 8, 1931.

[Received July 13.]

SIR: With reference to the Department's telegram No. 47, of July 3, 1931, 2 p. m., I have the honor to transmit herewith a memorandum which I handed to the Minister for Foreign Affairs yesterday afternoon embodying a general plan of Haitianization.

The telegram above referred to was not received from the Naval Radio Station until an advanced hour in the morning of July 4th. and could not be decoded until that afternoon. The elimination of the very numerous garbles and the necessity for preparing with some care and after consultation with Dr. Stuart of the detailed project for the sanitation control in Port-au-Prince and Cape Haitien, made it impossible to take the matter up with the Minister for Foreign Affairs until July 7th. I therefore called on Mr. Léger yesterday afternoon and handed the memorandum to him.

Although the memorandum embodied almost exactly the plan proposed by Mr. Léger himself so far as the majority of the Treaty Services were concerned and although it represented a very great concession to the wishes of the Haitian Government, Mr. Léger received it with marked evidences of dissatisfaction. When I pressed him for a statement as to his principal objections, he said that the Chamber of Deputies, which had already declared the Treaty of 1915 null and void, would receive in a very hostile spirit a plan which constantly referred to "the date of the expiration of the Treaty" and indicated

throughout that the United States still considered the Treaty to be in effect. He then proceeded for the first time since I have been dealing with him to speak very bitterly of the procedure followed in renewing the Treaty for an additional period of ten years in 1917. I replied that we must, of course, confront the fact that the Treaty was still in existence and that any plan of Haitianization would have to start from that point, but that I should always be willing to consider any changes in form or wording which would make the project more satisfactory to the Haitian Government without altering it in substance. Mr. Léger, however, appeared to think that the substance was as objectionable as the form.

We did not discuss the plan in detail as it was necessary for the Minister to leave for a Cabinet meeting.

Respectfully yours,

DANA G. MUNRO

[Enclosure]

The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Léger)

PROJECT OF AGREEMENT REGARDING HAITIANIZATION OF THE TREATY SERVICES

THE PUBLIC WORKS SERVICE AND THE SERVICE TECHNIQUE

1. All American officials will be withdrawn from the Public Works Service and the Service Technique on October 1, 1931, leaving these Services entirely in the hands of Haitian personnel under the direct control of the Haitian Government.

2. To compensate the officials who will thus be dismissed without an adequate opportunity to obtain new employment, the Haitian Government agrees that each American civilian official or employee thus withdrawn shall be paid an indemnity equivalent to his salary for a period of nine months as well as the expenses of the journey back to the United States in cases where the employee would have been entitled to such expenses at the termination of his service under the original terms of his employment.

3. Mr. Carl Colvin will be paid as an indemnity the difference between \$7,500.00 and \$10,000.00 per annum for the period from July 1, 1930, to October 1, 1931, and in addition an amount equivalent to three months salary at the rate of \$10,000.00 per annum, in addition to the expenses of his journey back to the United States and salary at the rate of \$10,000.00 for accrued leave to which he may be entitled. The Haitian Government expresses high appreciation of the technical services rendered by Mr. Colvin in the Service Technique and intends to give him an appropriate letter indicating this appreciation.

THE GARDE D'HAITI

4. The Government of the United States is prepared to effect with the Government of Haiti the further replacement of American by Haitian Officers in the Garde d'Haiti in such a manner that the Garde may be commanded entirely by Haitian Officers not later than the date of the expiration of the Treaty of September 16, 1915. The following promotions of Haitian Officers will be made in the Garde d'Haiti during 1931, and each of the three years thereafter, the figures in each case indicating promotions to the ranks indicated:

Between January 1st. and December 31, 1931, one Major, two Captains, fifteen First Lieutenants, seventeen Second Lieutenants, and twenty-nine Aspirant Officers, in the Line and Quartermaster Department; two First Lieutenants and four Second Lieutenants in the Medical Service.

In 1932, one Colonel, one Major, three Captains, seven First Lieutenants, ten Second Lieutenants, and seven Aspirant Officers, in the Line and Quartermaster Department; one Major, one Captain, one First Lieutenant, one Second Lieutenant in the Medical Service.

In 1933, one Major, two Captains, four First Lieutenants, seven Second Lieutenants, and thirty Aspirant Officers, in the Line and Quartermaster Department; six Second Lieutenants in the Medical Service.

In 1934, one Major, one Captain, four First Lieutenants, six Second Lieutenants, and five Aspirant Officers, in the Line and Quartermaster Department; one Captain, three First Lieutenants, one Second Lieutenant in the Medical Service.

5. The preceding paragraph indicates the minimum number of Haitian officers to be promoted, but every effort will be made to increase the number promoted during each year to the end that the Garde may be placed under the command of Haitian Officers at the earliest practicable date. The American Officers remaining in the Garde on January 1, 1935, will be replaced by Haitian Officers as rapidly as practicable thereafter, in order to make possible the withdrawal of all American Officers not later than the date of the expiration of the Treaty.

6. Pending the completion of this program, the status of the Garde d'Haiti will be governed by the provisions of the Treaty of September 16, 1915, and the Garde Agreement, and the Haitian Government will give full effect to these contractual provisions and will promptly appoint American Officers nominated by the President of the United States and will promptly commission Haitian Officers who may qualify and be recommended for promotion by the Commandant of the Garde in accordance with the provisions of Article X of the Treaty of September 16, 1915.

THE PUBLIC HEALTH SERVICE

7. A Haitian Director General will assume charge of the Public Health Service on October 1, 1931, with full responsibility and full control under the Minister of the Interior of all work now performed by that Service except the control of sanitation and quarantine in the cities of Port-au-Prince and Cape Haitien and their immediate environs, including Petionville. All American personnel will be withdrawn from the activities under his direction, including the Haitian General Hospital at Port-au-Prince, the Justinian Hospital at Cape Haitien, and the Health Center and the Public Health Laboratory at Port-au-Prince, and all work of the Public Health Service outside of the two cities mentioned and their environs.

8. The control of sanitation and quarantine in Port-au-Prince and Cape Haitien and their environs including Petionville will be placed in the hands of a separate and independent organization under the control of medical officers appointed by the President of Haiti upon nomination by the President of the United States under the provisions of Article XIII of the Treaty of September 16, 1915. This new organization will take over the control of the Public Health Offices at Port-au-Prince and Cape Haitien and the Public Health garages in those cities, but the facilities of the Public Health garages will be made available to the National Public Health Service under arrangements concluded between the heads of the two organizations and all motor equipment which the present Director General of the Public Health Service does not consider strictly necessary for the use of the Sanitary Service in Port-au-Prince and Cape Haitien and their environs, will be turned over to the Public Health Service as reorganized under a Haitian Director General. The Haitian Government will provide suitable quarters for the work of the American Sanitary Service.

9. The Haitian Government will extend all proper aid and assistance through its courts and other authorities to the sanitary officials in Port-au-Prince and Cape Haitien and will invest them with authority to inspect private properties and otherwise to enforce existing sanitary ordinances in the cities of Port-au-Prince, Cape Haitien, and their environs, and to put into effect, with the prior approval of the President of Haiti, such new sanitary ordinances as may prove necessary.

10. Unless the two Governments should determine by agreement that a larger or smaller sum is required, the Government of Haiti agrees that the sum of \$180,000.00 shall be appropriated in each year's budget to provide for the expenses of the American Sanitary Service in Port-au-Prince and Cape Haitien. This amount shall be expended by the head of the Service in accordance with a budget which he shall prepare annually and shall submit to the Haitian Government for its

information. The head of the Service shall render a full account of all expenditures to both Governments.

11. The American Sanitary Officials shall have authority to supervise and if necessary to assume control of the chlorination of water supplied to Port-au-Prince and Petionville.

12. If there should be an epidemic or other grave emergency threatening the maintenance of proper health conditions in the cities of Port-au-Prince and Cape Haitien and their environs, and if the situation should become sufficiently serious in the opinion of the Government of the United States to require such action, the head of the American Sanitary Service shall assume control temporarily of all public health work in such sections of the country as he may deem necessary and the Haitian Government will place at his disposal for the purpose of combating the epidemic or emergency all facilities of the National Public Health Service in those districts, together with such funds as may be available from current appropriations for the National Public Health Service and such other funds as may in the opinion of the two Governments be required. Any extraordinary control which the head of the American Sanitary Service may have assumed outside of the cities of Port-au-Prince and Cape Haitien and their environs shall terminate when he shall report to both Governments that the emergency is passed.

13. The head of the American Sanitary Service shall be authorized to employ such assistants as he may consider necessary within the limits of the annual appropriation of \$180,000.00 above referred to. The Government of the United States states that it is its intention that three Navy Medical Officers and six Hospital Corpsmen of the United States Navy shall be assigned to this Service at the beginning, with such Haitian assistants as may appear necessary.

OFFICE OF THE FINANCIAL ADVISER-GENERAL RECEIVER

14. The two contracting parties agree that they will proceed immediately with the negotiation of a new agreement regarding the financial services, based on Article 8 of the Protocol of October 3, 1919, and that they will consider in this connection to what extent the present powers and functions of these services may be modified without impairing the security afforded by the Treaty of September 16, 1915, the Protocol of October 3, 1919, and the loan contracts to the holders of Haiti's bonds.

15. In the meantime, it is agreed that the land title registry office (Bureau d'Enregistrement) shall be reorganized under a Haitian chief responsible directly to the Minister of Finance and shall be entirely separated from the office of the Financial Adviser-General Receiver.

811.458 Haiti/12 : Telegram

President Hoover to the President of Haiti (Vincent)

WASHINGTON, July 9, 1931.

I take pleasure in acknowledging the receipt of Your Excellency's friendly telegram of felicitation upon the occasion of the anniversary of the independence of the United States. I am confident that the relations between Haiti and the United States will be marked by ever increasing cordiality and mutual understanding.

HERBERT HOOVER

811.458 Haiti/13 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 9, 1931—5 p. m.

49. The following message has been received by the President from the President of Haiti: [Here follows text of telegram of July 4, printed on page 491.]

The President has replied as follows: [Here follows text of telegram of July 9, printed *supra*.] Unless you perceive objection thereto you may state to President Vincent that the President learns with pleasure of his desire to contribute to an early settlement of the outstanding problems between the two countries, and that he feels it a matter for mutual satisfaction that the terms of the joint Haitianization program proposed by you to the Haitian Government in accordance with the Department's telegram No. 47 of July 3 are not only in accord with the recommendations of the Forbes Commission but envisage an even more speedy Haitianization of the Treaty Services.

CASTLE

838.105/383 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 10, 1931—10 a. m.

[Received July 11—1 a. m.]

76. In reply to the Haitianization project submitted in accordance with the Department's 47, July 3rd, I have received a counterproject containing among others the following proposals:

1. Instead of full sanitary control in Port au Prince and Cape Haitien the Government proposes a sanitary mission of four officers with an appropriation of \$28,000 to advise and assist the Haitian Sanitary Service but to have full power in case of emergency. I shall discuss this matter further with the Government.

2. The Government proposes radical restrictions in the powers of the Financial Adviser-Receiver General including the abolition of his right of audit of expenditures. It proposes that he turn over monthly to the Government all funds left after making the payments provided in article 5 of the treaty and that his only power with regard to the budget should be to see that the receipts and expenditures are balanced. It also proposed the immediate appointment of a Haitian co-Director in the Internal Revenue Service. It specifies that the future agreement on the Financial Service shall be on the basis of a complete administration by Haitians of the Customs and Internal Revenue Services.

I shall inform the Minister for Foreign Affairs as I have already done repeatedly that the Government of the United States will insist upon the maintenance intact of the Financial Services and that any changes in the present arrangements must be considered in connection with the negotiations of the new financial agreement.

3. The Government proposes that we should agree to execute later a "protocol of disoccupation" and that meanwhile the brigade commander should withdraw the proclamations establishing martial law and subjecting the Haitian people to trial by provost courts.

I should consider it undesirable to commit ourselves at this time even to an indefinite promise to sign a protocol of disoccupation because we cannot foresee when the marines can be withdrawn and we should retain our freedom of action. The Haitian Government however professes to consider some reference to a subsequent disoccupation agreement necessary for political reasons and it may be advisable to attempt to find a general formula which would satisfy them on this point.

I have thus far seen no indication of any popular feeling here regarding the continued technical state of martial law. Provost courts have not of course been used for a long time. I believe that the demand on this point has been brought forward simply because such a proposal could be utilized effectively for political purposes both here and in the United States and because the Haitian Government knows that it would embarrass us to refuse. While I feel that it would be preferable not to change the existing situation I do not think that the continued existence of martial law is sufficiently important to make it necessary for us to let the Haitian Government use this as an excuse for breaking off the negotiations. I think therefore that we should say that we will consent to the suspension of martial law so long as the country remains tranquil provided that an agreement is reached on all other points. Colonel Little agrees with me in this.

I should like to be informed of the Department's views on both of the questions discussed in this paragraph.

4. The Government proposes to postpone negotiations regarding the Haitianization of the Garde until a later date giving assurances meanwhile that existing treaty obligations will be respected. I see no objection to this and should in fact prefer to retain a free hand regarding a Haitianization of the Garde for the present.

5. Despite his former proposal on this point the Minister for Foreign Affairs now states that he cannot accept payment of indemnities to civilians in the Public Works Service because of the controversies which we have had regarding these employees. I shall discuss this matter further with him.

6. The Government proposes to link up with a Haitianization agreement the question of abolishing the agreement requesting that prior approval of [?] by the Legation and also the payment of the expense allowances of the Senators and Deputies. I shall discuss this matter further with them.

MUNRO

838.105/382 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 10, 1931—noon.

[Received 5:45 p. m.]

77. The President told me this morning that he would sign Aarons' commission when an agreement on Haitianization was reached.

MUNRO

838.00/2997 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 13, 1931—9 p. m.

51. Your 76, July 10, 10 a. m.

1). The Department considers it inopportune to consider any protocol of disoccupation at present, or prior to the execution of a satisfactory written agreement concerning the Haitianization of the treaty services. If you have any formula on this subject however which you consider acceptable the Department would be glad to receive and consider it.

2). You may inform Haitian authorities that after the conclusion of Haitianization agreement this Government will be glad of its own accord as an act of grace to authorize the withdrawal of the proclamations establishing martial law.

CASTLE

838.00/3000 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 14, 1931—7 p. m.

[Received July 15—2:24 a. m.]

78. We have made substantial progress toward a Haitianization agreement. The principal points still unsettled are:

1. Whether the American sanitary authorities shall have actual administrative control Port au Prince and Cape Haitien or whether they shall simply give advice to the Haitian Health Service which the latter would be obliged to accept. I am insisting upon full administrative control since any other arrangement would simply cause conflicts and loss of efficiency.

2. The Haitian Government still insists on the abrogation of the Agreement of 1918 regarding the visa of the Financial Adviser on expenditures. I presume that the Department still wishes me to insist on the maintenance, intact, of the Financial Service pending the negotiations of the new financial agreement.

3. The Haitian Government objects strenuously to the payment of an indemnity to the noncommissioned personnel in the Public Works Service. They point out that several have already been dismissed without indemnity. Since it is true that the position of these experts is different from that of the treaty engineers and the Service Technique employees I am inclined to make a concession on this point if necessary.

4. I am also inclined to accede to the demand for a Haitian co-Director in the Internal Revenue Service provided that this official exerts no real authority.

5. Pointing to the recommendation of the Forbes Commission on this subject the Haitian Government proposes a statement that the two Governments will "continue discussions regarding military disoccupation". I see no objection to this.

Will the Department please advise me as soon as possible of its views on these points and especially whether I shall insist finally and definitely upon the acceptance of our views with regard to the questions reported in paragraphs 1 and 2 above.

MUNRO

838.00/3001 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 15, 1931—1 p. m.

[Received 8:15 p. m.]

80. Reference my telegram No. 78, July 14, 7 p. m. The Financial Adviser is strongly opposed to accepting the appointment of Haitian co-Director in the Internal Revenue Service. He suggests that we offer instead to Haitianization [*sic*] the service administering state lands which has given rise to much trouble and is not an essential part of the financial system. I should prefer to withhold so far as possible

all concessions in the Financial Services pending the negotiation of the new agreement but if necessary I shall offer the Haitianization of the administration of state lands subject to the Department's approval. Please inform me of the Department's views on this matter.

Do I understand that I am authorized to sign agreement either by exchange of notes or in the form of a protocol in accordance with instructions which I have already received or may receive without submitting the final text to the Department for approval. I feel that there would be a distinct advantage in the present situation here in publishing the accord at the earliest possible moment. Please expedite reply.

MUNRO

838.00/3001 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 17, 1931—noon.

53. Your urgent telegrams Nos. 78, July 17 [14], 7 p. m., and 80, July 15, 1 p. m.

1. Department is inclined to feel, in the absence of a contrary opinion from Doctor Stuart, that it would be inadvisable for the American direction of sanitary districts of Port au Prince and Cape Haitien in substitution for the present complete control of Haitian Health Service to be reduced to an advisory role. The Department therefore approves of your continued endeavor to obtain an agreement for full American administrative control.

2. Pending the conclusion of a new agreement, based on Article VIII of the Protocol of October 3, 1919, and the pertinent provisions of the Treaty of 1915, this Government must insist upon the maintenance intact of the Financial Service. You may accede, however, should you deem it expedient, to the change in formula providing for the submission of proposed legislation for the prior accord of the treaty officials, as authorized by the Department's telegram No. 44, June 22, 2 p. m.

3. On the understanding that it will not prejudice the position of employees of the Service Technique with respect to indemnification (see paragraph 2, sub-paragraph (b) of the Department's telegram No. 47, July 3, 1931, 2 p. m.³⁶), you are authorized in your discretion to waive payment of an indemnity to the non-commissioned personnel in the public works service.

4. Reference your telegram No. 80, July 15, 1 p. m. While as above stated (paragraph 2) this Government desires to maintain the

³⁶ Par. 2 (b) of this telegram not printed; it provided that American civilian officials of the Public Works, Public Health, and Agricultural Services should receive suitable indemnification upon their separation from those organizations.

financial services intact pending negotiations of a new agreement, if you find it expedient in the interest of reaching an early joint accord, you may offer the immediate Haitianization of the administration of state lands.

5. As the Department deems it inopportune to consider any protocol of evacuation prior to the execution of a satisfactory general accord concerning the Haitianization of the treaty services, it is disinclined to approve the incorporation in the accord of even the non-committal formula suggested by you unless you deem it absolutely essential in the interests of achieving a satisfactory agreement.

With reference to the second paragraph of your telegram No. 80, of July 15, 1 p. m., you are authorized to render effective the projected Haitianization accord by an exchange of notes without submitting the final text for the Department's approval, if there is not time therefor, upon carefully ascertaining that the agreement embodies to your satisfaction and that of the treaty officials concerned the features set forth in the Department's telegrams Nos. 47 of July 3, 2 p. m., and 48, July 3, 3 p. m., as modified by the present telegraphic instructions. If you can do so without jeopardizing the conclusion of the agreement the Department would like to have the text thereof cabled for its consideration.

CASTLE

838.00/3002 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 24, 1931—6 p. m.

57. In view of the explanations contained in your telegram No. 83 of July 23, 11 a. m.,³⁷ regarding the practical if not legal difference between the status of the non-commissioned employees of the Public Works Service and that of similar employees in the Service Technique, you are authorized within your discretion, if unable to obtain even a more moderate indemnification for the employees of the former service, to waive such a demand.

CASTLE

838.51A/197 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 25, 1931—noon.

[Received 9:50 p. m.]

86. The Minister for Foreign Affairs is still very insistent on the abrogation of the accord of December 3rd, 1918,³⁸ regarding the visa

³⁷ Not printed.

³⁸ See telegram of December 4, 1918, from the Minister in Haiti, *Foreign Relations*, 1919, vol. II, p. 312.

of the Financial Adviser. I have informed him very definitely that we cannot accept changes in the powers of the Financial Adviser. He apparently considers the abrogation of the accord extremely important from the political standpoint, however, even though the Government is compelled to continue the existing pre-audit system on some other basis. I am therefore inclined to suggest the following formula to him as a final concession subject to an agreement on all other points in the Haitianization accord and subject to the receipt of a satisfactory reply to my note regarding the budget:

"The accord of December 3rd, 1918, relating to the visa of the Financial Adviser on orders of payment issued by the Secretary of State for Finance, on the Receiver General of Customs or on the National Bank of the Republic of Haiti, shall be abrogated as soon as an agreement to govern the service of payments, to remain in effect pending the negotiation of a new accord regarding the Financial Services, shall be reached between the Minister of Finance and the Financial Adviser. This agreement governing the service of payments shall be based upon the maintenance of an adequate system of pre-audit by the Financial Adviser's office".

If absolutely necessary I should also be disposed to add the following sentence:

"In the case of budgetary expenditures excepting for the payment of claims the mandate shall be passed for payment if it shall appear that there is a sufficient credit, that the mandate is in proper legal form, and that it is accompanied by adequate justifying documents; the signature of the Minister of Finance being regarded as sufficient evidence of the necessity of the expenditure".

Please inform me whether the Department approves.

MUNRO

838.00/3005 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 30, 1931—7 p. m.

59. Your 88, July 28, 10 a. m.³⁹ The Department concurs in the views expressed in the last paragraph of your telegram No. 87 of July 28,⁴⁰ and prefers if possible to separate the budget issue from the Haitianization negotiations. For your information, Bellegarde⁴¹ was given to understand that the Department could not recede from its position with respect to the withdrawal of the budget from the legislature in view of obligations imposed by the Treaty, and did not acquiesce in his views that a withdrawal of the budget would be impossible.

³⁹ Not printed.

⁴⁰ *Post*, p. 513.

⁴¹ Dantès Bellegarde, Haitian Minister at Washington.

The Department approves of the provisions of your tentative draft of the Haitianization Agreement ⁴² but has the following observations to make:

1. Article 6. The Department considers that the wording suggested in your 86 of July 25 is preferable to your 88, as the former requires a prior agreement to be reached governing the service of payments before the accord of December 3, 1918 is abrogated. It assumes that you and de la Rue are satisfied that payments for the Garde and financial services under the pertinent articles of the Treaty of 1915 will be adequately protected.

2. Article 8. In view of the Department's 51 of July 13 and the willingness of the Minister of Foreign Affairs to consent to the omission of this article it would seem preferable if possible not to include it. You may take up with Colonel Little the question of issuing a proclamation withdrawing martial law as soon as the Haitianization agreement is signed.

Department leaves to your discretion the signature of the agreement in the event that you are unable to obtain the modifications suggested.

CASTLE

838.00/3011 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, August 5, 1931—noon.

[Received 7:27 p. m.]

94. Legation's telegram No. 93, August 4, 2 p. m.⁴³ The accord was signed this noon. Letters are being exchanged between the Financial Adviser and the Minister of Finance regarding indemnities for American civilians and regarding the service payments.

Colvin will be indemnified as already arranged receiving back pay to October 1st, 3 months extra pay at the rate of ten thousand and accrued leave at the same rate in addition to travel expenses home. Non-commissioned employees in the Public Works will receive 2 months pay plus accrued leave and travel expenses while other Americans in the Service Technique and Public Works will receive 9 months pay with travel expenses but without accrued leave.

The agreement between the Financial Adviser and the Minister of Finance regarding the service of payments reads as follows:

"Pending a new arrangement the service of payments by individual checks will be maintained in the form in which it is now operated. After determining the regularity of the ordonnances issued by Ministers in conformity with the budget and the laws and decrees granting credits, and the sufficiency of their justifying documents, the *mandats*

⁴² Transmitted in telegram No. 88, July 28, 10 a. m., not printed.

⁴³ Not printed; it transmitted certain changes in the draft of the Haitianization accord.

de paiement of the Minister of Finance will be paid and the checks delivered accordingly to the interested parties.

The payment of claims which have not yet been accepted will be the subject of a subsequent arrangement."

The budget itself will be published but not the agreements regarding indemnities and the service of payments. Text will be forwarded by air mail Friday.

Colonel Little issued a proclamation this morning repealing martial law.

MUNRO

838.00/3017

The Minister in Haiti (Munro) to the Acting Secretary of State

No. 187

PORT-AU-PRINCE, August 6, 1931.

[Received August 10.]

SIR: I have the honor to enclose herewith the original French and English text⁴⁴ of the Haitianization Agreement of August 5, 1931.

Respectfully yours,

DANA G. MUNRO

[Enclosure]

*Haitianization Agreement Between the United States and Haiti,
Signed August 5, 1931*

PORT-AU-PRINCE, HAITI, August 5, 1931.

The undersigned plenipotentiaries duly authorized by their respective governments have agreed upon the following Accord:

ARTICLE I

The services of the Engineers provided for by Article XIII of the Treaty of September 16, 1915, for the sanitation and public improvement of the Republic, and by the Accord of July 17, 1923,⁴⁵ regarding the Service Technique d'Agriculture, as well as their foreign aids and employees, shall definitely cease on September 30, 1931, except as provided below in Articles III and IV.

ARTICLE II

Accordingly, on October 1, 1931, the Government of Haiti will assume rightfully and definitely the administration and control of the Direction Generale des Travaux Publics, of the Service d'Hygiene, and of the Service Technique d'Agriculture, and the President of the

⁴⁴ French text not printed.

⁴⁵ Hannibal Price, *Dictionnaire de Législation Administrative Haitienne*, 2nd edition (Port-au-Prince, Haiti, Imprimerie Chéraquit, 1923), p. 606.

Republic will deliver, in conformity with the Constitution and the laws, commissions to the Haitian engineers, physicians, and employees deemed necessary for the functioning of the above mentioned Services.

ARTICLE III

In that which concerns the Service National d'Hygiene, it is understood that in conformity with the laws in force it will have, under the direction of the Secretary of State for the Interior, throughout the Republic, the administration, inspection, and supervision of all of the public services of hygiene, sanitation and quarantine of the hospitals, rural dispensaries, poor relief, insane asylums and sanitary garages, of the Medical School, the Health Center, the laboratories, etc.

Nevertheless, in the cities of Port-au-Prince and Cape Haitian, and their immediate environs (that is within a radius of two miles of the cities proper but including also Petionville) where, pending other arrangements and until the conclusion of a protocol for their evacuation, American troops are stationed, an American scientific mission shall be especially charged in accord with the laws and regulations now in force with the control of sanitation and chlorination of water.

The Service Nationale d'Hygiene will be entitled, if it so requests, to receive the advice and recommendations of the above mentioned scientific mission within the restricted field of sanitation.

The Government agrees to leave to the Mission the sanitary garages at Port-au-Prince and Cape Haitian and the motor equipment strictly necessary for its activities but the Service Nationale d'Hygiene may always requisition the material thus loaned by agreement with the Mission if the need therefor should arise.

The Government of Haiti agrees that in case of epidemic or grave danger menacing the public health within the above mentioned cities of Cape Haitian and Port-au-Prince the Mission will cooperate with the National Public Health Service to combat the danger and for this purpose shall be authorized to make all necessary recommendations, and to make use of all the facilities and all of the organizations of the above mentioned Service; and the Haitian Government, under such circumstances, will take the necessary measures and provide the necessary credits.

ARTICLE IV

The Mission provided for in the preceding article will comprise three American medical officers nominated by the Government of the United States and appointed by the President of Haiti. Their status will be assimilated so far as the salary that they receive from the public treasury is concerned to that of Public Health Officers

first class provided for by the law of August 8, 1926. The Mission may also include, in addition, as a maximum six hospital corpsmen of the United States Navy who will be paid in conformity with a budget approved by the Minister of Interior upon the basis of the law of December 5, 1924.

The Mission will have the right to suitable offices at Cape Haitian and Port-au-Prince.

The funds necessary for the payment of the Haitian personnel and for the functioning of the sanitary services in the cities of Cape Haitian and Port-au-Prince will be provided for in a budget which shall be approved in advance by the Minister of Interior.

ARTICLE V

The Accord of August 24, 1918, regarding the communication of projects of Haitian laws to the Legation of the United States of America at Port-au-Prince, is and remains abrogated from this date.

If, nevertheless, the Government of the United States should deem a given law to be seriously inconsistent with any rights arising from provisions of agreements still in force, it will present its views to the Haitian Government through diplomatic channels for all proper purposes.

ARTICLE VI

The Accord of December 3, 1918, relating to the visa of the Financial Adviser on orders of payment issued by the Secretary of State for Finance, on the Receiver-General of Customs, or on the National Bank of the Republic of Haiti, is and remains abrogated. The Minister of Finance shall reach an agreement with the Financial Adviser on the procedure governing the service of payments.

The abrogation of the visa implies an obligation on the part of the Government of Haiti until the liquidation of the services of the Financial Adviser-General Receiver to make its expenditures within the limits of laws and credits voted or decreed with the accord of the Financial Adviser. The Haitian Government will reach agreements with the Financial Adviser regarding the measures affecting sources of revenue pending the liquidation of the services of the Financial Adviser-General Receiver.

ARTICLE VII

The land title registry office (Bureau d'Enregistrement) shall be entirely detached from the Office of the Financial Adviser-General Receiver and will pass under the complete control of the Secretary of Finance upon the signature of this Accord.

ARTICLE VIII

In view of the difficulties which have arisen with regard to the Law of May 26, 1931, it is understood that the travelling or representation allowances of the Legislative Body as provided for in the above mentioned law, will be paid without delay, starting from April 6, 1931, and up to September 30, 1931, from the general funds of the Treasury. After September 30, 1931, these allowances will be paid in accordance with a balanced budget.

ARTICLE IX

Since the Government of the United States believes that the discharge of the civilian officials and employees in the Services mentioned above in Articles I and II of the present Accord, will be unduly precipitate and has requested an indemnity for them, the Secretary of State for Finance in accord with the Financial Adviser is authorized to indemnify them upon an equitable basis from the general funds of the Treasury.

Specialists in the Service Technique who, upon the express request of the Government of Haiti, shall desire to remain in their former positions and sign the necessary contracts for this purpose with the Secretary of State for Agriculture shall not have the right to any indemnity by virtue of the liquidation of the Treaty Services.

ARTICLE X

The two Governments agree to continue their discussions regarding the other problems arising from the Treaty.

ARTICLE XI

While awaiting the settlement of the question of the Garde, the two Governments agree to maintain the "status quo" established by existing laws and agreements and to respect said laws and agreements.

Signed at Port-au-Prince in duplicate in the English and French languages, this fifth day of August, 1931.

DANA G. MUNRO
A. N. LEGER

838.00/3020

The Haitian Minister (Bellegarde) to the Acting Secretary of State

[Translation]

WASHINGTON, August 10, 1931.

MR. SECRETARY OF STATE: On the occasion of the signature of the Accord of August 5, 1931, constituting an important step toward the

execution of the Forbes Commission recommendations, approved by the President of the United States, for an early discontinuance of the effects of the 1915 Convention and of the military occupation of the Republic of Haiti, my Government instructs me to express to your Excellency, in its own name as well as in the name of the nation which it represents, the sincere joy which this happy conclusion of its *pourparlers* with the American Government causes it.

Such a conclusion, due chiefly to the spirit of conciliation, of goodwill and sincerity which prevailed during the conversations between the Minister of the United States and the Secretary of State for Foreign Relations makes possible the firm hope that the coming negotiations, conducted in the same spirit, will soon result, to the common satisfaction of both High Parties, in the most complete success.

The Haitian Government cannot forget the personal and direct participation of the President of the United States in the happy events which have taken place in the Republic of Haiti since the sending of the Forbes Commission, which was determined by himself. For this reason, it sincerely wishes, through the kind offices of your Excellency, to address to the Chief Executive the expression of its gratitude for this first step accomplished in the application, with respect to Haiti, of the broad Pan American policy of equality, friendship and justice advocated by Mr. Herbert Hoover.

In expressing to Your Excellency my personal thanks for the friendly assistance which I have always received from the Department of State, I am particularly happy at the coincidence which makes it possible for me to forward to the President of the United States the good wishes of the Haitian Government and people on the anniversary of the birth of Mr. Hoover.

Please accept [etc.]

DANTÈS BELLEGARDE

838.105/388 : Telegram

The Chargé in Haiti (McGurk) to the Acting Secretary of State

PORT-AU-PRINCE, August 11, 1931—noon.

[Received 2:50 p. m.]

99. Legation's 77, July 10, noon. The President signed Aarons' commission and delivered it to the Commandant of the Garde today.

McGURK

838.00/3020

The Acting Secretary of State to the Haitian Minister (Bellegarde)

WASHINGTON, August 17, 1931.

SIR: The receipt of your note of August 10, 1931, in which you are good enough to inform me of the great pleasure the signing of the

Accord of August 5, 1931, which constitutes an important step in the carrying out of the recommendations of the Forbes Commission has afforded your Government as well as the Nation it represents, is acknowledged with appreciation, and I am happy to advise you that the successful conclusion of these negotiations is also viewed with deep satisfaction by the Government of the United States.

Your message of gratitude to the President on this occasion and the expression of good wishes on the anniversary of his birth will be conveyed to their high destination.

Accept [etc.]

W. R. CASTLE, JR.

**OBJECTIONS BY THE UNITED STATES TO HAITIAN BUDGETARY LAWS
PASSED WITHOUT PRIOR ACCORD OF THE FINANCIAL ADVISER**

838.51/2287 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 17, 1931—2 p. m.

[Received 8:50 p. m.]

81. The Government presented the budget to Congress this morning without the accord of the Financial Adviser and presumably, although we have not obtained the final text, with many objectionable provisions.

We have feared for some months that the Government would refuse to recognize the right of the Financial Adviser to be consulted on the budget. Our suspicion was increased when the President repudiated his agreement with de la Rue⁴⁶ regarding the extra pay for Congressmen.⁴⁷ After our refusal to give effect to the law regarding congressional expense allowances, however, and probably because of my insistence that we would not change our position until there was an accord on the budget, the Minister of Finance finally submitted estimates of ways and means to the Financial Adviser on June 10th and estimates of expenditures on June 23rd.

Despite repeated requests, however, the very important laws of ways and means and expenditures which are an essential part of the budget were not received until after the budget was deposited this morning.

The Financial Adviser promptly furnished his views in writing regarding the budget estimates and indicated his willingness to discuss the matter fully with the Minister of Finance. The latter, however, showed evident reluctance to undertake any detailed discussion of the budget or to make any serious effort to reach an accord. Last Saturday the Minister for Foreign Affairs told me that in view of the Financial Adviser's failure to give his accord to the budget as pro-

⁴⁶ Sidney de la Rue, Financial Adviser-General Receiver of Haiti.

⁴⁷ See telegram No. 53, June 4, 10 a. m., from the Minister in Haiti, p. 478.

posed by the Haitian Government the latter might be obliged to present the budget without accord. I impressed upon him the fact that this would create an exceedingly serious conflict between the two Governments and insisted that the Minister of Finance should at once begin active discussions with Pixley ⁴⁸ who has been handling the matter because of de la Rue's illness this week. Pixley had several long conferences with the Minister of Finance. Aside from such questions as,

1. The Government's reduction of essential items in the Garde budget.

2. Its proposal for impractical changes in the budget of the Public Health Service.

3. Its elimination of charges paid by the Government services for telephones without making corresponding changes in the estimate of revenue and,

4. Its demand that detailed inflexible budgets be included for the Customs and Internal Revenue Services

the principal difference of opinion has been the Government's insistence upon a budget of over 32,700,000 gourdes as compared with the Financial Adviser's estimate of revenues at 31,625,000 gourdes. The budget prepared by the Government, despite the great present and prospective decrease in revenues, called for increased expenditures in practically all departments under Haitian control. Pixley assumed a very reasonable and conciliatory attitude regarding the question of the total amount of the budget. The Government has been insisting upon taking a million gourdes from the reserve to prevent any reduction in expenses in the Haitian Departments, whereas our belief has been that we would find means to cover a portion of the deficit either by new taxation or, as a last resort, by drawing on the surplus if the Haitian Government would make a genuine effort to make reduction comparable to, though not so great as, those accepted by the American Treaty Service. There was no indication until this morning that these discussions were not proceeding to the satisfaction of all concerned.

The Minister of Finance advised the Financial Adviser this morning by letter that he was presenting the budget to Congress and that he would be glad to transmit to the Congressional Committees any further views which the Financial Adviser might have to express. I at once called on the President and made an emphatic protest. He replied that the budget had already gone to Congress and that the Haitian Government had felt compelled to take the action which it did because of Congressional pressure and because of the length of time which had already elapsed since the budget should have been presented according to the Constitution. I have said that I felt

⁴⁸ Deputy Financial Adviser.

that the Government's action had created a very grave situation and that I would not attempt to discuss it further until I had received instructions from the Department.

The Government's action is the most serious effort which has yet been made to evade the financial control established by the Treaty. I do not see how we can continue the Haitianization negotiations⁴⁹ in the face of so flagrant a violation of rights which, as we have continually informed the Haitian Government, we feel we must retain intact. The incident clearly shows how useless a Haitianization agreement will be as a means of establishing satisfactory special relations or at least respect for any treaty rights which we shall still be compelled to exercise.

I had been planning to go on leave next Wednesday. I should like to carry out this plan, visiting Washington immediately upon my arrival for a full discussion of the whole situation here. I should of course be prepared to return to Haiti immediately thereafter if the Department desired although I feel that McGurk can handle any situation which may arise. I can come sooner by air plane if the Department wishes, meanwhile I think that I should be instructed to deliver a strong written protest based on the provisions of the treaty and the agreement of August 24th, 1918,⁵⁰ coupled with a demand that the budget be withdrawn at once for further consideration between the Financial Adviser and the Minister of Finance.

Please inform me immediately if the Department does not wish me to sail on Wednesday.

MUNRO

888.51/2287 : Telegram

The Acting Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, July 20, 1931—5 p. m.

54. Your 81, July 17, 2 p. m. You will immediately inform the Haitian Government of the grave concern felt by this Government owing to the action of the Minister of Finance in submitting the budget to the Haitian Congress without having reached a prior agreement with the Financial Adviser. You will point out that this action is in contravention of the Treaty of 1915.⁵¹ In this relation you will invite attention to the obligations of the Haitian Government as set forth in Articles 2, 3 and 9 of the Treaty and you may also refer to the provi-

⁴⁹ See pp. 403 ff.

⁵⁰ *Foreign Relations*, 1919, vol. II, p. 309.

⁵¹ Treaty between the United States and Haiti relating to the finances, economic development, and tranquillity of Haiti; for text, and supplementary agreements and protocols signed in 1916, see *ibid.*, 1916, pp. 328-338; for additional act signed March 28, 1917, extending the duration of the treaty, see *ibid.*, 1917, p. 807.

sions of Article 8 of the Protocol of 1919.⁵² Unless you perceive objection you may further invite attention to the obligations of the United States as set forth in Articles 1, 3 and 14 of the Treaty.

You will request the Haitian authorities in a formal note to withdraw the budget from Congress in order to enable the Financial Adviser to reach a satisfactory agreement with the Minister of Finance.

The Department intends to invite the attention of the Haitian Minister at Washington to the seriousness of the situation.

It would be appreciated if you would defer your departure from Port au Prince until a response to your note has been received from the Haitian Government and the Department has sent you further instructions.

CASTLE

838.51/2288 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 20 [21], 1931—1 p. m.

[Received 2:35 p. m.]

82. Reference the Department's telegram No. 54, July 20, 5 p. m. I presented the note this morning and discussed the question fully with the Minister for Foreign Affairs. He said that the only way in which the Haitian Government could comply with our request for the recall of the budget would be by concluding the Haitianization agreement at once and using this as a pretext for recalling it. I said that I would be willing to accept such a solution provided that a satisfactory Haitianization agreement were signed promptly.

MUNRO

838.51/2295 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 28, 1931—9 a. m.

[Received 5:05 p. m.]

87. The Minister for Foreign Affairs told me yesterday that it would be absolutely impossible for the Government to withdraw the budget from Congress. When I expressed my astonishment in view of his statement reported in my number 82 of July 21st he said that if I continued to insist on a withdrawal the Government could only cease the efforts which it was now making to adjust the matter and let the United States take whatever action it saw fit. He said that Bellegarde⁵³ had explained the situation to the Department and that

⁵² Protocol of October 3, 1919, *ibid.*, 1919, vol. II, p. 347.

⁵³ Dantès Bellegarde, Haitian Minister at Washington.

the Department had apparently understood how impossible a withdrawal of the budget would be.

He said, however, that he was working with the committees in Congress to find a solution which would make it possible to "neutralize" the budget as submitted with a view to making it possible to arrange for a budget which could be drawn up with the accord of the Financial Adviser. He apparently has in mind obtaining a grant of power which would authorize the President to make changes in the budget after enactment. He promised to have a definite statement for me by Wednesday.

I expressed my skepticism about his reaching any arrangement on this basis which would be satisfactory to us but said that I would give him a chance to do so and would continue the Haitianization discussions in the meantime and also authorize the Financial Adviser to continue discussion of the budget with the Minister of Finance.

The Haitian Government's conduct in this matter has of course been indefensible and I have no doubt that it will continue to attempt to evade its obligation to accept the views of the Financial Adviser regarding the budget. We should be fully justified in refusing to conclude the Haitianization agreement until the matter was satisfactorily adjusted. I think however that it would be preferable to treat the two matters separately if possible, because of the Department's interest in concluding the Haitianization negotiations and because we shall be in a better position after these negotiations are out of the way to take a strong stand on the budget. We can very properly refuse to recognize or permit payments under a budget promulgated without the Financial Adviser's accord and a conflict on such an issue would involve less danger of disorders here and embarrassment to the Department elsewhere than a conflict involving the whole question of Haitianization.

MUNRO

838.51/2297 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, July 29, 1931—noon.

[Received 7:10 p. m.]

90. Yesterday noon I received a long note from the Foreign Office, dated July 25th, defending the Haitian Government's action regarding the budget. The note makes no direct reply to our demand for the withdrawal of the budget. It does not deny the right of the Financial Adviser to be consulted regarding the budget but maintains that there is nothing in the Treaty to prevent the Executive from submitting the budget to Congress in advance of the Financial Adviser's approval

I assume that this is not the Haitian Government's final reply and that the Minister for Foreign Affairs will subsequently inform me of the result of his discussions with Congress, referred to in my telegram No. 87, July 28, 9 a. m.

While I am confident that the Haitian Government has no intention of reaching an accord with the Financial Adviser regarding the budget until it is convinced that it must do so, I think that we shall be able to settle this question comparatively satisfactorily before the new fiscal year begins on October 7th [1st?]; and that it would not be advisable, so long as there seems to be a prospect for a satisfactory solution, to delay the conclusion of the accord on Haitianization. A situation may develop at any time however where it would be extremely difficult to conclude the Haitianization accord without loss of prestige and dignity and I hope therefore that the Department will send me final instructions on the points raised in my recent telegrams at the earliest possible moment.

MUNRO

838.51/2303 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, August 4, 1931—11 a. m.

[Received August 5—9:16 a. m.]

92. My telegram No. 87, July 28, 9 a. m. Chamber of Deputies has passed budget with the following transitory article; translation:

"In the event that an accord should be reached for the return to the Government in whole or in part of the Treaty Services and the other services heretofore administered under the control of the Financial Adviser-General Receiver, the Executive power is and remains authorized to effect such modifications, arrangements, or adjustments in the budget deemed necessary".

The budget has now gone to the Senate and that body will probably pass the budget as it now stands before closing the session on the 6th instant.

The foregoing article represents the effort made by the Government to "neutralize" the budget.

MUNRO

838.51/2310 : Telegram

The Minister in Haiti (Munro) to the Acting Secretary of State

PORT-AU-PRINCE, August 7, 1931—1 p. m.

[Received 4:04 p. m.]

95. Reference my 92, August 4, 11 a. m., the Haitian Congress adjourned late Wednesday night. Both Houses passed the provision con-

ferring extraordinary financial powers upon the Government but we have not yet been able obtain a final copy. The Minister for Foreign Affairs assures me however that the provision will give the Government adequate authority to adjust the budget so as to obtain the accord of the Financial Adviser.

MUNRO

838.51/2816: Telegram

The Chargé in Haiti (McGurk) to the Acting Secretary of State

PORT-AU-PRINCE, August 26, 1931—1 p. m.

[Received August 27—11:20 a. m.]

101. The issue of the *Moniteur* of August 20th which appeared on Monday last contained the following laws promulgated by the President:

1. Opening an extraordinary credit of 3,000 gourdes for repairs to the National Legislative Chambers.
2. Increasing the salaries of the employees of the Secretariat and employees of the Chamber of Deputies. Both of the foregoing laws were Government projects.

Mr. Pixley told me that his accord was not requested before these laws were promulgated. He did however tell me that the Minister of Finance had informed him of the first law regarding repairs to the building of the Chamber of Deputies and that he told the Minister that he would give his accord when the project was submitted to him. Nothing was said about the law authorizing the increase in salaries of employees of the Chamber of Deputies.

The Minister for Foreign Affairs has been absent from Port au Prince on account of illness until yesterday when I called on him and directed his attention to the fact that both laws had been promulgated without the accord of the Financial Adviser. He said that he knew nothing about them owing to his absence from his office but that he would look into the matter. This morning I again called on him and he stated that the Minister of Finance said that he thought Mr. Pixley had given his accord to the first law when he had spoken to him in the conversation mentioned above and that he had forgotten entirely to consult him regarding the second law. Mr. Léger said that he had called the attention of the Minister of Finance to the seriousness of his action in not consulting the Financial Adviser and that the Minister of Finance would immediately communicate with the Financial Adviser. Pixley said he will give his accord to the first law but if his accord is to be given to the second law it will have to be taken into consideration in balancing the budget and this requires approximately four thousand per year additional.

McGURK

838.51/2318: Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 8, 1931—11 a. m.

[Received 6 p. m.]

104. On September 5th the Minister of Finance sent to Mr. Pixley the law of ways and means and the law of expenditures covering the budget. Mr. Pixley has pointed out to me the following from his preliminary study of the laws:

1. The preamble to each law reads in translation as follows:

"In view of article 55 of the Constitution;

Considering the situation arising from the forced extension of the convention by the so-called Additional Act, which convention expired on May 3rd, 1926; a situation which the Legislature has demanded that the Government bring to an end as soon as possible by immediately undertaking negotiations with the American Government;

Considering that while awaiting the result of these negotiations, the public services should function by virtue of the law of finance and the budget, effected in consideration of this situation and freed of all the illegitimate budgets of which they have formerly been the object, et cetera."

2. The law of ways and means estimates receipts of gourdes 32,-796,770, whereas the Financial Adviser's office estimates receipts at gourdes 32,000,000.

3. Since the budget of the Department of Finance remains the same as originally proposed it would appear that the Customs Service and the Internal Revenue Service have been budgeted in detail and placed directly under the administration of the Department of Finance.

4. No provision is made for making available automatically 5 percent of the customs receipts and 15 percent of internal revenue receipts to the respective services when actual receipts exceed budgetary estimates. See article 7 of the present law.

5. As regards 5 percent fund in particular, the new law provides that at the end of the year the balance of credit allotted to the Receiver General revert to the Treasury. Pixley points out that this is contrary to present interpretation of the treaty.

Pixley will make a thorough study of the laws and upon receipt of the budgetary detail will confer with the Minister of Finance and further developments will be reported promptly to the Department. Copy of the Law of Ways and Means and a copy of the Law of Expenditures as handed to Pixley on the 5th instant will be forwarded by the next air mail.

McGURK

838.51/2322 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 15, 1931—2 p. m.

[Received September 16—2:40 a. m.]

107. Legation's 104, September 8, 11 a. m. Yesterday I discussed with the Minister of Foreign Affairs the various objections of Mr. Pixley to the Law of Ways and Means and the Law of Expenditures as passed by the recent Legislature and I asked him if the Government proposed to promulgate the laws as they stood. He said that he would give me an answer today. I saw the Minister again this morning and he said that the Government was compelled to promulgate the laws in their present form but that the President had sent for him this morning to discuss the budget and had told him that he would give assurances that any provisions in the laws contrary to the treaty and the accord would be set aside by mutual consent. The Minister also stated that the budget would be balanced.

I have discussed this with Mr. Pixley and he is of the opinion that many of his objections to the laws would be remedied if the Government would cooperate in interpreting the laws to conform as nearly as possible to the practice accepted in the past.

There is no question that the Government is determined to promulgate the laws in their present form despite any objections we might offer. I am therefore inclined to take the assurances given by the President provided they are satisfactory and in writing. Please instruct.

Financial Adviser's objections to the financial laws going forward by airmail today.

MCGURK

838.51/2325 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 19, 1931—1 p. m.

[Received 10:30 p. m.]

110. Pixley and I spent the whole of yesterday discussing budgetary laws with the Minister of Finance. From this discussion it looked as if we could reach an accord in view of the assurances which the President said he would give that the objectionable parts of the law would be set aside by mutual consent with the exception of articles 7 and 10 of the Law of Ways and Means.

In the meantime the *Moniteur* appearing this morning publishes the formal promulgation of the Law of Ways and Means and the Law of Expenditures as of the 17th instant thereby carrying out the Government's intention to promulgate these laws even though the Finan-

cial Adviser's accord was not given. His accord was withheld by his letter of the 14th instant copy of which was forwarded with despatch No. 223, September 15, 1931,⁵⁴ and supplemented by despatch 230, September 19th.⁵⁴

In conversation with the Minister of Foreign Affairs this morning he did not mention the fact that the laws had been promulgated and I had not yet seen the *Moniteur*. However, he informed me that it was the intention of the Government to give the assurances of the President referred to above. I asked him if these assurances would be in writing and he said that he thought they would be, but in general terms.

Mr. Pixley has not yet received the final budget figure. With what he has he is endeavoring to urge upon the Minister the necessity of balancing the budget and will continue to do so. I have also repeatedly emphasized to the Minister of Foreign Affairs the serious situation which will result if the budget is not balanced.

The finance laws published this morning require that the first *douzième* be published between the 20th and the 25th of the month and I think the Government will proceed to promulgate the budgetary figures without the accord of the Financial Adviser in order to get out the first *douzième* as required by law.

McGURK

838.00/3038 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 22, 1931—1 p. m.

[Received September 24—6:38 a. m.⁵⁵]

111. Mr. Pixley informs me that the Minister of Finance has informed him that the Government will not issue an extraordinary credit for the payment of the indemnities to the retiring treaty officials and employees⁵⁶ before October 1st as they insist that any credit for this purpose shall be issued under the authority of article 22 of the new Law of Expenditures. I believe this is a deliberate attempt of the Government to tie up the payment of the indemnities with the question of balancing the budget, their scheme being that unless we agree to the budget proposed by them there will be no budget and therefore no payment of the indemnities.

Mr. Pixley informs me that an extraordinary credit can be issued under article 21 of the present Law of Expenditures and it has been

⁵⁴ Not printed.

⁵⁵ Telegram in three sections.

⁵⁶ See telegram No. 94, August 5, noon, from the Minister in Haiti, p. 504.

the expressed intention of the Government all along to issue the extraordinary credit under this article and I believe that the Government is now dragging in the question of the indemnities to force our hand in agreeing to the new finance laws and budget which they propose be fixed at 32,743,000 gourdes with the proviso that it be reduced to 32,000,000 during the coming fiscal year if revenues do not meet the requirements.

Most of the retiring Americans have reservations to sail September 30th and may be unable to do so unless indemnities are paid at that time.

I have been urging the Minister of Foreign Affairs to have the extraordinary credit for payment of the indemnities issued for the past 2 weeks and Mr. Pixley has urged the same thing with the result that the Government has definitely refused to consider it except under a credit to be established in the budget for the next fiscal year in accordance with the provisions of article No. 22 of the new Law of Expenditures.

Mr. Pixley and I feel that our repeated urgings have been of no avail and that the Haitian Government is standing behind the delay which it has deliberately brought about and will so continue until October 1st thereby creating the position of having us oppose something which they consider vitally necessary to them from a political and economic standpoint.

Mr. Pixley has been endeavoring to have the Government bring the budget within the figures provided in the estimates but to date has had no success. The Minister of Finance states that they cannot balance the budget within the estimate, that the law and Constitution do not permit them to reduce salaries or positions and that it is only through such reductions that the budget can be balanced.

It is believed from conversations with the Ministers of Finance and Foreign Affairs that the Government desires to use about 900,000 gourdes additional from the reserve and that if it were not necessary to grant the Garde a further credit of 400,000 gourdes the Government would reduce the budget of expenditures to 32,000,000. The Minister of Finance is aware that the Garde credits must be maintained as proposed but has studiously avoided any commitment on the subject. Mr. Pixley informs me that approximately 800,000 gourdes have already been earmarked from the reserve fund and as Mr. Pixley informs me he has had no cooperation from the Government with a view to reducing the figures proposed by the Government, I cannot recommend that 900,000 gourdes be used from the reserve.

McGURK

838.51/2325 : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 23, 1931—5 p.m.

65. Legation's 110, September 9 [19], 1 p. m., and earlier reports concerning the current budgetary laws. Please seek an early interview with President Stenio Vincent and state that in view of the imminence of the commencement of the next fiscal year, arrangements should be made immediately by the Executive with the office of the Financial Adviser, pursuant to the transitory provision mentioned in your telegrams 92, August 4, 11 a. m., and 95, August 7, 1 p. m., for such modification of the budgetary laws as may be deemed expedient by the office of the Financial Adviser.

Inform him that in the absence of such an arrangement the office of the Financial Adviser will be instructed to make no payments after October 1 other than those to the American Treaty Services and those which are absolutely essential to the proper functioning of the Government. Any arrangement of this character should be made in writing.

The foregoing instruction is to be complied with in your discretion. Should you take the action it contemplates, you are authorized to point out that throughout the entire course of the negotiations between the two Governments which led up to the signing on August 5 of the Haitianization Agreement⁵⁷ this Government repeatedly made clear its unwavering intention to insist upon full compliance by the Haitian Government with the commitments which rest upon it in so far as the Financial Services are concerned by virtue of the treaty and additional agreements.⁵⁸

STIMSON

838.51/2330 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 24, 1931—11 a. m.

[Received 9:30 p. m.]

112. I saw the Minister of Foreign Affairs this morning with the intention of asking him whether the Government proposed to make payment of the indemnities to the retiring treaty people on September 30th. He stated that the Government could not do so until October 1st under article 22 of the new Law of Expenditures despite the agree-

⁵⁷ *Ante*, p. 505.

⁵⁸ A typewritten notation at the bottom of the page on original reads: "(Read over the telephone to Dr. Munro, who approves and urges that this message be sent at once.)"

ment to make payment on September 18th. I then asked him if they proposed to balance the budget. He replied that the Government had a fifty-fifty proposition to make whereby the Government would make a reduction of approximately 750,000 gourdes in its budget proposal of 32,753,000 gourdes and that we should furnish from the reserve approximately the same amount to bring our estimate of 31,220,000 up to 32,000,000 thereby balancing the budget at 32,000,000 gourdes.

I then asked the Minister if he would call a conference at noon between himself, Minister of Finance, Pixley and myself for the purpose of considering this proposition. He said he would. I then repeated to the Minister the renewed assurance that I had made on many previous occasions to the effect that a very serious situation was likely to arise if the Government did not make an effort to balance the budget. He answered that the only serious situation that he could foresee was that we would suspend payments on October 1st as we had done once before and thereby starve the Haitian people. I merely replied that there was the possibility of a suspension. The Minister replied "Well go ahead and do it. Take the whole country and the responsibility for doing it." It is to be noted that I did not make any statement as authorized by the Department's number 65 of September 22 [23], 5 p. m., which was received early this morning. It was the Minister himself who brought up the question.

At the conference this noon which the President attended Pixley and I urged the balancing of the budget.

The Minister of Foreign Affairs and the President said that it was impossible unless the proposition outlined above was accepted. We said that we could not say that it could be accepted and that I could hardly recommend it. The Minister of Foreign Affairs then proposed that a percentage cut be made in all salaries and administrative expenses including the President and the American Treaty Services and personnel down to the lowest employee. We said that such a proposition would not be at all acceptable. I again brought out the seriousness of the situation which might arise and both the President and the Minister of Foreign Affairs seemed to be unanimous in repeating what the Minister of Foreign Affairs had said to me earlier in the morning: to go ahead and do our worst and take the country if necessary.

It is definitely established that the Garde has been cut 408,000 gourdes and I stated that this amount would have to be replaced in the budget which would then make the budget according to the Haitian figures 33,161,000 gourdes and that if they would start at that figure and reduce to 32,753,000 gourdes I would be willing to consider a fifty-fifty proposition and ask for instructions on it.

The Government's propositions are as follows:

1. We to furnish the total of 2,149,000 gourdes from the reserve which would include one-half of the 408,000 Garde reduction, 290,000 already earmarked for Internal Revenue in the light of recent unfavorable developments, 500,000 earmarked for Customs Service, 375,000 earmarked as direct contribution from the reserve and 780,000 to bring up the estimate of 31,220,000 to 32,000,000 gourdes. The Government on its side would endeavor to bring down its figures by 961,000 gourdes.

2. To balance the budget by means of a percentage cut in all salaries including the President, treaty officials and their personnel and all other Government credits except those for public debt. The required percentage to effect this would be 7 to 9 percent.

I cannot recommend the second proposal. If the Department is disposed to accept the first one I should like to know as soon as possible. I feel that I must comply with the instructions contained in the Department's 65, September 23, 5 p. m., not later than Saturday morning, and unless the Department should instruct me to withhold compliance by telegraph, in order that it may have ample time to consider the above propositions, I shall do so.

McGURK

838.51/2330a : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 25, 1931—5 p. m.

66. From de la Rue for Pixley. Advise immediately has the detailed budget been officially submitted to our office for study in compliance with the agreement of August 5th.

STIMSON

838.00/3038 : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 25, 1931—5 p. m.

67. Legation's 111, September 22, 1 p. m. Inasmuch as the agreement made by the Haitian Government in its letter dated August 5, 1931, addressed by the Minister of Finance to the Financial Adviser-General Receiver states clearly that the Treaty Officials concerned shall receive their indemnities and other payments September 30, 1931, it is apparent that budgetary laws which do not come into effect until the next fiscal year have no bearing.⁵⁹ Consequently it would seem that the payments should be effected as originally contemplated under the current Law of Expenditures which, moreover, would appear to

⁵⁹ See telegram No. 94, August 5, 1931, noon, from the Minister in Haiti, p. 504.

be the procedure contemplated and agreed to by the Haitian Government.

The Department, for the reasons stated above, perceives no relationship between these indemnities and the budgetary laws for the next fiscal year. Its views with respect to those laws were communicated to you by its instruction No. 65, September 23, 5 p. m. You are therefore directed to advise the appropriate authorities that unless payment of the indemnities referred to in the letter of August 5 shall have been adequately provided by September 30, the office of the Financial Adviser will, under your instructions, and by virtue of Article XIV of the Treaty, make payment of the indemnities in accordance with the agreement above cited.

In connection with this matter it is necessary to bear in mind that it was in order to meet the urgent desires of the Haitian Government that these officials are being withdrawn precipitately on the early date of September 30. The Haitian Government recognized its obligation to indemnify these officials and entered into a formal agreement to that effect. This Government feels that it must insist that the agreement be carried out.

STIMSON

838.51/2330 : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 25, 1931—6 p. m.

68. Your 112, September 24, 11 a. m. The Department considers that the question at issue is not the technical particulars of budgetary items but the obligation which rests upon the Government of Haiti and which it has been empowered by the Haitian legislature to discharge of accommodating the present budgetary laws to the requirements of the situation deemed expedient by the office of the Financial Adviser. In other words, fulfillment of the obligations implicit in the Haitianization Agreement of August 5.

You are accordingly instructed to take the action contemplated by the Department's telegram No. 65, September 23, 5 p. m.

The Haitian Minister has just called at the Department and has submitted proposals similar to proposals Nos. 1 and 2 in your telegram No. 112.⁶⁰ The Department perceives no necessity for transferring to Washington the discussion of the technical questions connected with the Haitian budget which will automatically be taken care of when the Haitian Executive comes to an understanding with the office of the Financial Adviser. You may so inform the Haitian authorities.

STIMSON

⁶⁰ Dated September 24, p. 521.

838.51/2331 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 26, 1931—10 a. m.

[Received 11:37 a. m.]

114. For de la Rue from Pixley. Budget as enacted by the Legislature has been submitted to our office.

McGURK

838.00/3038 : Telegram

The Acting Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 26, 1931—2 p. m.

69. Reference Department's 67, September 25, 5 p. m. Please deliver the following message from de la Rue to Pixley:

"You are instructed upon receipt of written order from the Legation citing authority Article 14 Treaty to pay to all Treaty Service employees leaving in accordance with Agreement of August 5 indemnities and transportation in accordance with schedule furnished by Legation. Instructions Legation will authorize this payment to be made by you at 9 o'clock morning of September 30 if Haitian Government has not taken steps to issue extraordinary credit so that payment may be made before that hour. You are instructed to prepare all necessary checks, vouchers, and receipts in advance so that there will be no delay in making payment promptly at 9 o'clock September 30."

You should prepare in consultation with Pixley a formal letter of instruction from the Legation to the office of the Financial Adviser whereunder the payments of the indemnities and transportation allowances of the retiring Treaty Officials can be made.

ROGERS

838.51/2332 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 26, 1931—3 p. m.

[Received September 27—6:30 a. m.]

115. Department's telegram No. 68, September 25, 6 p. m. At 11 o'clock this morning I communicated to the President the sense of the Department's telegrams Nos. 65 and 67.⁶¹ The Minister of Foreign Affairs was also present. The Minister of Foreign Affairs and the President objected strongly to our taking a position which they stated

⁶¹ Telegrams Nos. 65, September 23, 5 p. m., and 67, September 25, 5 p. m., pp. 521 and 523.

would deprive many Haitians of a livelihood by requiring a cut in the budget to make it balance and that no government had succeeded in its budget and that the Haitian Government found itself in the same position. When I pointed out the delay that the Government had brought about by not making an effort to obtain the accord of the Financial Adviser and attitude all during the Haitianization negotiations in insisting upon compliance by the Haitian Government with its commitments, the Minister of Foreign Affairs accused me of recrimination. He added that the Government had made its two proposals and that on the basis of those something must be done and he then spoke very bitterly of our intention to take drastic action for the sake of a few hundred thousand dollars of Haitian Government money which they had the right to use. I said that we had instructions to discuss technical particulars right here and that we were willing to do so and suggested a conference for Monday morning which was arranged to include Pixley, Minister of Finance, the Minister of Foreign Affairs and myself.

On the question of the payments to the retiring treaty officials the Minister reiterated his statement that payments of indemnities could only be made under the transitory article of the new Law of Expenditures despite my statements to the contrary. The President then said that he thought some arrangement could be made whereby the payments could be made on the 30th and the covering action taken afterwards.

The President had very little to say throughout the conference.

McGURK

838.51/2333 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 29, 1931—10 a. m.

[Received 10:40 a. m.]

116. During a 5-hour conference yesterday Mr. Pixley pointed out many increases in the budget which amount to over 600,000 gourdes and strongly urged that they be eliminated. Both Minister of Finance and the Minister of Foreign Affairs showed much more conciliatory attitude. They said they would make some arrangement to pay indemnities on the 30th. The Cabinet was to meet after our conference and the Minister informed me that he would let me know some time today the results of the Cabinet's deliberation on our proposals for changes in the budgetary laws and reduction of the budget.

McGURK

838.51/2334a : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, September 29, 1931—8 p. m.

72. If no accord has been reached regarding budgetary laws before October 1 there will be no budget which this Government can recognize as effective. The expenses of the Financial Service, including the debt service, and of the Garde are placed in a separate category by the Treaty of 1915 and the Haitian Government could not withhold payments to these Services simply by failure to enact appropriate budgetary legislation. Furthermore, it is obvious that the necessary running expenses of the Haitian Government must be met as a matter of public safety. You may therefore inform the Haitian Government that the Financial Adviser will be instructed if the necessity arises to make payments necessary for the maintenance of the Financial Services, the debt service, and the Garde under the provisions of the Treaty of 1915, and that the Government of the United States is prepared as an emergency measure to consent to the continued payment of what appear to you and the Financial Adviser to be the essential operating expenses of the Haitian Government pending a general accord on the budgetary laws. You will discuss with Pixley what expenses of the departments under Haitian control appear to be essential and indicate to the Haitian Government the willingness of the Government of the United States to have the Financial Adviser continue to meet these expenses as an emergency measure. The total expenditures, including those of the Treaty Services, should if possible be kept within an amount of approximately 2,500,000 gourdes per month.

The Government of the United States must insist that provision be made for the financial support of the medical mission in connection with the above proposed emergency arrangement.

You will take the above steps as an emergency measure pending the conclusion of an accord on the budget, which includes the Law of Ways and Means and Law of Expenditures. As stated in the Department's instruction No. 65, September 23, 5 p. m., any agreement between the Executive and the office of the Financial Adviser based upon the transitory provision of the budgetary legislation should be in writing. Moreover, in view of the improper and obviously inaccurate statements contained in the preambles to the Law of Ways and Means and Law of Expenditures with respect to the Treaty, the Department likewise deems it to be necessary that the laws as modified by the accord with the omission or suitable revision of the preambles shall be promulgated in substitution for the budgetary legislation concerned.

STIMSON

838.51/2335 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, September 30, 1931—10 a. m.

[Received 12:10 p. m.]

117. Pixley and I again discussed budget with the Ministers yesterday evening after the Cabinet meeting. Pixley had found considerable increases in the proposed budget figures as compared with the budget figures for the present year and had recommended that they be eliminated. This the Cabinet refused to do and proposed a general cut of 4 percent in salaries and other appropriations except the public debt. We again urged the Minister to eliminate all increases and to give us the Departmental budgets covering the services taken over which they have again revised and are now withholding. We would then attempt to arrive at a solution which would include a satisfactory arrangement regarding the finance laws. The Cabinet meets again this morning and we will be called in conference after it adjourns.

McGURK

838.51/2339 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, October 2, 1931—noon.

[Received 9:36 p. m.]

119. This morning Mr. Pixley saw the Minister for Foreign Affairs and presented to him a budget of approximately 2,570,000 to be used as an emergency measure for the month of October subject to an adjustment when an accord is reached. The Minister informed us that there had been no budget discussion at the Cabinet meeting on Wednesday and that he would present Mr. Pixley's emergency measure to the Cabinet this afternoon and would inform us of its deliberation tomorrow morning.

I informed the Minister in the sense of the Department's telegraphic instructions 72 September 29th. The Minister stated that it would be necessary eventually to publish the budget as voted and suggested that it be done immediately with a statement that such modifications as were necessary would be made in accordance with article 22 of the Law of Expenditures. I stated that I hoped that it would not be published until an accord was reached. Regarding the preamble to the later reports he said that the Government could not change them but that the Government could say in writing that they were of no effect.

McGURK

838.51/2316 : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, October 2, 1931—8 p. m.

73. Your telegram No. 101, August 26, 1 p. m. Unless you or the Deputy General Receiver perceive objection thereto, you may inform him that he is authorized in view of his previous verbal acquiescence to give his accord to the extraordinary credit of 3,000 gourdes for the repairs of the National Legislative Chambers recently passed by the Haitian Legislature, if adequate provision therefor is made in the new budget.

It is assumed that the question of the increase in salaries of the personnel of the Chamber of Deputies is being taken care of in the conferences you are now having on budget matters.

STIMSON

838.51/2339 : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, October 3, 1931—2 p. m.

75. Your No. 119, October 2, noon. As stated in the Department's No. 72, 8 p. m.,⁶² the Department will not be able to recognize as effective any budget legislation, including the integral laws of ways and means and the law of the expenditures, which, in addition to other unacceptable features, contains the objectionable and obviously inaccurate statements embodied in the preambles of the above mentioned laws. The Department does not perceive why the Haitian Government deems it necessary or desirable to publish the budget as it has been voted, since certain changes will have to be made in the budget and accompanying laws to bring it into a form which will be acceptable. On the contrary, it would appear that the Haitian Government could save itself embarrassment by refraining from publishing any budget until an accord has been reached concerning it with the office of the Financial Adviser. You may at your discretion repeat the sense of the above to the appropriate authorities.

STIMSON

838.51/2341 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, October 3, 1931—3 p. m.

[Received October 4—10:40 (?) a. m.]

120. After a conference this morning with the Minister of Foreign Affairs and the Minister of Finance, it was agreed that the Minister

⁶² Dated September 29, p. 527.

of Finance would send Mr. Pixley the following letter which he has now received.

"It is understood, following our conference this morning, that the estimates of receipts for the fiscal year 1931-1932, place us under obligation to balance the budget at the figure of 32,000,000 gourdes, which will be brought up to that figure by means of Treasury reserve.

Consequently, the *douzième* for October should be 2,666,666 gourdes, 66 centime, according to the decision of the Council of the Secretaries of State.

However, while awaiting the few days necessary to make the detailed compressions [*computations?*] to establish a *douzième* on this basis I offer no restriction provisionally to making urgent payments on the basis of the project which you have submitted to me for the month of October."

The Minister of Foreign Affairs states that it is impossible to promulgate again the above-named budgetary laws to include any modification of them but the Government will give in writing to the Financial Adviser a statement that those provisions of the finance laws deemed inexpedient by him will not be enforced.

Pixley and I believe that the Government cannot by decree change the laws as promulgated but they can interpret them to make [them?] meet most of the objections of the Financial Adviser and can state that those provisions contrary to the treaty are of no effect and agree to obtain from the Legislature at its next session modification of those objectionable articles affecting the accounting procedure.

The Government desires to publish during the next few days the *douzième* mentioned above and I see no objection to the Government doing so as they have agreed to balance the budget at 32,000,000 gourdes and to give in writing to the Financial Adviser the statement that objectionable parts of the finance laws will not be effective.

In view of the Government's agreement to balance the budget at 32,000,000 I recommend that they be permitted to work on a *douzième* of one-twelfth that amount for the month of October, which they greatly desire to do in order to save the Government political embarrassment and in the meantime they will work on the emergency *douzième* of 2,570,000 provided by Mr. Pixley. Mr. Pixley is in accord with the foregoing.

McGURK

838.51/2342a : Telegram

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, October 6, 1931—2 p. m.

76. Instruct Pixley in the absence of an accord on the budget or the emergency budget to make no payments to other than Financial

Service and Garde excepting under the counter signature of the Minister of Finance.

STIMSON

838.51/2343 : Telegram

The Chargé in Haiti (McGurk) to the Secretary of State

PORT-AU-PRINCE, October 7, 1931—noon.

[Received 11 p. m.⁶³]

121. Pixley and I spent 5 hours yesterday afternoon discussing the budget with the Minister of Finance and the Minister of Foreign Affairs. Mr. Pixley pointed out where the Government could very easily cut the budget from 115,000 gourdes which would bring their total to 32,680,000. We could also make an additional cut of possibly 175,000 gourdes in the Garde and show them a 50,000 cut in the Public Works which would bring their total down further to 32,455,000.

Since the Haitian Government has been demanding a 3½ percent cut in all services I have concluded that the Garde cut of 175,000 mentioned above would represent a 3 percent cut for the Garde, that Mr. Pixley cannot further reduce the Financial Service in view of the reduced receipts as set forth in the Legation's telegram No. 84, July 23, 1 p. m.,⁶⁴ and that the budget of approximately 15,428,000 for the strictly Haitian services could be cut a further 3 percent or approximately 460,000 gourdes which would bring the budget down [to] 32,000,000 gourdes.

I have accordingly urged this upon the Haitian Government in the conference yesterday and I shall continue to urge it, though for the time being I do not believe that the Haitian Government will accept it, but I do not [*sic*] believe that once they realize our determination to adhere to the emergency budget proposed by Mr. Pixley, which will of course preclude the payment of the allowances to the Senators and Deputies, the Government will realize the serious embarrassment which this will cause them and that they will eventually make the necessary reductions.

I have repeatedly urged upon the Minister in the most serious manner the necessity for modification of the finance laws to conform to the objections of the Financial Adviser. He tells me that the Government would not dare publish anything which would inform public opinion of its action in this respect and thereby seriously hamper the Government in the coming elections in January. He has however told me repeatedly that the Government would give in writing its assurances that the objectionable parts of the laws would not be

⁶³ Telegram in two sections.

⁶⁴ Not printed.

enforced. He has repeatedly stated that "the Government would close their eyes on them." Regarding the preamble to the laws the Minister states that they were inserted by the ultra Nationalistic Congress codified with previous resolutions they had passed on the same subject and that it was understood that the Haitian Government paid no attention to them. I stated that my instructions were that the Haitian Government would have to make some statement to that effect.

We have endeavored to carry on the negotiations in a most conciliatory manner and shall continue to do so. Mr. Pixley has been exceptionally helpful by his tact and resourcefulness and I still have hope that we can persuade the Haitian Government to accept our point of view and recommendations without an open breach.

McGURK

838.51/2343

The Secretary of State to the Chargé in Haiti (McGurk)

WASHINGTON, October 13, 1931—11 a. m.

78. Legation's 120, October 3, 3 p. m., and 121, October 7, 12 noon. The Department is gratified by the general progress that has been made in the budget discussions, as evidenced by the apparent disposition of the Haitian Government to reach an accord with the Acting Financial Adviser and its apparent readiness to balance the budget at 32,000,000 gourdes as recommended by that official. It does not consider, however, that the letter addressed to Mr. Pixley by the Minister of Finance or the statements made to you by the Minister for Foreign Affairs adequately meet the requirements of the situation. The following is a general exposition of the Department's views:

a). As intimated in its instruction No. 68, September 25, 6 p. m., the Department prefers to leave to you and to Mr. Pixley the task of working out the specific technical problems connected with the budget. You are authorized to make such adjustments with respect to budget items as seem feasible and practicable, and to refuse to make such changes as do not seem to you to be advisable. In the latter event the Department will support you fully in whatever stand you may take. Pending the definitive conclusion of your negotiations concerning the budget the Acting Financial Adviser should not of course depart from the present provisional *douzième* of 2,570,000 gourdes.

b). The arrangements finally agreed upon should be set down in writing in a formal communication from the Minister of Finance to Mr. Pixley through the intermediary of the Legation. Although the actual phraseology of the communication is to be determined by mutual agreement on the part of the Government and you and Mr. Pixley the

Department considers that it should in general modify the budgetary laws to conform to the objections of the Acting Financial Adviser, as authorized by the transitory clause, and give assurances that the Haitian Government considers inoperative and without effect those provisions of the budgetary laws affected and authorize the office of the Financial Adviser to operate in disregard of them.

c). In as much as two sections of the budgetary legislation have been promulgated and a third apparently is to be promulgated, all of which are inaccurate and improper in form and substance, the Department considers it to be highly desirable that equal publicity be given to the arrangement correcting the defects in that legislation. Nevertheless, in view of the reasons advanced by the Minister for Foreign Affairs in justification of the Government's reluctance to publish the agreement modifying that legislation, and in the interests of an expeditious and amicable settlement of the question, the Department is willing to accept in lieu of other action the letter from the Finance Minister to the Office of the Financial Adviser as prescribed in section b with respect to the budget legislation in general, and a letter from the Minister for Foreign Affairs to you with respect to the objectionable statements in the preambles to the budgetary legislation. The letter should set forth in appropriate terms the disapproval of the Executive of those preambles.

STIMSON

838.51/2347: Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, October 26, 1931—10 a. m.

[Received 11 p. m.⁶⁵]

126. We have not yet made much progress in negotiations regarding the budget because of the Haitian Government's determined efforts to evade the real issues involved and to maneuver us into situations from which it could derive some advantage in internal politics or foreign propaganda. There are four main questions involved:

1. The reduction of the budget to 32 million gourdes. The Haitian Government has made substantial cuts in the budget as voted, and McGurk and Pixley before my return proposed an entirely workable plan which would have balanced the budget offering as a concession on our part if the Haitian Government made the necessary cuts to accept a reduction of 175,000 gourdes or approximately 3 percent in the approvals for the Garde upon which we had hitherto insisted. McGurk also reduced the estimates for the Sanitary Mission from 900,000 to 735,000 gourdes.

⁶⁵ Telegram in five sections.

The Haitian Government however replied by demanding that part of the customs 5 percent fund and of the internal revenue 15 percent fund be made available for expenses of other Government departments and that the salaries of all employees in the Treaty Services be reduced by the same percentage as employees in other Government departments. I have refused to consider the first proposal because the 5 and 15 percent funds have been automatically reduced by decreasing revenues to a point where operation is very difficult. With regard to salary reductions I have pointed out that de la Rue, Pixley and Craddock are voluntarily contributing 3 percent of their salaries each month in order to help meet operating expenses in their services and that other American and many Haitian employees are being denied increases which were due them and in many cases are being called upon because of the reduction in staff to do double work. I have pointed out that a horizontal reduction in salaries which the Haitian Government plans to make in order to keep as many persons as possible on the pay roll for political purposes is neither fair nor calculated to promote efficiency although we are not disposed to object to it so far as the Haitian Ministries are concerned.

Repeated efforts have been made to obtain the details of the budget which the Haitian Government proposes to promulgate but the Government has failed on various pretexts to produce all of the information requested. It is clear that they wish to establish the precedent of not consulting the Financial Adviser about these details. We are insisting that the first step towards a settlement is the submission to the Financial Adviser of a budget in such form as to enable him to discuss it intelligently with the Minister of Finance.

2. The objectionable provisions in the financial laws. These were discussed in detail before my return and a general understanding was reached that the Haitian Government when the time came would agree in writing to interpose [a formula?] which would make them unobjectionable.

3. The preambles of the financial laws. The Government insists that it would be political suicide for it to make any statement repudiating the declarations made by Congress regarding the validity of the treaty. Yesterday however Léger proposed that if we inquired about the Government's work in the matter he would reply that the preamble was solely the work of the Congress and that it could not affect the position which the Government had always assumed in negotiating in a friendly spirit with the United States regarding the problems arising out of the treaty.

While such an answer would clearly be evasive and inconclusive, I am inclined to think that we could adequately protect our interests

by a strong statement reserving all our rights. It would be extremely difficult for the Government to give us a more explicit statement and I do not think that we should permit the negotiations to be broken off on this issue. I recommend therefore that I be authorized to make the best settlement obtainable on the whole without further delay. It must be made clear that any accord which we give to the budgetary laws does not involve an acceptance by us of the statements made in the preamble.

4. The question of the *douzième* for October (in this connection see Legation telegram No. 120 of October 3rd and the Department's telegram No. 78 of October 13). The Haitian Government is demanding that payments for October be made at the rate of 32,000,000 gourdes per annum. On Saturday he asserted that we were committed to payments at this rate by having accepted it from the Minister of Finance quoted in the Legation's telegram No. 120 and openly accused us of bad faith. The text of the letter however speaks for itself and I find furthermore that Pixley made it perfectly clear to the Minister of Finance that he and the Legation could not agree to a *douzième* at the rate of 32,000,000 gourdes without further instructions from the Department. He did not promise in view of the Government's agreement to balance the budget at 32,000,000 gourdes, that such instructions would be requested as they were in the Legation's telegram No. 120.

This summer de la Rue received a note from the Minister of Finance stating that the Government wished to suspend all payments however urgent unless they could be made on the basis of a *douzième* of 2,666,-666 gourdes 66 centimes. He already issued many salary checks to paymasters throughout the country and these officers cannot now be reached in time to stop delivery but he will suspend further payments in accordance with the Minister's note except in the cases of the Financial Service, the Garde and the Scientific Mission. I am giving him written instructions to continue payments to these services on the basis of the provisional budget.

The Haitian Government has taken this action of stopping payments apparently in the belief that it would create such a serious crisis that we would be compelled to give our accord to the budget without further delay. I am inclined to think that they [will?] recede from their position if they see that the plan has not worked. However, a very serious situation will arise if they do not recede and it may become necessary for us to make payments to essential governmental services such as telephones and water supply regardless of the Government's note to de la Rue in order to prevent serious injury to the public. I should like to know whether the Department would approve of such a step if it becomes necessary.

MUNRO

838.51/2347 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, October 28, 1931—4 p. m.

81. Your 126, October 26, 10 a. m. The following are the Department's views on the four main questions covered in your telegram:

1. We approve entirely the action you have taken in an effort to reduce the budget to 32,000,000 gourdes. With the proposals you have made to accept reductions in the appropriations for the Garde and the Sanitary Mission, it would seem that the way was clear for the Haitian Government to make the reasonable reductions in the Haitian services required to balance the budget at the figure mentioned.

We share your view fully that you must insist that the first step towards an agreement on the budget is the submission to the Financial Adviser of all pertinent information so that he may be in a position to discuss the budget intelligently with the Minister of Finance. This seems essential, since if the Haitian Government should succeed in its apparent efforts to establish the precedent of not consulting the Financial Adviser about budget details, it would prejudice the whole question of the fulfillment of our obligations as regards financial control under the treaty.

2. We have noted that a general understanding has been reached that the Haitian Government, when the time comes, will agree in writing to interpret the objectionable provisions in the finance laws in such a manner as to render them unobjectionable. The Department will leave to you the question of agreeing upon a formula which will in fact have the effect of removing the objectionable character of these provisions.

3. As regards the preambles of the finance laws, Léger has apparently shifted his ground. In the Legation's 119, October 2, noon, it was reported that Léger has said that, while the Government could not change the preambles, it could say in writing that they were of no effect. His present proposal would be, as you point out, evasive and inconclusive. However, we are inclined to agree with you that we could protect our position adequately by a formal statement that in giving our accord to the budget we did not in any manner accept the statements made in the preamble. You are authorized to work out an arrangement regarding this matter which will adequately protect our rights.

4. In the event that the situation which you describe in the last paragraph of your telegram should arise, the Department will be prepared to approve payments to essential governmental services, such as telephones and water supply, as an emergency measure to maintain public order. The Department trusts, however, that the Haitian

Government will not bring about such a situation through persisting in its present course of action.

The Department feels that on the whole encouraging progress has been made towards an accord with the Haitian Government on these budgetary matters. You are on the ground and are fully conversant with the Department's views. You are, therefore, authorized to reach, within the limits of the views set forth hereinabove, the best settlement you can obtain on these various questions. If, in your judgment, it should appear advisable to depart in any important respect from the views as expressed above, please consult at once by telegraph with the Department.

STIMSON

838.51/2348 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, October 29, 1931—noon.

[Received 4:05 p. m.]

127. Legation's 126, October 26, 10 a. m. After a strong protest against our action in continuing payments to the American treaty services in spite of the Government's action both the Minister of Foreign Affairs and the Minister of Finance appear to have accepted the situation. After a long conference with the Minister of Foreign Affairs on Tuesday and another at which the Minister of Finance and the Financial Adviser were present yesterday substantial progress was made toward a general accord on the budget. The Haitian Government has apparently abandoned its demand that the 5 percent and 15 percent funds make contributions to general expenses and the Financial Adviser has stated that the total expended for salaries and allowances in his service [was] lately reduced by from 3 percent to 5 percent in order to make the 5 percent and 15 percent funds cover expenses. This statement will enable the Haitian Government to refute charges that employees in the Treaty Services are exempt from sacrifices imposed upon other Haitian employees.

The Minister of Finance promised to furnish the Financial Adviser at once with those portions of the proposed budget which have not yet been submitted to him. We have reached an informal general agreement on the manner in which the Government will reduce its expenses within 32,000,000 gourdes. We shall proceed at once to discuss an exchange of notes covering the statements in the preambles of the finance laws and the Financial Adviser's objections to their other provisions. The Haitian Government alleges that it did not dare to have payments made under the emergency budget for October because of the almost certain political attacks by Congressmen who under this budget would not have received their extra allowances. In order to

help the Government in this matter I stated yesterday that if the Government would indicate its acceptance in principle of our views on the finance laws and would agree to a satisfactory general formula for balancing the budget I would be prepared to authorize payment in full to the Senators and Congressmen together with payments provided for by the emergency budget without waiting for the preparation of a detailed budget which will necessarily require several days.

MUNRO

838.51/2358 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, November 7, 1931—noon.

[Received 6:19 p. m.]

131. This morning we effected an exchange of notes covering satisfactorily all of our objections to the budgetary laws. Copies will be sent by mail. The Financial Adviser and the Minister of Finance have nearly completed the preparation of a detailed budget of 32,000,000 gourdes and there seems to be no further serious obstacle to the complete settlement of the whole question within 2 or 3 days.

MUNRO

838.51/2362

The Minister in Haiti (Munro) to the Secretary of State

No. 261

PORT-AU-PRINCE, November 18, 1931.

[Received November 24.]

SIR: With reference to my telegram No. 131 of November 7, 12 M, I have the honor to transmit herewith copies of notes exchanged on November 7th. with the Haitian Minister for Foreign Affairs regarding certain provisions of the budgetary laws enacted by the Haitian Congress for the fiscal year 1931-32.

The final outcome appears to be entirely satisfactory from the practical point of view. The budget has been balanced at the amount desired by the Financial Adviser and the Treaty Services have obtained appropriations sufficiently large to permit them to function efficiently. The objectionable provisions in the budgetary laws have been set aside or so interpreted as to safe-guard the authority of the Financial Adviser. Finally, we appear to have established for the time being at least the principle that the Haitian Government cannot enact budgetary legislation diminishing the authority of the Financial Adviser or containing other provisions to which he cannot give his accord. It is especially gratifying that the settlement appears to have brought about a distinct improvement in our general relations with

the Haitian Government which are on the whole more cordial now than at any time since the inauguration of the new administration here.

Respectfully yours,

DANA G. MUNRO

[Enclosure 1]

The American Minister (Munro) to the Haitian Minister for Foreign Affairs (Léger)

No. 94

PORT-AU-PRINCE, November 7, 1931.

EXCELLENCY: With reference to the numerous conferences which we have held with regard to the provisions of the budgetary laws for the fiscal year 1931-32, I have the honor to place before Your Excellency herewith a summary of the objections which this Legation has felt compelled to set forth with regard to these laws in the hope that a satisfactory solution of the questions may now be reached.

1. It is observed that the preambles of the law of Ways and Means and the law of Finance as promulgated by the executive power in the *Moniteur* of September 17th. contain in each case the following language: ⁶⁶

"Considering the situation arising from the forced extension of the convention by the so-called Additional Act, which convention expired on May 3rd, 1926; a situation which the legislature has demanded that the government bring to an end as soon as possible by immediately undertaking negotiations with the American Government;

Considering that while awaiting the result of these negotiations, the public services should function by virtue of the law of finance and the budget, effected in consideration of this situation and freed of all the illegitimate budgets of which they have formerly been the object;"

Although the Government of the United States has given concrete evidence of its willingness to alter certain features of the regime established by previous agreements between the two Governments under the provisions of the Treaty of September 16, 1915, it regards the Treaty itself as remaining in full force and effect. The Financial Adviser, nominated by the President of the United States under the provisions of the Treaty, could not therefore give his accord to the law of Ways and Means and the law of Expenditures as promulgated, if this statement in the preamble is to be regarded as constituting an expression of the views of the Haitian Government regarding the validity of the Treaty or as having any effect on the manner in which the provisions of the budgetary laws are to be executed. I have been instructed, therefore, to state that any accord which may

⁶⁶ In the original the following two paragraphs are in French; the translation here given is supplied from telegram No. 104, September 8, 11 a. m., from the Chargé in Haiti.

be given to these laws cannot imply the acceptance by the Government of the United States of the views expressed in the preambles or any recognition that the question of the validity of the Treaty is open to discussion.

I am instructed further to request from Your Excellency an expression of the views of the Haitian Government as to the effect of these statements in the preambles with reference to questions arising between the two Governments under the provisions of the Treaty and with reference to questions arising in the execution of the budgetary laws.

2. Article 3 of the law of Ways and Means places the estimated receipts for the fiscal year 1931-32 at 32,796,770 Gourdes; and Article 1 of the law of Expenditures authorizes expenditures for the fiscal year of 32,743,043.42 Gourdes. It is understood, however, as the result of our conversations that the budget for the fiscal year 1931-32 will be balanced at 32,000,000 Gourdes, and no objection will be made to a budget based on this amount provided that the details thereof can be worked out by the Minister of Finance with the Financial Adviser in accordance with the general principles upon which we have already informally agreed.

3. My Government considers that Article 10 of the law of Ways and Means cannot be made effective because it purports to modify charges at the Customs Houses without a previous agreement with the President of the United States as required by Article 9 of the Treaty.

4. In the case of other provisions of the law of Ways and Means and of the law of Expenditures to which objections were made by the Acting Financial Adviser in a letter sent to the Minister of Finance under date of September 14, 1931, my understanding of the result of our conversation is as follows:

A. It is understood that all moneys of the Haitian Treasury shall continue as heretofore to be deposited to the account of the General Receiver and that references in the financial laws to deposits to the account of the State refer to deposits made to the account of the General Receiver.

B. Regulations and instructions governing revolving funds and reimbursable credits will be issued with the prior accord of the Financial Adviser.

C. It is understood that Articles 9 and 12 of the law of Ways and Means make no change in the present status with regard to criminal or civil responsibility of the Financial Adviser-General Receiver and his aids and employees.

D. I understand that Article 7 of the law of Ways and Means will not be interpreted in such a way as to alter the present practice and procedure regarding correction of errors and regarding reports to the Minister of Finance.

E. Whereas the Financial Adviser-General Receiver has agreed to pay the Bank's commission from the 5% and 15% funds if and to

such extent as it is possible to do so, the Haitian Government on its part agrees that any portion of the commission which cannot be paid by reason of the insufficiency of these funds will be met by means of an extraordinary credit, to be issued promptly after September 30, 1932.

F. Although Article 7 of the law of Expenditures for the fiscal year 1930-31 has been omitted from the present law, it is nevertheless understood that the operating funds of the Financial Adviser-General Receiver will continue to be 5% of the customs receipts as provided by the Treaty and 15% of the internal revenue receipts as provided by law.

G. In view of the obligation of the Financial Adviser under Article 2 of the Treaty to devise an adequate system of public accounting, it is the view of my Government that changes in the existing accounting system should not be made except after consultation and agreement with the Financial Adviser. Article 8 to 11 and 23 to 34 of the law of Expenditures apparently seek to bring about changes in the accounting system and contain impracticable and in some instances self-contradictory provisions which if put into effect would make the maintenance of an adequate accounting system very difficult. I understand, however, that we are in accord upon the desirability of leaving this matter to be discussed in the first instance between the Financial Adviser and the Minister of Finance, with a view to any changes or interpretations of a practical nature.

H. The Haitian Government will instruct its officials to advise the General Receiver of changes in salaries, pensions, subventions, and rentals, within two days after such changes shall have taken place in order to avoid improper payments.

I. With reference to paragraph 12 of Article 16 of the law of Expenditures, it is understood that the General Receiver will continue to make payments to members of religious organizations in accordance with their internal regulations.

J. The provisions of Article 19 of the law of Expenditures do not affect the right and duty of the Financial Adviser to make expenditures required by the provisions of the Treaty.

K. It is understood that arrangements will be made which will enable such Government Services as may find it advisable to authorize purchasing agents to act for them abroad.

L. It is understood that extraordinary credits will not be issued without the prior accord of the Financial Adviser.

Accept [etc.]

[File copy not signed]

[Enclosure 2—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Munro)

PORT-AU-PRINCE, November 7, 1931.

MR. MINISTER: I have the honor in the name of the Government of the Republic to acknowledge receipt of your Excellency's letter of November 7, 1931, in which you indicated the Preambles and certain dispositions of the law of Ways and Means and the law of Finance for

the budgetary year 1931-1932, which appear to the Legation of the United States to be inconsistent with the provisions of the treaty of 1915, the liquidation of which was so happily begun with the accord of last August 5.⁶⁷

Without prejudice to the conversations now in progress, and after consultation with the Council of Secretaries of State, I shall reply to your communication for greater clearness in the order of the questions presented.

1. Preambles of the laws:

These preambles, as I have explained to your Excellency, are amendments resulting from the exercise of parliamentary initiative and seem to constitute the logical sequence of the attitude adopted by the Chambers concerning the non-validity of the "Additional Act" proroguing the treaty of September 16, 1915 for a new period of ten years. •

In law, the act of promulgation by the Executive is only an attestation to the body politic that a given law has been voted by the legislative body and that it has executory force. Judicially, it does not imply a conformity of the views of the Executive with those of the legislature, because the right to initiate laws belongs equally to this latter power, (Constitution, Article 55); because the legislature has the right to amend projects of law initiated by the Executive, (Constitution, Article 61); and finally, because even in cases where the President of the Republic might consider it wise to request a new consideration of the law, he would be obliged to promulgate the law in the event of the rejection of his objections, (Constitution, Article 62).

Furthermore, the preambles of a law, like the grounds of a judicial decision, do not determine anything. Only the provisions of a law are of obligatory force.

The Government of the Republic has, moreover, defined its policy before the Chambers. It proposes to maintain its complete liberty of action, by virtue of the principle of separation of powers, in order to pursue with the Chancery of the United States of America the present amicable and cordial conversations envisaging the early liquidation of the treaty of 1915.

We willingly admit that the Government of Washington, as you yourself state in your letter, has already furnished a "concrete proof of its willingness to modify the regime established by the treaty" and that it has promised by the Accord of last August 5 to continue the study of the other problems arising from the said instrument. You are aware, Mr. Minister, that a few days after the signing of the Accord my department instructed the Haitian Minister at Washington to inform the Secretary of State of the satisfaction of the Government

⁶⁷ *Ante*, p. 505.

and people of Haiti, and to request him to communicate to President Hoover the expression of our gratitude for the change of policy which had been inaugurated in Haiti.⁶⁸

Because of the excellent relations which exist between us, I communicated to you on the 21 of October promptly upon your return from leave, the project for the establishment of a Fiscal Agency and the abolition of the organization of the Financial Adviser-General Receiver of Customs.

2. Law of Ways and Means:

Article 3. The Government, after studying closely the estimated receipts of the fiscal year 1931-32 had resolved several months ago to restrict itself to a budget of about Gdes. 32,000,000, the reserves to be drawn on if necessary to permit us to reach this figure, and our reductions in the budget to make up the difference between this figure and the amount fixed by the Chambers plus the additional amount requested by the Garde for the maintenance of public security, in order to provide for the balancing of the budget on the basis of a percentage reduction applicable to all public services, in accordance with the formula agreed upon at our conference of October 28.

3. The text of Article 10 does in fact appear not to be in conformity with Article 127 of the Constitution or with the order of relative superiority established thereby.

4. (A) Articles 6 and 11, which provide for the deposit of certain revenues in the National Bank of the Republic of Haiti for the account of the State, in consideration of the Washington transaction of 1916, and the accord relative to the Internal Revenue Service, does not modify the present *status quo*, pending the conclusion of the conversations which we have begun.

(B) The Regulations concerning the use of revolving funds and reimbursable credits will be issued after communication to the Financial Adviser for his accord and recommendation.

(C) Article 9 does not refer in any way to collectors of customs, etc.

Article 12 embodies a principle contained in the legislation of the entire world, namely: That neglect of duty and negligence give rise to pecuniary responsibility. The Government, according to the text, is the sole judge of negligence and it concedes voluntarily that the Receiver General and the Director General of Contributions will not be liable to any charge of negligence if they report to the Secretary of State for Finance any cases of non-collection of which they have knowledge. The decision to undertake proceedings will be made

⁶⁸ See note of August 10, 1931, from the Haitian Minister, p. 508.

after amicable examination by the Secretary of State for Finance of the reasons for non-collection; and by the Council of Secretaries of State, if the case involves the general policy of the Government. The Receiver General and the Director General of Contributions will incur no responsibility for failure on the part of the State to bring suit or for delay therein, if they shall have reported the case of non-collection to the Secretary of State for Finance.

(D) Article 7, in its present form, does not change in any way the practice and procedure concerning the correction of errors and the reports to be addressed to the Secretary of State for Finance.

(E) Because of the restrictions effected by means of reductions in salaries in the offices of the Receiver General of Customs and the Director General of Contributions, and the possible reduction in receipts, if there should be any demonstrated difficulty in paying commissions to the National Bank of the Republic of Haiti at the end of the present fiscal year out of the 5% and 15% funds, the Government will consider an extraordinary credit to meet the situation and remedy the omission in the present law of the former provision which protected the Receiver General in this connection.

(F) The observation is correct and the functioning of the offices of the Financial Adviser-General Receiver and the Director General of Contributions already provided for by the treaty under liquidation, the accords, and the law, is to continue as in the past within the maximum limits respectively of 5% and 15%.

(G) Articles 8-11, and 29-34. The provisions enacted may offer some inconvenience but do not really affect any treaty right. Nevertheless, the observations made will be examined later by the Secretary of State for Finance and the Financial Adviser with the object of effecting any changes or interpretations of a practical order.

(H) Although the change effected in the previous text of the old law by Article 15 could legally give rise to the inconveniences indicated, actually, it establishes a maximum delay which the administrative services are not obliged to exhaust, and I do not see any objection to the Receiver General making a request, which will be granted, by the intermediary of the Ministry for Finance, that all changes be brought to his notice within two days.

(I) Article 16, paragraph 12. The observation is correct, but the text, in spite of its general terms, does not prevent the executive from issuing an order of payment in favor of the superior of the order who, in conformity with its regulations is the representative of its members. The Government, in fact, has already recognized in the Convention with the Papacy of June 17, 1862,⁶⁹ that the members of religious

⁶⁹ See Hannibal Price, *Dictionnaire de Législation Administrative Haïtienne*, p. 445, par. V.

orders requested by the Republic of Haiti would come "In accordance with the conditions established by their orders".

(J) Article 19. It is not necessary that the law of expenditures specify all the international obligations of the Republic of Haiti; it is sufficient that the budget be in conformity with these obligations.

(K) Article 20, second line. It can easily be arranged that credits shall be opened by the banks established in Haiti with the object of avoiding the alleged disadvantages.

(L) This point is already regulated in the accord of August 5, 1931.

Please accept [etc.]

ABEL LÉGER

838.51/2363 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, November 27, 1931—1 p. m.

[Received 2:26 p. m.]

138. The Financial Adviser yesterday gave his accord to the budget and the latter is now being published.

MUNRO

838.51/2363 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, November 28, 1931—1 p. m.

90. Your 138, November 27, 1 p. m. Congratulations.

STIMSON

**DESIRE OF THE GOVERNMENT OF THE UNITED STATES FOR AN
EARLY WITHDRAWAL FROM HAITI OF THE FORCES OF OCCUPA-
TION**

838.00/2953 : Telegram

The Minister in Haiti (Munro) to the Secretary of State

PORT-AU-PRINCE, April 28, 1931—1 p. m.

[Received 5:22 p. m.]

34. Minister of Foreign Affairs is to appear before Congress Thursday and expects at that time to be questioned regarding the withdrawal of the marines. He asked me to obtain some statement regarding the intentions of the United States Government upon which he can base his reply. I explained to him the impossibility of obtaining a definite statement and urged the advantages of saying simply that the matter would be taken up in due course, but he insisted that he must have

something from Washington to save the Government from the accusation of having shown no interest in the withdrawal of the forces of occupation.

I suggest that I be authorized to tell him that the Government of the United States desires to withdraw the forces of occupation at the earliest moment when it feels that it can properly do so but that it does not consider it practicable at the present time to attempt to fix any definite date or program.

MUNRO

838.00/2953 : Telegram

The Secretary of State to the Minister in Haiti (Munro)

WASHINGTON, April 29, 1931—2 p. m.

27. Legation's 34, April 28, 1 p. m. You are authorized to inform the Haitian Minister for Foreign Affairs that the Government of the United States desires to withdraw the forces of occupation at the earliest moment when it feels that it can properly do so, but that it does not consider it practicable at the present time to attempt to fix any definite date or program.

STIMSON

BOUNDARY DISPUTE WITH DOMINICAN REPUBLIC .

(See volume I, pages 771 ff.)

HEJAZ AND NEJD

RECOGNITION BY THE UNITED STATES OF THE KINGDOM OF THE HEJAZ AND NEJD AND PROPOSAL FOR A COMMERCIAL AGREEMENT¹

890f.01/29a

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 666

WASHINGTON, February 10, 1931.

SIR: For some time the Department has had under consideration the advisability of extending the formal recognition of this Government to the Kingdom of the Hejaz and Nejd and its Dependencies. Upon the receipt of the present instruction it is desired that you take the steps set forth below with a view toward assisting the Department in arriving at a final conclusion in this matter. In order that you may be acquainted with the background of the question, there are enclosed several pertinent documents which you are requested to study carefully. These documents are the following:

- (1). Note of September 29, 1928, to the Secretary of State from the Foreign Office at Mecca.²
- (2). Department's instruction No. 24 of January 7, 1929, to the American Minister at Cairo.³
- (3). Despatch No. 315 of January 11, 1930, from the American Legation at Cairo.⁴
- (4). Department's instruction No. 100 of February 28, 1930, to the American Minister at Cairo.⁵

From a perusal of these documents you will observe that the question of the recognition of the Hejaz and Nejd and its Dependencies was first brought to the attention of the Secretary of State by a formal note dated September 29, 1928, from the Acting Director of Foreign Affairs at Mecca. In replying to this communication, through the American Legation at Cairo, the Department directed the Legation, informally and orally, to state that the question of recognition was one to which the Secretary of State found it impracticable to reply at that time, but

¹ For previous correspondence on the subject of diplomatic relations, see *Foreign Relations*, 1930, vol. III, pp. 281 ff.

² *Ibid.*, p. 281.

³ *Ibid.*

⁴ Not printed.

⁵ *Foreign Relations*, 1930, vol. III, p. 283.

that the Secretary felt confident that at the appropriate time the question would receive the sympathetic consideration which it deserved.

On several occasions subsequently the Legation at Cairo has had this matter brought to its attention either by the Hejazi Agent at Cairo or by Mr. H. St. John Philby, a British subject residing at Jeddah who is particularly close to the Government of King Ibn Saud. In his despatch No. 315 of January 11, 1930, the American Minister at Cairo, after referring to these informal communications with the Hejazi Agent and with Mr. Philby, expressed the opinion that the time had come when favorable action should be taken upon the formal request which the Hejazi Government had made for recognition. To this communication the Department replied that it was inclined to the view that if, and when, recognition is extended to the Government of King Ibn Saud, it should be extended simultaneously to the Government of the Imam of Yemen. At the same time it was pointed out that the Department did not contemplate that it would be in a position to give further consideration to this question until it had determined the character of American representation in Iraq, and that a decision in the latter question must await the ratification of the tripartite convention signed at London on January 9, 1930, between the United States, Great Britain and Iraq.⁶

The Department has recently been advised by the American Consul at Baghdad that the Iraqi Parliament has passed a bill authorizing the King to ratify the above mentioned convention. It is therefore probable that the ratifications of the convention will be exchanged at London at an early date.⁷ The question of the character of American representation in Iraq is now under consideration, and for your confidential information it may be stated that the Department is contemplating raising the rank of its representation in Baghdad to that of a legation and appointing the present consul,⁸ for the time being at least, as *chargé d'affaires*.

The point has been reached therefore where it is possible to give consideration to the matter of extending recognition to the Government of the Hejaz and Nejd and its Dependencies and to the Government of the Imam of Yemen. After careful consideration the Department has come to the conclusion that the degree of political development in the Yemen and the nature of the Imam's relations with neighboring States as well as the extent of American trade in the country are not such as to make it advisable for the United States to extend recognition to the Government of the Imam at this time. There appears to be no reason, however, why this Government should

⁶ *Foreign Relations*, 1930, vol. III, p. 291.

⁷ This took place February 24, 1931.

⁸ Alexander K. Sloan.

not recognize the Government of King Ibn Saud, provided that it is possible to obtain certain assurances from that Government.

It so happens that the present Hejazi Minister in London, Shaikh Hafez Wahba, was present at the interview in Cairo at which the First Secretary of the American Legation in that city conveyed to the Hejazi Agent the message contained in the Department's instruction No. 24 of January 7, 1929, to the American Legation at Cairo. It is believed that because of his familiarity with the question, gained partly at the above mentioned interview and partly elsewhere, Shaikh Hafez Wahba is the logical person with whom to carry on present negotiations.

Upon the receipt of the present instruction, and after a study of the accompanying documents, it is desired that a member of the Embassy staff seek an early interview with the Hejazi Minister in London. At this interview the American representative should state that he is calling under instructions from his Government to inform the Hejazi Minister that the Government of the United States is now in a position to give favorable and sympathetic consideration to the request for the recognition of the Hejaz and Nejd and its Dependencies which was contained in the note addressed on September 29, 1928, to the Secretary of State by the Acting Director for Foreign Affairs at Mecca. He should add that before taking further steps in the matter the American Government would be interested to learn whether the Government of His Majesty King Ibn Saud would be prepared to enter into a treaty of friendship, commerce and navigation providing for unconditional most-favored-nation treatment. At the same time this Government would be glad to receive information with respect to the provisions of the Hejazi and Nejd laws governing the administration of justice in civil, commercial, criminal and personal status cases in which foreigners are involved. The American representative should express the hope that the Hejazi Minister will be good enough to communicate the foregoing to his Government at Mecca with the request that any reply which that Government may wish to make be communicated through the Minister to your Embassy.

The Department also desires that you request the appropriate authorities of the Foreign Office to be good enough to furnish you with information with regard to the administration of justice in the Hejaz and Nejd with special reference to civil, criminal, commercial and personal status cases in which British subjects are involved. You may assure the Foreign Office that any information which it may see fit to furnish on this subject will be considered by the Department as strictly confidential. You may at the same time state, for the confidential information of the Foreign Office, that this Government now

has under consideration the advisability of extending recognition to the Government of King Ibn Saud.

The Department will look forward to receiving a report of the conversations in which you discuss the above matters with the Hejazi Minister and with the Foreign Office.

Very truly yours,

HENRY L. STIMSON

890f.01/31

Memorandum by the First Secretary of Embassy in Great Britain (Thaw)⁹

This morning I telephoned the First Secretary of the Legation of the Hejaz and Nejd to ask when a reply might be expected to the memorandum regarding the recognition of the Kingdom of the Hejaz and Nejd and its Dependencies by the United States which was handed to the Minister by Mr. Atherton¹⁰ on March 5. After consulting the Minister, the Secretary informed me that the Minister had this morning received a communication from his Government stating that the suggestions made were acceptable, and that the answer would be in the affirmative, further details being now on the way. The Secretary added that the delay was due to the time required for communicating with his Government, two weeks being needed in each direction, but gave me to understand that the Minister would write to the Ambassador as soon as he was in possession of his full instructions, which it was thought would be within the next few days.

BENJAMIN THAW, JR.

LONDON, April 1, 1931.

890f.01/33

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 1832

LONDON, April 14, 1931.

[Received April 22.]

SIR: Referring to my cablegram No. 107, April 14, 4 p. m.,¹¹ and previous correspondence concerning the question of extending the formal recognition of the United States Government to the Kingdom of the Hedjaz and Nejd and its Dependencies, I have the honor to transmit herewith a copy of the memorandum handed me this morning by the Minister of the Hedjaz and Nejd in reply to the memorandum

⁹ Copy transmitted to the Department by the Ambassador in Great Britain in his despatch No. 1808, April 1; received April 11.

¹⁰ Ray Atherton, Counselor of Embassy.

¹¹ Not printed.

given by me to him on March 5, 1931, a copy of which was forwarded with the Embassy's despatch No. 1808, April 1, 1931.¹²

Respectfully yours,

For the Ambassador:
BENJAMIN THAW, JR.
First Secretary of Embassy

[Enclosure]

*The Minister of the Hejaz and Nejd in Great Britain (Hafiz Wahba)
to the American Ambassador (Dawes)*

MEMORANDUM

The Minister of the Hedjaz and Nejd has received the reply of his Government to the Memorandum presented to him by His Excellency the American Ambassador in London, on the 6th of March 1931.

The Government of His Majesty King Abdul Azeez Al Saud tender their thanks to the American Government for their readiness to give favourable and sympathetic consideration to the request for the recognition of the Kingdom of the Hedjaz and Nejd, and its Dependencies.

His Majesty's Government signify their desire to enter with the American Government, into a Treaty of Friendship, Commerce, and Navigation—providing for the most favoured nation treatment as they have done with other powers.

His Majesty's Government have the honour to inform the American Government that the Hedjaz and Nejd laws, governing the administration of justice in civil, commercial, and criminal cases are The Islamic Laws. In addition, a special council is provided for commercial cases. With regard to cases of Personal Status, non-Moslem foreigners are treated according to special laws in common with other non-Moslem Europeans.

The Minister of the Hedjaz and Nejd would be grateful if His Excellency the American Ambassador would be good enough to convey the above to the American Government.

[LONDON,] 13 April 1931.

890f.01/34a : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, May 1, 1931—6 p. m.

113. Your despatch 1832, April 14. Please inform the Hejazi Minister that the United States extends full recognition to the Government of His Majesty King Ibn Saud of the Hejaz and Nejd and its Depend-

¹² Neither printed.

encies and request him to be good enough to communicate the fact to the Foreign Office at Mecca.

At the same time state that pending an opportunity for the negotiation of a formal treaty of commerce and navigation, this Government would be glad to enter into an exchange of notes with his Government providing for reciprocal unconditional most-favored-nation treatment in such matters. If the Hejazi Government is prepared to proceed to such an exchange of notes full instructions will be sent to you at an early date in order that the notes may be exchanged in London.

The Department will issue a statement to the press regarding the recognition of the Hejaz for publication in the morning papers of May 4th. Please so inform the Hejazi Minister in order that he may advise his Government of American recognition prior to that date.

STIMSON

890f.01/37

*The Minister of the Hejaz and Nejd in Great Britain (Hafiz Wahba)
to the American Ambassador in Great Britain (Dawes)*¹³

LONDON, 4 May, 1931.

YOUR EXCELLENCY: I must thank you for your letter of the 2nd instant¹⁴ in which you intimate that the Government of the United States has given full recognition to the Kingdom of the Hedjaz and Nejd and Its Dependencies. I have duly communicated this fact to the Foreign Office at Mecca.

I am glad to inform Your Excellency that the Government of His Majesty King Abdul Azeez Al Saud is prepared to enter into an exchange of notes with the Government of the United States, pending the negotiation of a formal treaty of commerce and navigation, providing for reciprocal unconditional most-favored-nation treatment.

I shall be very grateful if you will be good enough to convey this to your Government.

With the assurance [etc.]

HAFIZ WAHBA

711.90f2/6

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 953

WASHINGTON, October 12, 1931.

SIR: The Department refers to its telegram No. 113 of May 1, 1931, instructing you to inform the Hejazi Minister that the United States extends full recognition to the Government of His Majesty, King Ibn Saud of the Hejaz and Nejd and its Dependencies. At the same time

¹³ Copy transmitted to the Department by the Ambassador in Great Britain in his despatch No. 1920, May 8; received May 18.

¹⁴ Not printed.

you were instructed to inform the Hejazi Minister that, pending an opportunity for the negotiation of a formal treaty of commerce and navigation, this Government would be glad to enter into an exchange of notes with his Government providing for reciprocal unconditional most-favored-nation treatment in such matters. In his note dated May 4, 1931, enclosed with your despatch No. 1920, of May 8, 1931,¹⁵ the Hejazi Minister states that his Government assents to the foregoing proposal.

The Department now desires to proceed to the conclusion of the agreement referred to and encloses a proposed text thereof¹⁶ which you should submit to the Hejazi Minister for the consideration of his Government. The provisions of parts 1, 2 and 3 of the enclosed draft are similar to provisions of agreements between the United States and certain other countries, while those in part 4 have been customarily included in treaties entered into by the United States. It is believed that all of these provisions will be found self-explanatory, and that they will prove acceptable to the Hejazi Government.

With reference to part 5 of the draft note you may state that it is not the practice of this Government to submit provisional agreements of this kind to the Senate for its advice and consent to ratification, and that it is therefore customary to include in such agreements a provision whereby the stipulations thereof shall lapse if this Government should be prevented by the future action of its legislature from carrying out their terms.

You are authorized to sign and transmit to the Hejazi Minister the enclosed note upon being advised by him of his authorization to reply thereto in identic terms. The exchange of notes thus effected would consummate the agreement between the two Governments.

The Department will be glad to have you give this matter your prompt attention. If any material changes in the enclosed draft are desired by the Hejazi Government, you should report fully to the Department by telegraph and request instructions.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

711.90f2/7 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, October 26, 1931—noon.

[Received October 26—9:15 a. m.]

421. Am informed by Hejazi Minister that his Government has insisted in all treaties so far concluded upon the inclusion of a clause

¹⁵ Despatch not printed.

¹⁶ Not printed.

stating in substance "Arabic and (English) texts shall both be official texts and both have equal value."

Hejazi Minister foresees this point will be immediately raised by his Government and to avoid delay asks your concurrence that such a phrase should be inserted in the agreement contemplated in the Department's 953, October 12, 1931.

DAWES

711.90f2/8 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, October 27, 1931—5 p. m.

311. Your 421, October 26, noon. In lieu of clause suggested by Hejazi Minister you may agree to following clause which is substantially the same as that in the treaty between Great Britain and the Hejaz signed in Jeddah, May 20, 1927:¹⁷

"The English and the Arabic texts of the present agreement shall be of equal validity; but in case of divergence in the interpretation of any part of the agreement the English text shall prevail."¹⁸

STIMSON

¹⁷ League of Nations Treaty Series, vol. LXXI, p. 131.

¹⁸ The provisional agreement was signed November 7, 1933; for text, see Department of State, Executive Agreement Series No. 53.

HONDURAS

INSURRECTION IN HONDURAS

815.00 Revolutions/2 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 18, 1931—2 p. m.

[Received 8:30 p. m.]

58. American Consuls Puerto Castilla and Ceiba report persistent rumors of imminent uprising their districts and that General Ferrera has given orders start uprisings immediately. My information, obtained while at San Pedro Sula recently, headquarters Ferrera, and since then here, is that Ferrera would not wish to be associated with pillage and riot by unemployed and without a leader like Ferrera these riots not likely to grow into revolutionary movement. Nevertheless the serious unrest on northern coast especially in Ceiba and Truxillo districts due principally to unemployment may easily result next few days in riots and attacks on Americans and get beyond control available Honduran forces which are now being slightly increased. American women and children in Truxillo district have been concentrated at Castilla as a precaution. Have discussed situation with President Mejia Colindres who says that he has no money for ample forces subdue general uprising. He expressed the hope that an American warship could make a courtesy visit to the north coast immediately, calling first at Ceiba then at Castilla or Truxillo. I believe that such a visit at this time would, like those last year, have excellent deterrent effect and could be announced as periodical courtesy visit.

LAY

815.00 Revolutions/3 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 18, 1931—9 p. m.

[Received 10:55 p. m.]

59. My 58, April 18, 2 p. m. Following just received from American Vice Consul at Ceiba:

“Send warship immediately, American lives in danger.”

I approve and urge immediate action. Details follow by telegraph.

LAY

815.00 Revolutions/5 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 18, 1931—10 p. m.

[Received April 19—3:06 a. m.]

60. My telegram No. 59, April 18, 9 p. m. Manager of the Standard Fruit Company at Ceiba telegraphs revolutionists concentrating at a place approximately 37 miles inland and undoubtedly meditating attack on Ceiba tonight.

President Mejia Colindres wishes to know whether marines in Nicaragua would supply bombs to assist in suppressing uprising and protecting lives and property in Ceiba and Truxillo districts. He will ask United Fruit Company to use its planes and pilots to transport and drop them. Fruit company will not accede to his request and in any event its American pilots would not participate in this action. I suggest that I be instructed to inform the President that bombs not available.

Please answer by telegraph what action taken about sending warship.

LAY

815.00 Revolutions/8 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 19, 1931—8 a. m.

23. Your 60, April 18, 10 p. m., last paragraph. The U. S. S. *Memphis* has been ordered to Ceiba. Inform consuls.

STIMSON

815.24/156 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 19, 1931—9 a. m.

24. Your 60, April 18, 10 p. m., first [*sic*] portion. You may inform President Colindres that bombs are not available.

STIMSON

815.00 Revolutions/1 : Telegram

The Vice Consul at Puerto Cortes (Wasson) to the Secretary of State

PUERTO CORTES, April 19, 1931—9 a. m.

[Received 3:30 p. m.]

Armed uprisings took place south and east of San Pedro last night. It is reported that revolutionary forces are accompanied by General Ferrera.

WASSON

815.00 Revolutions/4 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 19, 1931—10 a. m.

[Received 2:26 p. m.]

61. Following telegram has been received from the American Vice Consul at Tela.

“April 19, 3 a. m. Revolutionary forces moving towards Tela after capture Progreso. New [Now?] Tela being put under civilian patrol. Request immediate despatch of marines by air”.

Manager of the United Fruit Company reports that General Ramon Diaz advises that he is leaving Progreso for Tela with 800 men and is operating in the name of Ferrera. Company has ship in the harbor which it is holding to evacuate Americans in case it is necessary. Revolution apparently spreading to all ports on north coast and I therefore urge that one warship be sent at once to Tela and one to Truxillo as well as the *Memphis* to Ceiba.

Forces also now moving on Truxillo.

LAY

815.00 Revolutions/9 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 19, 1931—5 p. m.

25. Your 61 April 19, 10 a. m. Three cruisers have been ordered to north coast probably to Puerto Cortes, Trujillo and La Ceiba.

STIMSON

815.00 Revolutions/6 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 19, 1931—midnight.

[Received April 20—6:55 a. m.]

63. Insurrectionary movements broke out yesterday in the interior of the Tela, Puerto Castilla and Truxillo districts. The Vice Consuls at these places understanding that sizeable bodies of armed men were advancing on those posts and believing American lives and property in danger request that warships be sent.

In the Tela district a force estimated at 200 men occupied Progreso and vicinity. They robbed the Banco de Honduras at Progreso, requisitioned arms, supplies and railway rolling stock, but otherwise their behavior reported orderly. They have advanced on Tela about 20 miles today as far as Urraco which is 40 miles from Tela but the

Government has regained possession of Progreso. Government troops in Tela are less than 100 but a hundred or more reinforcements due to arrive from La Ceiba morning April 20th.

Ceiba has a garrison minus the detachment sent to Tela of 200 men and has not been seriously threatened by the insurrectionists.

Truxillo also according to the latest reports seems secure; its garrison is 200 men.

Figures for garrisons furnished Legation by the President who feels sure of loyalty of their commanders and of those at San Pedro Sula and Puerto Cortes as well.

Puerto Cortes district is as yet unaffected.

No prominent military or political leaders have so far been identified with this movement which appears recruited entirely from the unemployed, the communists, the riffraff and the criminals of Northern Honduras. No insurrectionary forces have approached nearer than 30 miles to the ports mentioned, and my own opinion is that uprising will soon fizzle out. I have instructed consuls to take appropriate measures for protection of American and other foreigners' lives and property, and to suggest to managers of fruit company at their posts to keep steamships within reach for evacuation of Americans and other foreigners if necessary. Where possible American women have been brought to ports from interior by fruit company. I have informed Consuls of European powers in Tegucigalpa that American Consuls will do all they can to protect their nationals and am in constant consultation with Government authorities and with representatives of United and Standard Fruit Companies here. Commander *Memphis* advised to stop at Puerto Castilla, Ceiba and Tela. Fisher directed remain Tela during emergency.

LAY

815.00 Revolutions/7 : Telegram

The Vice Consul at Puerto Cortes (Wasson) to the Secretary of State

PUERTO CORTES, April 20, 1931—8 a. m.

[Received 4:23 p. m.]

Yesterday afternoon General Ladislao Santo, secretary of General Ferrera, crossed the Ulua River at Progreso into Department of Yoro with 200 followers. They proceeded slowly toward San Pedro Sula requisitioning mules and saddles at banana plantations. First fighting in this consular district occurred at Pimienta on National Railroad April 19, 9 p. m., which fell after sharp engagement. All train traffic on National Railroad and Ramal del Ulua has been suspended at request of General J. Antonio Inestroza, Commandante of San Pedro Sula. I proceeded to San Pedro Sula last night to reassure Americans

and foreigners residing there. General Ferrera had remained in hiding in San Pedro Sula until 4 p. m. General Inestroza assured me that foreigners' lives and property will be protected.

WASSON

814.00/1065 : Telegram

The Minister in Guatemala (Whitehouse) to the Secretary of State

GUATEMALA, April 20, 1931—11 a. m.

[Received 1:25 p. m.]

29. Minister of Foreign Affairs has informed me that the Jefe Politico of Puerto Barrios yesterday arrested General Filiberto Diaz Zelaya and four companions who were on their way to join the Honduran revolution. All five are now locked up here.

Repeated to Tegucigalpa.

WHITEHOUSE

815.00 Revolutions/28

Memorandum by the Chief of the Division of Current Information (McDermott) of Press Conference by the Secretary of State, Monday, April 20, 1931

[Extract]

HONDURAS

With reference to the trouble in Honduras the Secretary said that four ports were mentioned in the despatches received. In the first place the *Memphis* arrived at Ceiba at 12:35 this morning. Truxillo and Port Castillo have been mentioned as two places but they are in fact together, Port Castillo is the residential section of Truxillo. The U. S. S. *Trenton* is now on her way to that port but has not yet arrived. One of the United Fruit Company boats is also en route to Truxillo. The third port mentioned is Tela and there is a United Fruit Company's boat there now. The fourth is Cortez and the *Marblehead* is on her way there from Guantanamo, Cuba. There are said to be 300 Americans at Ceiba, 242 at Castillo, 333 at Tela and 372 at Cortez, making a total of 1,252 in the disturbed areas of Honduras.

The Secretary then read the substance of despatches from our Minister to Honduras, Mr. Julius G. Lay, which were to the effect that a revolutionary movement broke out yesterday in the interior of the Tela, Port Castillo and Truxillo districts. The Vice Consuls at those places, believing that sizable bodies of armed men were advancing on the port and believing that American lives and property were in danger, sent out a request for American warships. It was on that request that the movements of Naval vessels above mentioned were made. In

the Tela district a force estimated at two hundred men occupied Progreso and vicinity. They robbed the Bank of Honduras and requisitioned arms, railroad and other stock. The force advanced from Tela as far as Urico, a distance of about forty miles. It appears that the Honduran Government regained possession of Progreso. The port of Cortez is as yet unaffected. No permanent military or political leaders have yet been identified with this movement which seems to be made up entirely from the unemployed, the communists and the riffraff and criminals of North Honduras. No revolutionary forces have approached nearer than thirty miles to the ports mentioned and it is believed that the uprising will soon fade out. Our Consuls have been instructed to take appropriate measures for the protection of Americans and other foreign lives and property and to suggest to the managers of the fruit companies at the ports mentioned to keep their steamships within reach for the evacuation of Americans and other foreigners if it becomes necessary. Wherever possible American women have been brought out from the interior points by the fruit companies. They have informed the Consuls of all European Powers in Tegucigalpa that American Consuls will do all that they can to protect their nationals. They are in constant consultation with the authorities and the representatives of the United and Standard Fruit Companies.

A correspondent asked if the Secretary would make a comparison between the present situations in Honduras and in Nicaragua. The Secretary then read the following paragraph from a press release which was issued yesterday:

"The situation in Honduras is different from that in Nicaragua as there is apparently a revolutionary movement against the Honduran Government. The American forces will limit themselves to making provisions for the safety of American lives and property in the coast towns."

For information and background only the Secretary said that our forces in Honduras have to be very careful not to take sides between the two contending forces, the revolutionary and those of the Government, and the forces which land must confine themselves very strictly to the protection of American and foreign lives and property and are not to take any part in the domestic warfare of Honduras.

A correspondent then asked if that statement was not tantamount to the recognition of the state of war. The Secretary said that it had nothing to do with the question of recognition of belligerency and that it was only the part of prudence when a foreign force lands in a country where there is combat and where the combatants are not attacking Americans not to take any part in the quarrel whatever.

That is different from the situation in Nicaragua where outlaws are attacking our people.

The correspondent then asked if we were not according them the status of belligerents, to which the Secretary replied that we were merely keeping out of the way of two people who were fighting.

In answer to a question as to whether there was any indication of a connection between the rebels in Honduras and the bandits in Nicaragua, the Secretary said that on the contrary it had been known for a long time that there was an acute situation from an economic and labor viewpoint in Honduras and that the conditions were such that trouble might have come at any moment.

A correspondent said that as a result of the action in Nicaragua last week, particularly the refusal of the United States to employ Marines in the interior, there has come to be what is known as a new Administration policy and he enquired if that would be carried out in Honduras. The Secretary replied that the correspondent's premise was incorrect, making the discussion of that point unnecessary. The statement which was given to the press on Saturday contained all that the Secretary desired to say at that time.

M. J. McDERMOTT

814.00/1065 : Telegram

The Secretary of State to the Minister in Guatemala (Whitehouse)

WASHINGTON, April 21, 1931—7 p. m.

16. Legation's 29, April 20, 11 a. m. Please state orally and informally to the Guatemalan Minister for Foreign Affairs that this Government has learned with especial gratification of the action of the Guatemalan authorities in restraining General Filiberto Diaz Zelaya and companions from entering into the present insurrectionary movement in Honduras from Guatemalan territory.

By taking this action the Government of Guatemala has set a praiseworthy example in the observance not only of the General Treaty of Peace and Amity of 1923¹ but of intrinsic good neighborliness.

The Department feels that this Government may appropriately express the foregoing sentiments because of its keen interest in the maintenance of peace, and because of its adherence to the general principles of that Treaty.

STIMSON

¹ General Treaty of Peace and Amity, signed February 7, 1923, *Conference on Central American Affairs*, p. 287.

815.00 Revolutions/12 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 21, 1931—11 p. m.

[Received April 22—8:40 a. m.]

65. The situation has changed little in the last 24 hours. No combats have been reported anywhere; the apparently small groups which rebelled in the Castilla and Ceiba Districts have scattered into the mountains of the interior. The largest rebel concentration has remained stationary astride the National Railway south of San Pedro Sula but is tonight reported to be moving northwest on to the Quimistan-San Pedro Sula highway possibly to effect junction with General Ferrera who has been persistently rumored to have aligned himself with the insurrectionists and is reported to have left his hiding place in San Pedro Sula and gone toward Quimistan.

The Government is concentrating large reenforcements of untrained troops in the San Pedro Sula region for the protection of the town and a possible offensive tomorrow.

The *Marblehead* arrived at Puerto Cortes this morning and its commanding officer made courtesy visits on the Honduran authorities at San Pedro Sula. Admiral Kempff arrived at Castilla on the *Trenton* this morning and called on the authorities of Truxillo. I requested that the *Memphis*, which is at Ceiba, make a visit to Tela where there exists high nervous tension. These visits are having a beneficial effect.

The President of Honduras considers the timely arrest by the Guatemalan authorities of Diaz Zelaya, whom he considers one of his Government's most dangerous enemies, to have been most fortunate and helpful and expressed gratitude to the United States Legation at Guatemala for its good offices in effecting this move.

LAY

815.00 Revolutions/14 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 22, 1931—11 a. m.

[Received 3:45 p. m.]

66. The Honduran Government has notified Turnbull of United Fruit Company that from today it will withhold clearance to all his company's vessels now in Honduran ports in order that they may be at Government's disposal for troop movements. Turnbull has declined to permit the use of the company's vessels for military purposes until he receives instructions from the Boston office. Turnbull fears that in order to compel United Fruit Company to make available its steamers the Honduran Government will take over control company's railroad and rolling stock which would cripple company's operations

more than requisition of its vessels in port. Turnbull has recommended as a matter of expediency and compromise that he be authorized to make available to Honduran Government one ship American or Honduran registry there being now no United Fruit Company vessels of Honduran registry here in port but he will not do this unless Department sanctions it. The Vice Consul at Tela has radioed Legation that the Honduran commandant at Tela has requested use of steamship *Coppename* of American registry for transfer of troops to Puerto Cortes. Highly recommend that he should decline to accede to request until I have obtained Department's views.

Mr. Turnbull will also await Department's views before taking any action.

I request instructions on all points raised herein be radioed as soon as possible.

LAY

815.00 Revolutions/15 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 22, 1931—1 p. m.

[Received 4:45 p. m.]

67. Reference Legation's No. 66,² Turnbull has received following from United Fruit Company, Boston office:

"On written order from the President or Minister you are authorized to place steamer *Coppename* at disposal of Government for movement of troops one trip Tela to Puerto Cortes provided Government lift restrictions on movement of trains all three divisions and restrictions against clearance of our vessels. Steamship *Comayagua* will arrive Puerto Cortes daylight tomorrow; if necessary and if Government will furnish written order for this vessel you are authorized to place same at their disposal for further transportation troops. This we believe confidentially will satisfy Government."

In as much as Turnbull has stated will take no action without my approval and steamship *Comayagua* is Honduran registry, I request to be instructed also whether the Department has any objection to proposed use of this vessel.

LAY

815.00 Revolutions/19 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 22, 1931—7 p. m.

27. Legation's 66, April 22, 11 a. m. and 67, April 22, 1 p. m. The Department perceives no objection to your informal acquiescence in

² *Supra.*

the arrangement between the Company and the Government described in the Company's telegram to Turnbull. This it is believed should satisfy the urgent needs of the Government.

Request that any restrictions not essential to immediate military needs placed upon the Company's railroads and other property be removed and state that it is expected that adequate compensation shall be paid for such use as may be made of the property of American nationals and for any damage resulting therefrom.

STIMSON

815.00 Revolutions/16 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 22, 1931—11 p. m.

[Received April 23—5:32 a. m.]

68. The last 24 hours have been quiet. Except for a few skirmishes, there has been no military activity in the San Pedro Sula region where the rebels have their largest concentration—not more than 400 poorly armed men after making estimate [omission?] given me by the President—they show no indication to attack. But neither do the greatly superior Government forces show any disposition to take the offensive, and because of this supineness on the part of this Government the insurrection may drag out into weeks or months of guerilla warfare.

In accordance with my request the *Memphis* moved from Ceiba to Tela this morning.

Train service resumed between San Pedro Sula and Puerto Cortes.

LAY

815.00 Revolutions/22 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 23, 1931—5 p. m.

[Received 10:33 p. m.]

69. Department's telegram number 27, April 22, 7 p. m. The Honduran Minister of War has withdrawn unreasonable order issued yesterday to Fruit Company to place from April 22 all their sea, land and air vehicles at disposal of the Government and instead has agreed to arrangement with the United Fruit Company to use these vehicles only when essential for immediate military needs and to pay for their use. The United Fruit Company leased the *S. S. Comayagua* to Government for transport of troops from Ceiba to Puerto Cortes today. Further troop movements by vessels probably not necessary. Company leasing trains to Government when essential, carrying officers in their airplanes between Tegucigalpa and north coast and aiding Government every reasonable way.

LAY

815.00 Revolutions/20 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 23, 1931—9 p. m.

[Received April 24—4:17 a. m.]

71. Continued calm along the coast entire front. Rebels have abandoned their position astride the National Railway south of San Pedro Sula and have retired westward. The railroad is open its full length from Puerto Cortes to Poterillos.

LAY

815.00 Revolutions/29 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 24, 1931—8 p. m.

[Received April 25—10:45 a. m.]

72. No combat engagements have been reported in the last 24 hours. Military headquarters here estimates the present total number of rebels in the entire country as 1,000. The bulk of these are to the west of San Pedro Sula, retiring west and southwest apparently followed but not pursued by the Government forces in several columns.

An American citizen, John Edward Wright, time-keeper on the Lerida farm of the United Fruit Company was murdered this morning by an unknown assailant. Lerida is about 50 miles up the Truxillo Railroad from Puerto Castilla. The Legation's information does not indicate whether this murder was an act of the rebels or was merely another of the fairly frequent crimes normally occurring in this lawless region.

The fruit companies have resumed normal operations in all the banana districts except in one section to the south of San Pedro Sula.

LAY

815.00 Revolutions/34 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 27, 1931—11 a. m.

[Received 1:20 p. m.]

75. At request of President of Honduras Turnbull is allowing Tela plane to reconnoitre rebel army country to endeavor to locate whereabouts of rebel forces. President desires that Geyer³ go as observer to obtain this military information for Honduran Government. Does Department authorize engaging in this duty while en route from San Pedro Sula on return to Tegucigalpa?

LAY

³ Major Peter C. Geyer, Jr., Naval Attaché.

815.00 Revolutions/39 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 27, 1931—6 p. m.

[Received 9:35 p. m.]

78. The following telegram has been received today from Major Geyer at San Pedro Sula:

"Last night small rebel patrols harassed outposts with resulting desultory firing from midnight to 4 a. m. I view situation as follows:

Rebels now in hills 1,100 strong of which 300 well armed but short of ammunition, also best Indian fighters have not as yet joined them. Government forces defending city well armed and plenty ammunition with Fonseca and more reserves coming up. Do not believe rebels will attack San Pedro Sula under circumstances as chances of success would be slight. Again, if Government forces attack rebels who are now in good defensive position in the mountains, the latter would have a better chance of defeating them, replenishing their ammunition supply and then attacking San Pedro Sula. Believe both sides realize the above which fully explains the situation for the time being. Morale of troops here better and leaders seem more confident. In view above change I do not believe San Pedro Sula in danger of falling at present. Inestroza now cooperating fully and I am standing by to establish neutral zone when, as, and if necessary."

LAY

815.00 Revolutions/40 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

[Paraphrase]

WASHINGTON, April 27, 1931—7 p. m.

30. Your 75, April 27, 11 a. m. The Naval Attaché of the American Legation in Honduras should not be employed to obtain military information for the Government or take part in Honduran internal political affairs.

The participation in military operations of an airplane employed in purely commercial pursuits by an American company in Honduras is viewed with much apprehension by the Department of State.

STIMSON

815.00 Revolutions/44 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 28, 1931—5 p. m.

[Received April 29—11:05 a. m.]

79. Department's telegram No. 30, April 27, 7 p. m. Instructions regarding Naval Attaché strictly complied with and views concerning

company's planes respected. President now considering purchasing an unused plane here belonging to United Fruit Company and manning it with Honduran forces for observation purposes.

LAY

815.00 Revolutions/45 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 28, 1931—5 p. m.

32. Your 78, April 27, 6 p. m. Last sentence of Major Geyer's telegram. Department approves his action and would be glad to have him remain in San Pedro Sula to arrange for the evacuation of Americans to the seacoast in case of necessity.

STIMSON

815.00 Revolutions/43 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 28, 1931—9 p. m.

[Received April 29—10:10 a. m.]

80. Military situation has undergone an important change in the last 24 hours. The deadlock at San Pedro Sula has been broken by Ferrera's withdrawal from the immediate vicinity of that town and his general retirement toward the town of Santa Barbara. One thousand Government troops are following.

On the remainder of the north coast there have been no disturbances and conditions are rapidly returning to normal.

I have requested the Commander of the Special Squadron who arrived at Castilla this morning with the *Rochester*, to come immediately by plane to Tegucigalpa to consult with me. I believe that two warships are now sufficient on the north coast and intend informing the Commander, Special Service Squadron that he may in his discretion withdraw two of the four there.

There has been much complaint of the false and alarmist news reports being sent to American papers by correspondents in Honduras. The President has in consequence imposed a strict censorship on outgoing news. The Legation has been purposely using the word insurrection instead of revolution not only because the present disturbance is not a revolution in motives or magnitude but also to convey the fact with emphasis.

LAY

815.00 Revolutions/59 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 2, 1931—11 a. m.

[Received 8:44 p. m.]

83. The President informs me that yesterday Ferrera with 350 men attacked Santa Rosa de Copan defended by 100 Government troops. When its ammunition was exhausted the garrison surrendered and those who had been unable to escape, numbering about 50, were massacred. Those thus slaughtered included the Governor of the Department, the Military Commandant, the Chief of Police and a number of civilians who had taken refuge in the barracks. This act of barbarity has evoked great indignation in Honduras among Nationalists as well as Liberals.

Ferrera holds Santa Rosa today but it is expected he will retire with the considerable booty taken there when Government forces numbering 1,000 under General José Maria Reina reach that town tomorrow.

Quiet prevails in all other Departments.

Admirals Smith and Kempff with Flag, Lieutenant Commander, arrived here yesterday morning and made their courtesy calls. I believe their visit here is making an excellent [impression?]. Admiral Smith requests that this be repeated to the Navy Department.

LAY

815.00 Revolutions/66 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 6, 1931—5 p. m.

[Received 10:15 p. m.]

88. *Cronista*, Tegucigalpa daily, editorially expressed great surprise at declaration telegraphed through Salvador that Secretary Stimson has announced that the present movement in Honduras is of a political nature distinct from that in Nicaragua and that the United States is disposed to observe a conduct of strict neutrality with respect to Honduras.

Please telegraph me some explanation that I can give President who is much concerned over this announcement.

LAY

815.00 Revolutions/72 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 7, 1931—7 p. m.

37. Your 88, May 6, 5 p. m. The Department is unable to determine from your telegram what specific statement has been attributed to

the Secretary. In the Memorandum of the Press Conference held April 20⁴ on pages 3 and 4 you will find a complete transcription of the inquiries addressed to the Secretary on this subject by the correspondents and the Secretary's reply. This memorandum should have reached you in the pouch which left Washington April 28.

Should President Mejia Colindres again broach the subject you may informally and orally convey to him the substance of these conversations, pointing out that the Secretary made it quite clear that the question of recognition of belligerency was not involved in any way.

STIMSON

815.00 Revolutions/71 : Telegram

*The Manager in Honduras of the United Fruit Company (Turnbull)
to the United Fruit Company*

[TEGUCIGALPA, undated.⁵]

"Our planes have not been used by Government for reconnoitering purposes over any zone other than regular passenger route. Planes have carried a few military and civil Government employees as regular pay passengers over our regular route. Planes have refused to carry Government officials to zone of trouble also refused to transport rifles and arms for the Government. Planes have also carried American Legation and Naval Officers over regular route. American Legation has seen foregoing and confirms it. We have and will keep in constant touch with American Legation regarding all our operations. Suggest we dismantle two of our planes and keep one strictly for company use and for American Legation mail etc."

[File copy not signed]

815.00 Revolutions/76

*The Secretary of State to the Attorney for the United Fruit Company
(Woolsey)*

WASHINGTON, May 12, 1931.

SIR: The Department has received your letter of May 4, 1931,⁶ in which, as attorney for the United Fruit Company and with especial reference to a recent incident concerning the request of the Government of Honduras for use of the Company's vessels to transport troops against revolutionists, you point out that the Company, through its subsidiaries, owns a large number of ocean-going steamships, the use

⁴ *Ante*, p. 559.

⁵ Received May 7, 1931, by the Boston office of the United Fruit Company. Left at the Department May 7, 1931, by Lester H. Woolsey, attorney for the United Fruit Company.

⁶ Not printed.

of which during revolutionary disturbances may be demanded by constituted and revolutionary leaders during the progress of revolutions in countries to which those ships ply; that the diversion of the ships to military uses results in substantial damages to the Company, for which it is difficult to obtain compensation; and that voluntary compliance on the part of the Company with such demands may result in charges of partiality by one party or the other leading perhaps to serious complications.

You add that, in view of the circumstances, the Company is inclined to refuse compliance with demands of constituted authorities or revolutionary leaders for the use of its vessels and equipment in times of revolutionary disturbances unless forced to do so by formal requisition or forceful seizure.

In response to your statement that you hope that the proposed policy meets with the approval of the Department, it may be stated that such is the case.

Very truly yours,

For the Secretary of State:
GREEN H. HACKWORTH
Solicitor

815.00 Revolutions/80 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 12, 1931—3 p. m.
[Received 8:14 p. m.]

91. Department's telegram No. 37, May 7, 7 p. m. Undersecretary of State for Foreign Affairs, on behalf of the President, informally and orally enquired of the Legation how the following from the Associated Press as published in the local papers should be construed.

"The Department of State has emphatically stated that the situation which confronts the American authorities in Honduras—a genuine political revolution—is different from that in Nicaragua where outlaws are operating. Secretary Stimson has described the case of Nicaragua as a campaign of pillage and assassination which demands protective measures, but in Honduras American forces will maintain strict neutrality."

The Undersecretary stated that the President was particularly anxious to know the significance of the description "genuine political revolution".

I then read in translation to the Undersecretary appropriate extracts from the memorandum of the press conference of April 20th laying stress on the Secretary's explanation that the statement given

to the press on April 19 had nothing to do with recognition of belligerency.

El Sol in a long editorial believes that Secretary Stimson will change his opinion that the Honduran movement is essentially political; that this description has no importance and in any event interprets the renewed assurances as enunciation of a new policy of non-interference in internal politics in Honduras, which it applauds.

In the only unfavorable editorial *La Opinion* argues that the Secretary's qualification of the Honduran movement as essentially political is equivalent to a tacit recognition of the belligerency of the revolution which receives with it a great moral force within and without Honduras. Copies of all editorials were sent the Department by the pouch today.

Repeated to San Salvador.

LAY

815.00 Revolutions/84 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 13, 1931—3 p. m.

40. Your 91, May 12, 3 p. m. You may say, in reply to the inquiry of the Under Secretary of Foreign Affairs, that this Government of course continues to give its moral support to the constituted Government. Our support of the provisions of Article II of the General Treaty of Peace and Amity of 1923 is well-known and no change has been made therein. Furthermore, there is still in existence an embargo on the shipment of arms to Honduras and licenses to export arms are to be given only to shipments for the Honduran Government. The Secretary's press statement was to indicate to press correspondents that this revolutionary movement is an internal matter to be handled solely by the Honduran Government and that we are not actively participating in any way, and that our ships were sent to the north coast of Honduras purely for the protection of American and foreign interests.

Your 92, May 12, 4 p. m.⁷ The Chargé d'Affaires in Washington has not informed the Department of any supposed shipments of munitions for the rebels in Honduras and the Department is therefore, in view of your telegrams, getting in touch with him to see what information he has in order to trace the matter down and to take such measures as may be appropriate.

STIMSON

⁷ Not printed.

815.00 Revolutions/85 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 14, 1931—noon.

[Received 2:55 p. m.]

95. Read the Department's telegram No. 40, May 13, 3 p. m., to President Mejia Colindres who has asked me if he can give immediately the substance thereof to the Honduran press.

LAY

815.00 Revolutions/95 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 15, 1931—6 p. m.

41. Your 95, May 14, noon. The Department perceives no objection to the publication by the Government of Honduras of the substance of its 40, May 13, 3 p. m. It is believed however that it would be desirable for you to examine the text of the proposed statement prior to its publication.

STIMSON

815.00 Revolutions/100 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 17, 1931—1 p. m.

[Received 5 p. m.]

100. Following from Vice Consul, Tela. May 17, 10 a. m. Ferrera expected to arrive Progreso about noon. Government despatched about 250 men San Pedro Sula direction Progreso by rail. I am informed that no Government troops Progreso now and Mayor Progreso has advised residents leave town. Tela authorities advise me 100 troops in Tela, attack Tela expected tomorrow and local insurrection support probable. If Ferrera demands train to Tela, should Consulate advise company refuse?

Warship assignment advisable at once. Should Tela be attacked should neutral zone be established, warship present or not? Have advised *Marblehead* now Puerto Cortes and Admiral Smith. Have advised Vice Consul Tela that neutral zone should not be established unless lives of Americans and foreigners cannot be amply protected by Government forces or evacuated on one of company's ships and warships and armed force should not be landed in any case unless absolutely necessary and the approval of the authorities should be first requested. Please rush answer whether Department approves.

LAY

815.00 Revolutions/103 : Telegram

The Acting Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 17, 1931—6 p. m.

42. Referring your telegram number 100 May 17 1 p. m. approved.

CASTLE

815.00 Revolutions/111 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 19, 1931—8 p. m.

[Received May 20—4: 19 a. m.]

102. Rebels under Ferrera reported as well disciplined, number estimated between 700 and 1,000 with about half armed with rifles and balance with machetes and pistols with 5 machine guns and 150 to 200 mules moving rapidly from west to east. Arrived Progreso Sunday noon. Although Government believed Tela would be attacked by Monday and had there 500 troops, Ferrera's main body reported unofficially to be proceeding toward Yoro or in easterly direction. Government troops following. *Marblehead* at Tela Monday and returned Puerto Cortes this morning.

Majority of people behind the Government but are discouraged and fearful. Business at a standstill. Those with knowledge of Ferrera's tactics in former years say that unless the Government can decisively defeat him in the next 10 days he will be victorious. In spite of superiority in number of the Government forces and munitions, the mobility of Ferrera's forces and his ability to outwit them has enabled him to avoid risking a decisive engagement with his limited munitions but has enabled him to gather supplies, attract adherents, rout and harass Government troops occasionally. This strategy is weakening the Government. Government is much concerned by its lack of funds to pay its troops especially as Ferrera is reported to be paying his soldiers well and regularly and that Government troops are deserting to his ranks. Government is making strong effort to secure funds.

LAY

815.00 Revolutions/118 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 20, 1931—11 a. m.

[Received 2:20 p. m.]

105. Department's 41, May 15, 6 p. m. The President of Honduras expressed much appreciation for Department's permission to publish statement in question. He requested Associated Press representative

to repeat it to Central American countries. Its publication here evoked laudatory editorials in yesterday's *Cronista* and *Sol*.

LAY

815.00 Revolutions/119 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 20, 1931—1 p. m.

[Received 3:55 p. m.]

106. Agree with telegram from Comsperon to Chief of Naval Operations one warship on north coast, Honduras, amply covers present situation and advisable for reasons of policy not send another now unless necessary relieve *Marblehead*.

LAY

815.00 Revolutions/121 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 21, 1931—2 p. m.

[Received 8:40 p. m.]

107. Minister for Foreign Affairs has sent me copy of telegram dated yesterday from Honduran Consul in New Orleans that latter well informed that steamship *Santa Marta* left Belize for Honduras with munitions for rebels. Minister in confidential note to Legation under instructions from President requests if possible that one of our warships patrol the territorial waters of Honduras to prevent munitions for rebels reaching Honduran ports on Atlantic and keeping in communication with Honduran authorities with regard thereto. Have not given him any encouragement. It seems similar arrangement was considered to patrol Bay of Fonseca in 1927. I presume *Marblehead* or *Richmond* might use their planes to search for gun runners but have not mentioned this. Honduran Government undoubtedly realize if Ferrera secures munitions they have little hope of success. Could explain to President that *Marblehead* or *Richmond* not practicable for such purposes and that we have no suitable ship in nearby waters or that situation in 1927 was different. Prompt reply requested.

LAY

815.00 Revolutions/131 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 23, 1931—4 p. m.

45. Legation's 107, May 21, 2 p. m.

1. If the vessel in question is the steamship *Santa Marta* of the United Fruit Company, it seems highly improbable that it would

undertake to engage in the illicit transportation of war material to Honduras. A vessel of the type of the *Santa Marta* presumably would be able to call only at regular Honduran ports of entry where its cargo as landed would be inspected by the appropriate Honduran authorities.

2. With respect to the request of the President of Honduras that United States naval vessels patrol the territorial waters of Honduras to prevent munitions for rebels reaching Honduran ports, and that such vessels should maintain communication with the Honduran authorities with regard to such patrol service, you will orally and informally inform the Honduran Government that it is not possible for the public vessels of this Government to be so employed. The function of the American naval vessels now in Honduran waters is that customarily performed under such circumstances and consists in extending such protection as might become necessary to seriously menaced American lives and interests.

3. The Department's records apparently contain no reference to similar patrol service contemplated in the Bay of Fonseca in 1927. Please submit a written report on this occurrence.

STIMSON

815.00 Revolutions/158

The Minister in Honduras (Lay) to the Secretary of State

No. 235

TEGUCIGALPA, May 25, 1931.

[Received June 2.]

SIR: I have the honor to refer to the Department's telegram No. 45 of May 23, 4 P. M., regarding (1) the reported departure of a vessel from Belize with arms and munitions for the Honduran rebels, and (2) the request of the President of Honduras to have our naval vessels patrol Honduran territorial waters with the view of preventing illicit shipments of arms reaching the rebels in Honduras, and directing this Legation to report by mail respecting the consideration of a similar patrol service in the Bay of Fonseca in 1927. I have, as instructed, orally and informally informed the Minister of Foreign Affairs that it is not possible for the public vessels of the United States to be employed as requested by the President of Honduras, and explained to him the function of the American naval vessels now in Honduran waters.

It was not intended in my telegram No. 107 of May 21, 2 PM to convey the impression that the SS *Santa Marta*, reported by the Honduran Consul at New Orleans to the Foreign Office here as having left Belize for Honduras with arms for the rebels, was the *Santa Marta*

of the United Fruit Company, and the Foreign Minister did not so intimate. Small vessels engaged in "gun running" from Belize to Honduras or Nicaragua probably clear from that port under one name and flag and change both at sea. The Legation has suspected for some time that "gun running" vessels from Belize may have brought arms and munitions for Sandino to the Mosquitia delta district, unloaded them in small boats, and transported them in canoes up the Segovia or Coco River to Sandino forces. But without an efficient coast guard or a few hydroplanes it is futile to expect the Honduran Government to prevent arms and ammunition being smuggled into Honduras in the manner above indicated. About eight months ago the Naval Attaché at this Legation was informed by a reliable person at San Pedro Sula that Ferrera had in his possession 200 rifles in boxes marked "Ministerio de la Guerra, Mexico", which were probably smuggled from Mexico via Belize.

With regard to the use of a United States naval vessel to patrol the Bay of Fonseca in 1927 to prevent "gun running" into Honduras, Minister Summerlin raised the question in the following telegram to the Department;

"No. 18, March 29, 1927, 10 AM. In connection with the report that Ferrera has left Mexico City and is now in Chiapas President Paz suggested to me last evening that one of our naval vessels patrolling the Gulf of Fonseca might prevent gun running into Honduras".

In the Department's telegram No. 11 of April 1, 1927, 7 PM, to Minister Summerlin⁸ in reply to the above, it seems to be indicated that the Department considered the use of naval vessels for patrolling Honduran waters under certain conditions in case "gun running" into Honduras was attempted, but in Minister Summerlin's telegram No. 19 to the Department of April 4, 1927, 12 Noon,⁸ he states that reports [are?] that the Nicaraguan revolutionists are not using the waters and territory of Honduras and therefore the vigilance originally suggested apparently is not necessary. These three telegrams are the only reference to this question to be found in the files of this Legation. There is no record of conversations on the subject that may have taken place between the President of Honduras and Minister Summerlin. From these telegrams however, it is possible that the Department had in mind at the time the use of one of our naval vessels to assist in preventing arms and ammunition being smuggled through Honduran ports on the Bay of Fonseca for Sandino.

Respectfully yours,

JULIUS G. LAY

⁸ Not printed.

815.248/20 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 3, 1931— 3 p. m.

[Received June 4—2:55 a. m.]

113. Reference Department's telegram No. 26, April 20, 6 p. m.,^o . . . , American citizen owner and pilot of a Wilson three-place monoplane, United States license number . . . , has landed here and made yesterday a contract with the Honduran Government for services of self and plane in military operations for 15 flying days. Provisions in contract include bombing operations. . . . is a decent appearing young man who is regularly engaged in the barnstorming flying business and undertook the present rather hazardous job because of the need of funds. He made his first reconnaissance flight this morning over the country in which Ferrera operating.

Although the Honduran Government as the result of conversations regarding use of United Fruit Company planes for military operations was fully cognizant of Department's disapproval of American pilots engaging in military operations, it rushed . . . into [apparent omission] very secretly and without consulting with the Legation nor did [he] . . . consult Legation until after signing contract.

LAY

815.00 Revolutions/163 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 4, 1931—2 p. m.

[Received June 5—2:05 p. m.]

114. No important engagements between Government and rebel forces for 10 days. Government demobilizing about 2,000 men. President informs me Ferrera yesterday at Dulce Nombre with about 300 poorly armed men and possibly heading for Nicaraguan border pursued by Government forces. Other authorities opine Ferrera will join Sandino. This opinion prompted by a desire to have American Government declare Ferrera an outlaw like Sandino whereas Ferrera has respected noncombatants. Many persons would not be averse to Ferrera's gaining control of the Government because of their belief in his integrity and ability to govern. I deem it unlikely that Ferrera would jeopardize this general good repute by joining forces with a common bandit.

Greatly reduced income, inability to meet pressing obligations and obtain funds, acute business depression seriously embarrassing Govern-

^o *Post*, p. 590.

ment which may eventually collapse. United Fruit Company has discontinued operations Cuyamel district further increasing unemployment.

Repeated to Legations, Salvador, Guatemala and Managua, for Comsperon.

LAY

815.248/25 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, June 5, 1931—2 p. m.

48. Legation's 113, June 3, 3 p. m.

1. Please endeavor to ascertain and report by telegraph through what agency . . . was approached in the United States; what arrangements if any were made here with respect to his enlistment and military service in Honduras; and from what point did he depart with his airplane from the territory of the United States.

2. Your attention is invited to Section 5282 of the Revised Statutes, the substance of which you may, unless you deem it inadvisable, communicate to . . . You may likewise say to him that the obvious intent of the neutrality laws of the United States is to discountenance the enlistment of American citizens in foreign armed forces.

3. [Paraphrase.] You may orally inform the President of the substance of paragraph 2 of this telegram and add that the Government of the United States would much prefer that no citizen of the United States should be employed on active military service in Honduras. You may tell him that in addition to the objections to such action as they may concern the relations of a citizen of the United States to his Government is the further objection of the possibility of serious injury to unoffending civilians and to foreign as well as Honduran property which might result from aerial bombardment by an untrained civilian aviator. [End paraphrase.]

STIMSON

815.00 Revolutions/165 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 5, 1931—4 p. m.

[Received 9:10 p. m.]

115. Information just received from United Fruit Company agent Castillo that Ferrera reported advancing northerly direction toward point on railway 50 miles southeast of Puerto Castillo. Company concentrating railroad rolling stock Castillo. Above repeated to Salvador, Guatemala and Managua for Comsperon.

Company has been obliged to deliver at Castillo gasoline and oil for plane mentioned in my telegram 113, June 3, 3 p. m., under orders from the President. I am flying tomorrow to Castillo thence if situation favorable in U. S. S. *Richmond* to Ceiba and Tela returning here probably June 12.

LAY

815.248/27 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, June 6, 1931—6 p. m.

49. Legation's 115, June 5, 4 p. m. The Department has been advised by the United Fruit Company that much uneasiness is felt by the Company's authorities and employees at Puerto Castilla over the basing of . . . bombing plane in that district.

If you consider it advisable to do so you may repeat to President Mejia Colindres the objection of this Government to the employment of American aviators for military activities involving bombing operations and say to him that it is expected that adequate precautions will be taken to prevent injury to American lives and property. If you have the opportunity to do so while in Puerto Castilla you should warn . . . himself against indiscriminate bombing where such action might imperil noncombatant lives and foreign property.

STIMSON

815.248/29 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 10, 1931—4 p. m.

[Received June 11—10 a. m.]

122. Department's telegram No. 49, June 6, 6 p. m., and Legation's 120, June 8, 5 p. m.¹⁰ Some aerial bombs of type dropped on Tegucigalpa in 1924 of English manufacture and weighing about 7 pounds each have been found in Ministry of War . . . was instructed today that tomorrow he would load these bombs and fly over Ferrera forces on which bombs would be dropped by Honduran engineer as his passenger . . . at once informed the Legation. It thereupon appeared opportune and advisable to communicate verbally to the President of Honduras the Department's objection to the employment of American aviators in aerial bombing. The personal opinion was also expressed to the President of the futility of attempting to bomb a small body of enemy troops in a country where the concealment pro-

¹⁰ Latter not printed.

vided by dense foliage is ubiquitous. The harm which might come to innocent bystanders was also emphasized. The President then stated that he would instruct . . . to carry no bombs. He then inquired if the Government of the United States would object to the purchase of . . . plane and its use for bombing by a Honduran aviator. In reply he was told that the Legation had received no instructions in that regard. . . . states that Honduran authorities have told him that there are some Krupp bombs weighing 25 pounds each at Amapala; presumably they have just arrived from Germany or perhaps from Salvador.

Ferrera last reported 25 miles due south of Olanchito.

LAY

815.248/30 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, June 12, 1931—2 p. m.

50. Your 122, June 10, 4 p. m.

1. Please see President Mejia Colindres and orally and informally thank him for his considerate action in instructing . . . to carry no bombs.

2. With regard to the purchase of . . . plane by the Government of Honduras you may, if again approached on the matter, orally state that the United States Government of course has no control over the sale of a privately owned plane now in Honduras and which the owners desire to sell.

3. Please endeavor discreetly to ascertain and report without delay the source, date of arrival, purchasing agent and any other information obtainable concerning the Krupp bombs said recently to have arrived at Amapala.

STIMSON

815.00 Revolutions/181 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 15, 1931—7 p. m.

[Received June 16—11:50 a. m.]

127. I returned to Tegucigalpa today after a very worthwhile trip on the north coast. Arranged with the Captain of the *Richmond* and Consuls about evacuating Americans and other protection measures in event of danger. Conferred with Consular Inspector Davis.

LAY

815.00 Revolutions/182 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, June 17, 1931—5 p. m.

51. Your 239 June 1.¹¹ Department considers you would be justified in suggesting to interested American citizens that they prepare statements of losses supported by evidence now available, and present such statements to Honduran Government, advising you of such action. It would apparently be advisable to accompany suggestion by counseling moderation in amounts claimed.

It is further believed that at the proper time it would be appropriate for you to inform the Foreign Office that you have been advised that American citizens have presented such statements, and to ask that they be given prompt consideration with a view to equitable adjustments.

STIMSON

815.00 Revolutions/186 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 19, 1931—noon.

[Received 4 p. m.]

128. The President of Honduras informs me that yesterday Government forces under General Torribio Ramos defeated Ferrera decisively at Jaral which is located at north end of Lake Yojoa. He states that at least 70 of the insurgents were slain and that Ferrera is now fleeing westward with 90 men.

LAY

815.248/34 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 19, 1931—4 p. m.

[Received 9:50 p. m.]

130. Department's telegram of June 12, 2 p. m. . . . sold his plane to the Honduran Government yesterday and states he is leaving Honduras in a few days. His plane is now being piloted by Honduran aviator . . . , of limited flying ability, and is carrying small bombs.

LAY

815.248/35 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, June 21, 1931—3 p. m.

[Received June 22—12:24 a. m.]

133. President of Honduras desires . . . , American aviator, to go to United States to buy a Waco airplane for Honduran Government.

¹¹ Not printed.

. . . to fly it to Tegucigalpa. Also purchase machine gun for this plane to be shipped by steamer. . . . desires to know whether he would be permitted to do this by American Government. Please rush answer.

LAY

815.248/36 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, June 23, 1931—6 p. m.

54. Your 133, June 21, 3 p. m. The Department perceives no objection to an American citizen coming to the United States to act as a purchasing agent for a foreign government and to his acting as pilot of an airplane from the United States to a foreign country, provided the question of entering the armed service of a foreign government does not arise.

Application for license to export airplane and machine gun from the United States to Honduras (which must contain complete information for identification) will be considered when received by this Department.

In order to be flown over the United States en route to Honduras it would be necessary for the plane to be licensed by the Department of Commerce. Furthermore, the Department of Commerce has indicated that . . . pilot's license in the United States has expired and would need to be renewed.

STIMSON

815.00 Revolutions/194 : Telegram

The Minister in Honduras (Lay) to the Acting Secretary of State

TEGUCIGALPA, June 27, 1931—11 a. m.

[Received 2:20 p. m.]

135. I have been informed officially that Ferrera was killed yesterday by Government troops near San Pedro Sula.

LAY

815.00 Revolutions/210 : Telegram

*The Acting Secretary of State to the Minister in Honduras (Lay)*¹²

WASHINGTON, July 9, 1931—5 p. m.

57. Commander Special Service Squadron reports that conditions on east coast Nicaragua and north coast Honduras are entirely tran-

¹² The same on the same date to the Minister in Nicaragua as Department's No. 152.

quill and therefore recommends withdrawal of the only remaining United States war vessel, the *Sacramento*, from those regions.

Please telegraph your views to the Department.

CASTLE

815.00 Revolutions/213 : Telegram

The Minister in Honduras (Lay) to the Acting Secretary of State

TEGUCIGALPA, July 10, 1931—10 a. m.

[Received 1:15 p. m.]

137. Department's telegram No. 57, July 9, 5 p. m. In my opinion present conditions warrant the withdrawal of all naval vessels from Honduran waters and I so advised Commander of the Special Service Squadron on July 6.

LAY

RESTRICTIONS ON THE EXPORT OF WAR MATERIAL TO HONDURAS

815.24/143

The Secretary of State to the Minister in Honduras (Lay)

No. 90

WASHINGTON, January 22, 1931.

SIR: Reference is made to the Legation's confidential despatch No. 151, dated December 13, 1930,¹³ relating to the failure of negotiations between the Honduran Government and the California Arms Company for the purchase of certain military equipment, and the resultant renewed request of the Honduran Government that it be permitted to acquire that material from the Government of the United States. The Department has inquired of the War Department whether these supplies are available, but pending receipt of its reply desires to advise you as follows:

In February, 1925,¹⁴ in response to the request of the Honduran Government that it be permitted to purchase certain arms and ammunition from this Government, the Department replied that it would be disposed to arrange for the sale of the articles requested after receiving a communication stating that the Honduran Government planned to organize a Constabulary, and would give its consideration to the appointment of foreign instructors. The assurance requested was readily given and, basing its action on Article II of the Central American Convention for the Limitation of Armaments signed at Washington February 7, 1923,¹⁵ the Government of Honduras engaged

¹³ Not printed.

¹⁴ See telegram No. 18, February 6, 1925, to the Chargé in Honduras, *Foreign Relations*, 1925, vol. II, p. 320.

¹⁵ *Conference on Central American Affairs*, p. 339.

an American Army officer as technical director for the organization of a Honduran National Guard. Necessary legislation for the creation of that body failed of accomplishment, however, and after making partial payment to the American officer in question of his first year's salary the matter of the creation of the National Guard appears to have been definitely abandoned. In the meantime the Government of the United States sold to the Government of Honduras 3,000 rifles, 10 machine guns and 250,000 cartridges—other purchases of ammunition bringing the total amount up to somewhat more than 2,000,000 rounds.

In January, 1927, the Honduran Government notified the American Legation at Tegucigalpa that it desired to purchase in the United States 5,000 rifles, 50 machine guns, and 1,000,000 cartridges, and it appears that in fact 10 machine guns and 500,000 cartridges were thereafter obtained from the California Arms Company. In July, 1927, the Honduran Government stated that the contract entered into with the California Arms Company had been cancelled, and inquired whether the Government of the United States would sell to it 2,000 or 3,000 rifles and other material. As a result there was sold to the Honduran Government by the War Department 2,000 rifles, 50 machine guns and 200,000 rounds of ammunition.¹⁶

Should the Government of the United States at this time furnish the Government of Honduras the 2,000 rifles, 25 machine guns, and 1,000,000 rounds of ammunition requested in the communication submitted with your despatch under acknowledgment, a total of 7,000 rifles, 4,000,000 cartridges, and 95 machine guns will have been acquired by the Government of Honduras within a period of approximately five years subsequent to the ratification of the Convention for the Limitation of Armaments, whereunder the Government of Honduras agreed to maintain a military establishment not to exceed 2,500 men. It may safely be assumed that important quantities of war material apart from those just enumerated also have entered Honduras during the same period.

The Department understands it to be the practice of the Government of Honduras, whenever any serious emergency arises, to distribute its official military equipment to civilian supporters, who thereafter retain the arms thus furnished; and that in consequence it finds itself from time to time with a depleted supply of military equipment and confronted by a populace more or less under arms. While the Government of the United States considers that it has been warranted, as an act of international comity, in lending such support to the duly constituted Government of Honduras as may have been implied by the sale to it of surplus military supplies from the stock of the War De-

¹⁶ Correspondence not printed.

partment, it cannot longer ignore the fact that the armament thus furnished has been permitted to pass from official control, to the danger of the domestic peace of the Republic and the tranquillity of its neighbors.

You are directed to inform the appropriate authorities of the foregoing and to express the hope of this Government that measures may be taken for the correction of the situation described. It is believed that the most efficacious action which could be taken by the Government of Honduras for this purpose would be the establishment of a National Guard, as provided in Article II of the Convention for the Limitation of Armaments signed at Washington February 7, 1923. Although the advantages of a carefully selected and trained non-partisan National Guard are readily apparent, the creation of such an agency for the maintenance of peace and the preservation of order has an immediate importance in view of the impending conclusion of the Protocol whereunder the long existing dispute between the Republics of Honduras and Nicaragua with respect to their common frontier is to be definitively settled.¹⁷ As is well known, the frontier region between the two Republics, largely because the exact location of the boundary line has not been mutually agreed upon, is exposed almost without restriction to the activities of marauding groups of bandits, and other undesirable activities. When the boundary dispute has been settled it will be incumbent upon both Governments to assume sovereignty over their respective territories and to maintain order therein.

You may say that the Government of the United States would welcome assurances by the Government of Honduras of its intention to establish a regular disciplined force at an early date. There would, of course, be no further objection on the part of this Government to the sale of such quantities of arms and munitions as might be necessary once such an organization were established.

You may clearly state to the appropriate authorities, however, that the Government of the United States does not feel free to sell to the Government of Honduras or to facilitate its purchase in the commercial market of this country, further large quantities of war material in the absence of satisfactory evidence that such material will be retained in the possession of the Government of Honduras.

Very truly yours,

HENRY L. STIMSON

815.24/145a : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, January 30, 1931—4 p. m.

8. . . . has submitted to the Department an application for license to export to the Government of Honduras 280,000 thirty-eight caliber

¹⁷ See *Foreign Relations*, 1930, vol. I, pp. 361 ff.

cartridges and 120,000 thirty-two caliber cartridges. Because of the calibers specified the Department desires you to ascertain and report by telegraph whether this material would be imported strictly for Government use.

STIMSON

815.24/147 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, February 3, 1931—5 p. m.

[Received 10:44 p. m.]

28. Department's telegram No. 8, January 30, 4 p. m. These and other shipments cartridges of same calibre are for sale by importers to general public for revolvers. The Government of Honduras granted licenses for this and former shipments 32 and 38 calibre in consideration of a reduction of its outstanding debts owed these importers for other merchandise. Most of these cartridges are ultimately smuggled to Salvador and Guatemala.

If we raise embargo¹⁸ cartridges will be bought in Canada or Europe and I believe advisable continue embargo in order to retain certain check on destination of ammunition especially for rifles.

LAY

815.24/149

The Minister in Honduras (Lay) to the Secretary of State

No. 187

TEGUCIGALPA, February 14, 1931.

[Received February 19.]

SIR: Referring to the Department's telegram No. 8 of January 30, 1931, 4 P. M. and my reply of February 3, 1931, 5 P. M. thereto, the Department's instruction No. 93 of January 29, 1931,¹⁹ and previous correspondence regarding the embargo on arms and ammunition that the Department has been maintaining for the past six years at the request of the Honduran Government, I have the honor to make the following observations on the irregularities practiced here in connection with the arms trade at the present time.

As far as this Legation has been able to ascertain, army rifles and cartridges for these rifles of 30 and 45 calibre have not been lawfully imported into Honduras during the past year. These munitions are smuggled, however, through Honduras for the bandits on the Nicaraguan frontier. It is known that these bandits have recently been well supplied with ammunition for rifles and machine guns.

¹⁸ See *Foreign Relations*, 1924, vol. II, pp. 322-324.

¹⁹ Not printed.

Upon examination of the records of this Legation, it was found that about 1,000,000 rounds of cartridges of 32 and 38 calibre for revolvers have alone been imported under embargo permit by the Department during the past year. Since this enormous quantity of cartridges of these calibres could not possibly be actually used by the Honduran Army and Police, I have made inquiries of the Minister of Foreign Affairs as to the destination of these cartridges and was informed that his Government considered these cartridges for Government use inasmuch as import permits were issued by the Government to dealers in firearms and cartridges in consideration of a reduction in its outstanding accounts with these firms for other merchandise previously purchased by the Government from these firms. In other words, our embargo assists the Government here to pay its bills. The firms to whom these permits are granted are chiefly the large German Importing and Exporting houses who have many small branch stores throughout the country where these cartridges are sold to Syrian traders. This dealing in permits which I strongly suspect does not benefit only the Government in the way described but also some of the higher officials of the Government, does not explain the destination and the use made of the enormous quantities of revolver ammunition that is being imported to Honduras. Consequently, upon receipt of the Department's telegram, I asked the President of the Republic how a million revolver cartridges could be used in Honduras by the civilian population in that length of time, even admitting that every male adult who can afford it carries a revolver in this country. Without hesitation he admitted frankly that most of these cartridges were being smuggled across the border into Salvador and Guatemala but that he did not believe many of them reached the Sandino bandits on the Nicaraguan frontier, where he stated a patrol is maintained and furthermore the bandits used very little revolver ammunition. The only suggestion he had to offer to remedy the situation was that the Department issue permits for a much smaller quantity of cartridges.

The Naval Attaché at this Legation is informed by a firm that deals in large quantities of cartridges for civilian use that permits must be obtained from the Honduran Government for all arms and munitions from whatever country imported and that if the quantity from the United States were limited to those for actual use in Honduras, an additional quantity to be smuggled to Salvador and Guatemala would be imported from other countries at possibly greater cost than American cartridges owing to higher freight, and this firm made some allusion to possible difficulties of shipping cartridges through the Panama Canal.

In my telegram No. 28 of February 3, 1931, 5 PM, I have suggested that it is advisable to continue the United States embargo in order to

retain a certain check on the destination of ammunition, especially for rifles but except for this purpose I cannot perceive what benefit is derived by retaining our embargo. I am certain that the Department will not approve of continuing the embargo for this doubtful advantage when by so doing the Department is aiding corrupt trade in munition permits among Honduran officials and may be laying itself open to the charge of maintaining an embargo that facilitates the smuggling of munitions from Honduras into Salvador and Guatemala, where the Governments of these last two named countries try to maintain a strict control over the sale of munitions by a system of rationing among their dealers.

After careful consideration of this subject and discussion with the President and the Minister of Foreign Affairs, I recommend that the Department authorize me to say to the President that in as much as our embargo is not accomplishing the purposes for which it was imposed that the Department had decided to withdraw the embargo. Or, if the Department prefers, I can suggest that we might continue the embargo if the Honduran Government would limit permits for revolver cartridges other than 30 and 45 calibre to quantities required for the actual use of the Honduran civilian population, Army and Police. I believe that I can make such an arrangement with the President and if so it will be less objectionable to him than withdrawing our embargo.

I have no confidence that Honduras could limit the sale of munitions in this country by adopting the ration system.

Respectfully yours,

JULIUS G. LAY

815.24/149

The Secretary of State to the Minister in Honduras (Lay)

No. 117

WASHINGTON, March 20, 1931.

SIR: Reference is made to your telegram No. 28, of February 3, 5 p. m., and to your despatch No. 187, dated February 14, 1931, wherein you have informed the Department that a large part of the ammunition exported from the United States to Honduras is, with the full knowledge of the President and other authorities of Honduras, smuggled into the neighboring Republics of El Salvador and Guatemala.

It is noted in this connection that it is the practice of the Government of Honduras to issue to local commercial establishments permits for the importation of arms and ammunition as a means of reducing its indebtedness to them, or even to have such shipments con-

signed directly to the Government when in reality they are being imported on behalf of private commercial firms. It is furthermore noted that the only suggestion which the President of Honduras found it possible to make to you with respect to this situation was that the Government of the United States should issue export permits for a smaller quantity of cartridges.

This practice, reprehensible in itself, is in direct violation of the Convention for the Limitation of Armaments concluded by the Governments of Central America at Washington February 7, 1923, and is, furthermore, at variance with the principles and policies of this Government. You are accordingly directed to inform the Government of Honduras that for the reasons just cited, and pursuant to the President's proclamation of May 15, 1924,²⁰ the Department will henceforth decline to approve applications for license to export arms and ammunition to the Republic of Honduras excepting in such instances as investigation shall prove the shipment to be for legitimate commercial or governmental purposes.

Very truly yours,

HENRY L. STIMSON

815.113/368

The Secretary of State to Certain Firms Exporting Arms and Ammunition

WASHINGTON, March 27, 1931.

SIR: As a firm occasionally engaged in the exportation of arms and ammunition to the Republic of Honduras you are hereby advised that it has become necessary for the Department of State, in the performance of the duties imposed upon it by the presidential proclamation of May 15, 1924, governing the exportation of such articles to that Republic, to undertake a more rigid supervision of this commerce.

In the future, therefore, upon the receipt of applications for license to export arms or munitions of war to the Republic of Honduras the Department of State will first communicate with its representatives in that Republic regarding the proposed shipment and will not grant the license until the information it requires has been received from those sources. If the applicant for license so requests these inquiries will be made by telegraph at its expense—otherwise they will be made in the usual manner by mail.

Very truly yours,

For the Secretary of State:

FRANCIS WHITE

²⁰ *Foreign Relations*, 1924, vol. II, p. 324.

815.24/155 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 19, 1931—noon.

[Received 3:55 p. m.]

62. The President of Honduras has requested that the Legation enquire of the Department if the Government of the United States will sell it one bombing aeroplane or will authorize the export of such a plane from the United States. The intention of the Honduran Government is to man this plane with an American pilot and assistant to throw bombs against insurrectionary forces.²¹

I believe the President made this request as well as plan of one for bombs against his own wish and at the insistence of the generals in his entourage.

LAY

815.24/155 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 20, 1931—6 p. m.

26. Your 62, April 19, noon. You may say to President Mejia Colindres that although the Government of the United States will not sell a bombing airplane to the Government of Honduras, it will be disposed upon receipt of application to grant a license for the export of such military aircraft acquired from commercial sources and consigned to the Government of Honduras. However it would be opposed to American citizens operating it in connection with civil disturbances and carrying on bombing operations. Keep Department informed on this score as it will want to make a statement regarding Americans who undertake such operations.

STIMSON

815.00 Revolutions/21 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 23, 1931—5 p. m.

[Received 10:20 p. m.]

70. Honduran Government informs me that its military operations are greatly handicapped by a dearth of rifle ammunition. It advises me confidentially that the average of rifle ammunition for all its forces is not over 30 rounds per man and that some have much less than this. It is placing orders for ammunition with firms in the United States but delivery cannot be made here for several weeks.

²¹See pp. 555 ff.

Therefore it requests that in order to meet the very urgent immediate need the United States Government lend it ammunition for its rifles and/or rifles with ammunition from the stocks of the United States in Nicaragua. Honduran Government promises to return these arms as soon as possible. It is presumed that these munitions would be transported by truck through Chinadega and Choluteca. Quantity requested is as much as can be spared and the cartridges needed for the Honduran Government's rifles are Remington 7 and 11 millimeters and Enfield 7.62 millimeters. In my opinion, unless the Honduran Government forces press hard the rebel groups in the next week or two, the latter may make good their retirement into the mountains and there will result guerrilla warfare or wholesale banditry lasting for months or years similar to that in the Segovias of Nicaragua. The Honduran Government feels certain that Ferrera is now the supreme leader of the insurrectionists in the Departments of Cortes and Santa Barbara. If he succeeds in organizing his Indians, the Honduran Government will be confronted with a very serious problem. The key to the present situation is for the Honduran Government to strike hard and soon which it avers it cannot do because of the present shortage of rifle ammunition. I therefore recommend that this request be granted and promptly.

LAY

815.00 Revolutions/30 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 24, 1931—6 p. m.

28. Legation's 70, April 23, 5 p. m. The Department considers it inadvisable to attempt to furnish arms and ammunition to the Honduran Government from Nicaragua. It is referring the matter to the War Department and upon receipt of its advices will communicate with you further.

STIMSON

815.24/159 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 25, 1931—noon.

[Received 4:15 p. m.]

73. Honduran Government has ordered 450,000 cartridges for army rifles from the Remington Arms Company to be shipped from New York to Tela consigned Minister of War Government Honduras.

Referring to Department's instruction No. 117, March 20, license for export should be approved.

LAY

815.00 Revolutions/36 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, April 25, 1931—2 p. m.

29. Department's 28, April 24, 6 p. m. It appears improbable that arms or ammunition can be furnished the Honduran Government from official supplies of this Government, although definite statement cannot yet be made.

The Department understands that the California Arms Company has communicated with the Honduran Legation here regarding the sale of military supplies, including machine guns, rifles and ammunition. Please report.

STIMSON

815.00 Revolutions/38 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 27, 1931—1 p. m.

[Received 5:20 p. m.]

77. Department's telegram number 29, April 25, 2 p. m. Honduran Government has ordered munitions from Remington Arms Company, see my telegram 73, April 25, noon. Understand a few riot guns are to be shipped next steamer from New Orleans by another American firm. Believe the Honduran Government will not deal with California Arms Company.

LAY

815.24/143 : Telegram

The Secretary of State to the Minister in Honduras (Lay)

WASHINGTON, May 4, 1931—8 p. m.

36. Please report by telegraph results of any representations made by you in compliance with the Department's instruction No. 90, dated January 22.

STIMSON

815.24/167 : Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, May 5, 1931—3 p. m.

[Received 9:08 p. m.]

85. Department's number 36, May 4, 8 p. m. In February and March had conversation with President and others in Government on the subject with little result. Turned matter over to Naval Attaché to suggest a practical plan likely to be acceptable but Attaché absent in Guatemala, Salvador and Nicaragua until lately. Present not propitious time discuss matter further. Congress opposed to constabulary mainly on ground would be used for political purposes. After present insurrection will take up matter again when, especially if Ferrera loots more towns, the advantages of establishing a constabulary will be more apparent.

LAY

HUNGARY

REFUSAL OF THE DEPARTMENT OF STATE TO ENDEAVOR TO SECURE FINANCIAL ASSISTANCE FOR HUNGARY

864.51/600

*Memorandum by the Assistant Secretary of State (Rogers) of a
Telephone Conversation With the Hungarian Chargé (De Végh),
July 16, 1931*

[WASHINGTON, undated.]

The Hungarian Chargé called me from Newport explaining that he had been unable to reach Mr. Castle¹ who was reported engaged at the White House. He said his Government had requested him to use every effort to facilitate the proposed financial support to Hungary from a group of banks; that the arrangement had been left uncompleted and there was acute danger of collapse in Hungary. In response to my question he said that Speyer and the National City were the American bankers involved in the advance. He wanted to know what he could or should do and I understood he was speaking in the presence of his New York Consul who, he said, was thoroughly acquainted with the matter. The Chargé said the Speyer firm had told him the arrangement was suspended pending the developments of the German situation. He said he understood there was a connection between the Federal Reserve Bank and the Government through which we could aid their difficulties. I said that the difficulties were banking matters in which our Government had no authority or proper part; that the Federal Reserve system was independent of the Executive Department, and that we had no authority or control over them and no connection except such exchange of information and contact as was natural for governmental agencies. I made it clear we were unwilling and unable to control or play any part in banking transactions of this sort. I said that I could understand that the German situation had produced an uncertainty regarding all the other financial problems in Europe, but that there was a general spirit of cooperation and mutual helpfulness in financial circles which was very marked, in view of which Hungary would get consideration among the banks.

The Chargé said he would report my comment to his Government but was manifestly disappointed that we took no affirmative attitude.

J[AMES] G[RAFTON] R[OGERS]

¹ William R. Castle, Jr., Under Secretary of State.

864.51/594 : Telegram

The Ambassador in France (Edge) to the Acting Secretary of State

[Paraphrase]

PARIS, [undated.]

[Received July 17, 1931—8:30 a. m.]

At the request of the American Minister at Budapest the following telegram, which was sent for the Secretary of State, is repeated to the Department:

4 p. m., July 16th. The Hungarian Prime Minister, Count Bethlen, has asked that the substance of a talk which I had with him this morning be transmitted to Mr. Stimson as a personal message from him. This conversation was in substance the following:

"The Hungarian financial situation is desperate. If it is impossible to obtain credits in the next 10 days the collapse of the currency and of the financial machinery of the Government and the failure of numerous banks cannot be avoided. Ten days ago an agreement for a 5 million-pound credit was made with René Charron, representing the B. I. S.,² the Bank of France, and the Bank of England. The Hungarian Government in turn agreed to undertake a reorganization of its finances on drastic lines. Two and one-half million pounds of the above credit was to come from a group of French banks and from banks in the United States, England, and Hungary. For political reasons the French Government has tied up this credit with the credits to Germany, and up to the present it has refused permission to the French banks concerned to carry out their share of the arrangement. However, the American and English groups involved have let it be known to Count Bethlen that they will take part in the credit only in case the French group joins in. Should the deadlock which has thus been caused continue for a week or 10 days longer it will be too late to save the finances of Hungary. Consequently, Bethlen personally asks Mr. Stimson to point out to Briand the gravity of the Hungarian situation and the importance of not dragging out a decision as to the action to be taken in the case of Hungary as has been done in the German case."

In reply to this request I said that I would be glad to pass on this personal message to the Secretary of State but that the most I could do would be to lay the matter before him; and I expressed doubt that, under the circumstances, he would be able to do anything about it.

Yesterday, the Hungarian Prime Minister appealed to the French Minister to intervene in behalf of Hungary with his Government.

For the information of Mr. Stimson, I have kept the Department fully informed of the Hungarian crisis, which I hold to be just as serious as it is represented by the Prime Minister. Roosevelt.

It is requested that the above be repeated to the Department.

EDGE

² Bank for International Settlements.

864.51/601a : Telegram

The Acting Secretary of State to the American Minister in Hungary
(Roosevelt)

[Paraphrase]

WASHINGTON, July 24, 1931—1 p. m.

14. This morning the Hungarian Chargé called transmitting a very pressing message from his Government asking the United States to notify Italy, France, and Great Britain that we were favorably disposed toward an immediate 5 million-pound loan to Hungary. I explained that this Government has no control over its bankers and that we never had requested and never should request the bankers to make any specific loan. We obviously had no right, I added, to approach other governments along these lines, since we could not influence our own bankers. I told him that the outcome of the London Conference³ had been exactly what we hoped in putting the whole German situation in the bankers' hands and that I felt the Central Banks must deal with the Hungarian situation.

The disappointment of the Chargé was great and he did not seem to understand fully despite my efforts to be as sympathetic as possible. I hope that you may find the opportunity to clarify our position to the Hungarian Government.

CASTLE

864.51/653

Memorandum by the Secretary of State

[WASHINGTON,] December 22, 1931.

The Hungarian Minister called and told me he came on a very sad errand, that his country had at last been compelled to declare a moratorium on the transfers of its foreign loans. He handed me an *aide-mémoire* which showed the program (attached hereto as "A").⁴ This *aide-mémoire* shows the payments which will be made and what will be done with the others, as follows: the League of Nations loan will be paid in foreign currency as before; of the other loans, the first category, composed of long term loans secured by special securities including Government Treasury Bonds issued in 1931 and those based on international conventions, will be paid to the extent that foreign currencies are available in Hungary, and the second category, composed of other long term loans, will not be paid in foreign currency but in Hungarian currency and will be deposited in the National Bank

³ See vol. I, pp. 164 ff.

⁴ *Infra.*

of Hungary; the Hungarian National Bank with the advice of the Councilor of the League of Nations will administer these sums; so far as short term loans are concerned, debtors will be provided with foreign currency enough to pay interest on them, and there will be an endeavor to reach a standstill agreement in regard to them for six months.

The Minister seemed very despondent. He said his country had struggled very hard against great difficulties to pull itself out of its troubles since the War and had expected to reach safety, but that now this depression had come along and caused it to fail. He said this was almost entirely due to the depression in wheat as in other respects the country had done pretty well.

H[ENRY] L. S[TIMSON]

864.51/653

The Hungarian Legation to the Department of State

AIDE-MÉMOIRE

The Hungarian Government's financial program provided for one year beginning the 23rd of December 1931.

The League of Nations loan will be paid in foreign currency as before.

Other loans.

The first category—composed of long term loans assured by special securities, for instance the Government Treasury Bonds issued in 1931, and those which are based on international conventions, for instance, the Caisse Commune payments, to the extent that foreign currencies are available.

The second category is composed of long term loans which do not belong to the first category.

These will be deposited in the National Bank of Hungary in Hungarian currency (pengoes).

The Hungarian National Bank in accordance with the League of Nations Councilor will administer these sums and consult the representative of the creditors appointed by them.

As far as short term loans are concerned, in case commercial business makes it necessary, debtors will be provided with the necessary foreign currency to enable them to pay interest.

The Government's intention is to reach six months "Stillhalte" agreements for short term loans.

DECEMBER 22, 1931.

IRAQ

ASSENT BY THE UNITED STATES TO THE ANGLO-IRAQ JUDICIAL AGREEMENT OF MARCH 4, 1931

741.90g9 Judicial/6

*The British Secretary of State for Foreign Affairs (Henderson)
to the American Ambassador in Great Britain (Dawes)*¹

No. E 1920/38/93

[LONDON,] 22 April, 1931.

YOUR EXCELLENCY: I have the honour to invite a reference to Lord Monteagle's letter No. E 751/245/93 of February 18th, 1929, to Mr. Atherton² regarding the proposed new Anglo-Iraqi Judicial Agreement and the position of United States nationals in Iraq in judicial matters.

2. As Your Excellency is aware, the position of the nationals of the United States in judicial matters in Iraq is regulated by the Convention between the United Kingdom, Iraq and the United States, signed on January 9th, 1930,³ under Article 1 of which the application of the Anglo-Iraqi Judicial Agreement of March 25th, 1924,⁴ is extended to United States nationals. Article 6 of the Convention further lays down that no modification of the special relations existing between His Britannic Majesty and the King of Iraq, as defined in Article 1 (other than the termination of such special relations as contemplated in Article 7 of the Convention) shall make any change in the rights of the United States as defined in the Convention, unless such change has been assented to by the Government of the United States.

3. It was explained in Lord Monteagle's letter of February 18th 1929 that His Majesty's Government for the reasons set forth in that letter and in the memorandum which accompanied it, had decided in February 1929, to approach the Council of the League of Nations with a request that they should approve in principle the abolition of the Anglo-Iraqi Judicial Agreement of March 25th, 1924, and the institution of a uniform system of justice in its place; and that they should authorise His Majesty's Government in the United

¹ Copy transmitted to the Department by the Ambassador in his despatch No. 1878, April 23; received May 2.

² *Foreign Relations*, 1930, vol. III, p. 291.

³ *Ibid.*, p. 302.

⁴ League of Nations Treaty Series, vol. xxxv, p. 131.

Kingdom to prepare, for submission to the Council at a later session, detailed proposals in collaboration with the Iraqi Government. The Council, at its meeting on March 9th, 1929, granted to His Majesty's Government the general authorisation required. The draft of a new Judicial Agreement to replace the Agreement of 1924 was accordingly negotiated with the Iraqi Government and was eventually initialled at Bagdad on June 30th by the representatives of His Majesty's Government in the United Kingdom and the Iraqi Government, and submitted to the Council of the League at its Session of September 1930. The Council referred this draft Agreement to the Permanent Mandates Commission for examination at its November session, and that body reported to the Council that it had come to the conclusion that the new Agreement, while abolishing the special privileges granted to the nationals of certain foreign states under the Agreement of March 25th, 1924, seemed to offer to all foreigners in Iraq the essential guarantees for the proper dispensation of justice, and also an improvement in criminal procedure in favour of all persons in the country subject to Iraqi criminal jurisdiction. On January 22nd last the Council of the League approved the new Judicial Agreement in a resolution in the following terms:—

“The Council, considering the opinion submitted to it by the Mandates Commission to the effect that it sees no objection to the approval, subject to the consent of the powers concerned, of the draft of a new Judicial Agreement between the British Government and the Government of Iraq, initialled at Bagdad on June 30th, 1930, approves the terms of the Agreement of June 30th, 1930, subject to the consent of the powers whose nationals enjoyed privileges under the Agreement of March 25th, 1924”.

4. The fourteen Powers concerned have now all signified their willingness to accept the new régime, and the Secretary-General of the League of Nations was accordingly informed on March 21st last that His Majesty's Government proposed forthwith to bring the new Agreement, which was signed in Bagdad by the High Commissioner for Iraq and the Iraqi Prime Minister on March 4th,⁵ into force as soon as possible. A copy of the new Agreement is enclosed herein.

5. I now have the honour to request that Your Excellency will inform your Government that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland desire to obtain the assent of the United States Government under Article 6 of the Convention between the United Kingdom, Iraq and the United States signed on January 9th, 1930, and of which ratifications were exchanged on February 24th, 1931 to the substitution of the Judicial Agreement signed on March 4th, 1931, for the Agreement of March

⁵ League of Nations Treaty Series, vol. cxxxiii, p. 77.

25th, 1924, and to the application of the former to United States nationals in Iraq in the place of the existing régime.

6. In making this request to you, I have the honour to enclose herein a copy of an explanatory note in which the extent to which the position of foreigners in judicial matters in Iraq will be affected by the new Agreement is explained, together with an extract from a draft law amending the Bagdad Criminal Procedure Regulations, which gives effect to certain provisions in the new Agreement and in the note annexed thereto.⁶ In the opinion of His Majesty's Government the new Agreement will establish the position of nationals of all foreign states in Iraq in judicial matters, not only on an equal, but also on a firmer and more equitable, basis. I desire in particular to draw your attention to the fact that, as will be seen from the contents of the explanatory note enclosed herein, no United States national will, in practice suffer on account of the withdrawal of existing judicial privileges.

I have [etc.]

(For the Secretary of State)

G. W. RENDEL

741.90g9 Judicial/4 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, April 25, 1931—2 p. m.

104. The Department has received unofficially a copy of a letter, dated March 21, 1931 from the British Government to the Secretary General of the League of Nations regarding the signature and bringing into force in the near future of a new judicial agreement between that Government and the Government of Iraq. This communication refers to a resolution adopted on January 22, 1931, by the Council of the League, approving the terms of the Anglo-Iraqi Judicial Agreement of June 30, 1930, "subject to the consent of the Powers whose nationals enjoy privileges under the Agreement of March 25, 1924." The letter goes on to state that "the fourteen Powers in question have now notified to His Majesty's Government their assent to the proposed agreement . . . and . . . the necessary steps will now be taken to bring the new regime into force as soon as possible."

The consent of this Government to the proposed new agreement has never been requested. Under the circumstances the Department finds it difficult to understand the statement in the above mentioned letter to the effect that "the fourteen Powers in question" have given their consent to the new agreement. For two reasons the United States was undoubtedly one of the Powers whose consent should have

⁶ Enclosures not printed.

been sought. In the first place, the United States was one of the Powers which was entitled to enjoy judicial privileges in Iraq by the very terms of Article I of the Judicial Agreement of March 25, 1924. Secondly, and of greater importance, under the provisions of Article 6 of the Tripartite Convention of January 9, 1930, the assent of this Government is necessary before the new Judicial Agreement can be made effective with respect to American nationals.

Please call the attention of the Foreign Office informally to its apparent oversight in omitting to request the consent of the United States to the new Agreement and inform the Department promptly of the results of your conversation.

STIMSON

741.90g9 Judicial/5 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, April 27, 1931—6 p. m.
[Received April 27—2:55 p. m.]

122. Department's 104, April 25, 2 p. m. See despatch 1878, April 23, 1931,⁷ forwarded by pouch April 24.

Foreign Office stated informally today that strictly speaking the consent of the United States Government to the new agreement was unnecessary since the League resolution was adopted January 22, 1931 and the Tripartite Convention of January 9, 1930 did not become effective until February 24, 1931 but that of course United States nationals continue to enjoy previously existing rights. The Foreign Office hopes for favorable reply to request contained in the despatch under reference since such rights will be in no way impaired but rather strengthened by the new judicial agreement.

DAWES

741.90g9 Judicial/10

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 1967

LONDON, May 21, 1931.
[Received May 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 1878 of April 23, 1931,⁷ relating in judicial matters to the position of American nationals in Iraq. In conversation yesterday the hope was expressed at the Foreign Office that the United States Government might give early consideration to the new Anglo-Iraqi Judicial Agreement, which formed the subject of my despatch first above mentioned, to the end that the period of time might be shortened in so far as possible

⁷ See footnote 1, p. 597.

in which American citizens in Iraq would be on a different legal basis from other foreigners.

In this connection, I venture to enclose for the Department's consideration an informal note which has just been received on this subject, repeating the substance of yesterday's conversation mentioned above.

Respectfully yours,

(For the Ambassador)

RAY ATHERTON

Counselor of Embassy

[Enclosure]

*The Chief of the Eastern Department of the British Foreign Office
(Rendel) to the American Counselor of Embassy (Atherton)*

(E 2346/38/93)

[LONDON,] 20 May 1931.

MY DEAR ATHERTON: At the end of our talk this afternoon you asked me to let you have a line on a point which I had taken the opportunity of your visit to raise, i. e. the attitude of the United States Government towards the new Anglo-Iraqi Judicial Agreement, in order that you might take up the question semi-officially with the State Department. I am accordingly writing to confirm what I said in the course of our conversation.

The present position, as you know, is that the existing rights of the United States and its citizens are fully protected by Article 6 of the Tripartite Convention of January 9, 1930, which came into force on February 24, 1931. No change which may be made in the judicial régime in Iraq will therefore apply to United States citizens until the United States Government have assented thereto. On the other hand, as we explained in our official note No. E 1920/38/93 of April 22, it is proposed to bring the new Anglo-Iraqi Judicial Agreement, and the judicial régime for which it provides, into force in the near future. If this should happen before the United States Government have given their assent to the new arrangements, it would presumably be necessary, if any case should occur involving the trial of a United States citizen, to revive, for the purposes of that case, the machinery at present existing under the Anglo-Iraqi Judicial Agreement of 1924, and a somewhat anomalous situation might arise in consequence.

As I explained during our interview, we ourselves are satisfied that British subjects in Iraq will be amply protected under the new judicial arrangements, and the Permanent Mandates Commission, as we said in our official note of April 22, decided last November that the new Agreement "seemed to offer to all foreigners in Iraq the essential guarantees for the proper dispensation of justice and also an improvement in criminal procedure in favour of all persons in the country subject to Iraqi criminal jurisdiction". Moreover, all

the other Powers, who in January 1931, enjoyed privileges under the old Agreement, have readily accepted the new arrangements.

In these circumstances I feel sure that the United States Government will not wish to withhold their assent to the new arrangements which would thus become applicable also to United States citizens in Iraq. My object in raising the question, however, was to ask, quite unofficially, whether you thought anything could be done to hasten a decision on the part of the United States Government, in order that the period during which the position of United States citizens will be on a different legal basis from that of all other foreigners in Iraq may be reduced to a minimum. I feel that any unnecessary prolongation of such an anomaly is to be avoided, and that it would be all to the good if the position could be completely regularised with the least possible delay.

Yours sincerely,

G. W. RENDEL

741.90g9 Judicial/16

The Secretary of State to the Chargé in Great Britain (Atherton)

No. 810

WASHINGTON, June 9, 1931.

SIR: Reference is made to the Embassy's despatches No. 1878⁹ and No. 1882¹⁰ of April 23 and April 28, 1931, respectively, and to previous correspondence regarding the application to American nationals of the terms of the Anglo-Iraqi Judicial Agreement signed at Baghdad on March 4, 1931.

The Department has noted particularly that in a conversation with a member of the Embassy's staff on April 27, 1931, Mr. Rendel, the Chief of the Eastern Division of the Foreign Office, expressed the opinion that the resolution of the Council of the League of Nations, dated January 22, 1931, did not apply to the United States inasmuch as the Tripartite Convention of January 9, 1930, did not become effective until the exchange of ratifications on February 24, 1931. While the Department is unable to share Mr. Rendel's viewpoint in this matter, which is assumed to represent the official opinion of the Foreign Office, it is not perceived that any useful purpose will be served by entering into a formal discussion of the question. In order, however, that the appropriate authorities of the Foreign Office may be aware that this Government is unable to admit the thesis propounded by Mr. Rendel, it is believed that it would be desirable for you informally to bring to their attention the Department's viewpoint as set forth in the enclosed memorandum.¹⁰

⁹ See footnote 1, p. 597.

¹⁰ Not printed.

With respect to the specific request contained in paragraph numbered five of the Foreign Office note of April 22, 1931, you may inform the appropriate authorities that under the terms of Article 6 of the Tripartite Convention of January 9, 1930, the Government of the United States consents to the substitution of the Judicial Agreement signed on March 4, 1931, between the British and Iraqi authorities at Baghdad, for the Agreement of March 25, 1924, and to the application of the former to nationals of the United States in Iraq upon its entry into force in accordance with its terms.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

741.90g9 Judicial/18 : Telegram

*The Acting Secretary of State to the Chargé in Great Britain
(Atherton)*

WASHINGTON, July 3, 1931—6 p. m.

200. Department's instruction No. 810, June 9, 1931. Disregard that part of instruction which authorizes informal submission to the Foreign Office of memorandum regarding effect of resolution of Council of the League of Nations. Department's views as expressed in memorandum were based in part on a transcription of the resolution which erroneously quoted the word "enjoy" as "enjoyed".

While the Department considers that it could reasonably contend that its consent is essential to the effectiveness of the judicial agreement of 1931, the question is largely academic at this time, in view of the consent already given by this Government to the application of the agreement to American nationals pursuant to the provisions of the Tripartite Convention and any further discussion of the question appears to be unnecessary.

If memorandum has already been submitted, you may informally advise the Foreign Office in the sense of this telegram.

CASTLE

741.90g9 Judicial/20

*The Chargé in Great Britain (Atherton) to the Acting Secretary
of State*

No. 2096

LONDON, July 9, 1931.

[Received July 17.]

SIR: With reference to the Department's cabled instruction No. 200 of July 3, 6 p. m., regarding the Anglo-Iraqi Judicial Agreement of 1931, I have the honor to report that upon the receipt thereof the Foreign Office was informally advised in the sense desired. As reported in the Embassy's despatch No. 2037 of June 19 last,¹¹ which

¹¹ Not printed.

evidently crossed the cablegram mentioned, action had already been taken upon the instruction previously received; as will be seen from the enclosed copy of an informal letter of July 7 from the Foreign Office¹³ the matter may now be considered closed.

The Embassy's formal note No. 1255 of June 19, copy of which was transmitted to the Department¹³ with the despatch above mentioned, has just been acknowledged by the Foreign Office in a note under date of July 9, a copy of which is forwarded herewith. It will be observed therefrom that the ratifications of the Anglo-Iraqi Judicial Agreement of March 4, 1931, were exchanged at Baghdad on May 29 and that the Agreement has therefore now entered into force.

Respectfully yours,

RAY ATHERTON

[Enclosure]

The British Secretary of State for Foreign Affairs (Henderson) to the American Chargé (Atherton)

No. E 3276/38/93

[LONDON,] 9 July, 1931.

SIR: I have received with pleasure the note which you were good enough to address to me on June 19th (No. 1255), to the effect that the Government of the United States, under the terms of Article 6 of the Tripartite Convention of January 9th, 1930, consent to the substitution of the Anglo-Iraqi Judicial Agreement of March 4th, 1931 for the Agreement of March 25th, 1924, and to the application of the new agreement to nationals of the United States in Iraq, upon its entry into force in accordance with its terms.

2. I have the honour to request that you will inform the United States Government that the ratifications of the Anglo-Iraqi Judicial Agreement of March 4th, 1931 were exchanged at Bagdad on May 29th and that the Agreement has therefore now entered into force.

I have [etc.]

(For the Secretary of State)

G. W. RENDEL

RIGHT OF AMERICAN INTERESTS TO EQUAL OPPORTUNITY TO BID FOR OIL CONCESSIONS IN IRAQ¹⁴

890g.6363 Wemyss, Lord/62: Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, April 22, 1931—6 p. m.

103. The Department is informed unofficially that the Iraq Government and the Iraq Petroleum Company have signed an agree-

¹³ Not printed.

¹⁴ For previous correspondence concerning good offices to American firms interested in entering the Iraq oil fields, see *Foreign Relations*, 1930, vol. III, pp. 309 ff.

ment¹⁵ by which the Company obtains a petroleum concession of approximately 36,000 square miles to the east of the Tigris River. The Consul at Baghdad now reports that he has learned on good authority that the Iraq Government is to commence negotiations on May 1 with the British Oil Development Company which presumably will seek a concession for all or a part of the remaining oil bearing lands in Iraq.

Please inform the Foreign Office that in view of the provisions of article II of the tripartite convention of January 9, 1930,¹⁶ and the provisions of paragraph numbered 1 of the protocol signed on the same date,¹⁷ this Government is confident that the Iraq Government will not grant a concession covering any of the oil lands in question before affording individuals and corporations of American nationality an equal opportunity to bid thereon. You may add that in the event that the Iraq Government should attempt to grant a concession without affording American nationals an equal opportunity to bid, this Government would of course rely upon the British Government to intervene to protect American treaty rights.

The American Consul at Baghdad is being instructed to bring this Government's viewpoint in the matter to the attention of the Iraq Government.

STIMSON

890g.6363, Wemyss, Lord/74

The Consul at Baghdad (Sloan) to the Secretary of State

[Extracts]

No. 273

BAGHDAD, May 27, 1931.

[Received June 19.]

SIR: I have the honor to refer to despatch No. 260, dated May 13, 1931,¹⁸ concerning the desire of the Iraq Government to grant oil concessions to the British Oil Development Company and to make a further report on that subject.

On Sunday, May 24th, I called upon Dr. Abdullah Damluji, Minister for Foreign Affairs, because I had heard that negotiations had been initiated a day or so before between representatives of the British Oil Development Company and representatives of the Government with regard to a concession for that company. Dr. Damluji informed me that his unofficial opinion was that the Iraq Government would

¹⁵ Signed March 24, 1931; see *ibid.*, p. 311, footnote 42.

¹⁶ *Ibid.*, p. 302.

¹⁷ *Ibid.*, p. 306.

¹⁸ Not printed.

within a few days make a public announcement of its adherence to the open door policy with regard to oil concessions in Iraq. It might be mentioned that Dr. Damluji has made the same statement on two or three occasions, and that on May 5th he promised to let me have a definite answer to the Department's protest in "two or three days".

I asked him whether negotiations were now going on between representatives of the Government and representatives of the British Oil Development Company, and was informed that he knew nothing officially about such negotiations but that he had heard unofficially of some conferences between the representatives of the company and the government.

As this despatch was being typed Mr. Kasperkhan, local representative of the George F. Getty Oil Company,¹⁹ brought to the Consulate a confidential note which he had just received from the Prime Minister to the effect that the Iraq Government was now prepared to consider any definite offer for oil concessions in Iraq.

Respectfully yours,

ALEXANDER K. SLOAN

890g.6363/300 : Telegram

The Chargé in Iraq (Sloan) to the Secretary of State

BAGHDAD, June 22, 1931—10 a. m.

[Received June 22—4:37 a. m.]

8. Press report June 21 announced that Government is prepared to accept application for oil concessions covering any part or all territory not now covered by concessions. Applications should contain area and the term desired as well as financial ability fulfill obligations. The Government reserves the right to select for further investigation any proposal appearing to be to the best advantage of the State but selection shall not bind them to grant a concession. Applications must be submitted before September 30th, this year.

Copy to European Information Center.

SLOAN

890g.6363/301 : Telegram

The Chargé in Iraq (Sloan) to the Acting Secretary of State

BAGHDAD, June 29, 1931—11 a. m.

[Received June 29—6:50 a. m.]

9. Information sent to the Department in my telegram 8, June 22, 10 a. m., confirmed by Minister for Foreign Affairs. Application

¹⁹ An American firm.

should be submitted by registered letter addressed to the Minister of Economics and Communications.

SLOAN

890g.6363/306

The Chargé in Great Britain (Atherton) to the Acting Secretary of State

No. 2122

LONDON, July 18, 1931.

[Received July 30.]

SIR: I have the honor to refer to the Embassy's cablegram No. 245 of July 18, 12 noon,²⁰ and to previous correspondence regarding oil concessions in Iraq, and to transmit herewith a copy of a communication from the Foreign Office under date of July 17, with enclosure, upon which the cablegram in question was based.

Respectfully yours,

RAY ATHERTON

[Enclosure]

The British Assistant Under Secretary of State for Foreign Affairs (Oliphant) to the American Chargé (Atherton)

No. E 3580/5/93

[LONDON,] 17 July, 1931.

MY DEAR ATHERTON: In the absence of the Secretary of State and of General Dawes, I write to let you know that the question raised in His Excellency's letter of April 23rd²¹ to Mr. Henderson²² on the subject of oil concessions in Iraq, have been carefully considered and have been brought to the notice of the Iraqi Government.

To obviate any misunderstanding which may exist, I would draw attention to the fact that Article 11 of the Anglo-Iraqi Treaty of October 10th, 1922,²³ and article (1) of the Protocol attached to the Tripartite Convention of January 9th, 1930, relate only to discrimination on grounds of nationality. In the opinion of His Majesty's Government, they do not require that every concession shall, before being granted, be put up to public tender, but only that in all matters relating to the grant of concessions, the decision of the Iraqi Government must be based upon the best interests of Iraq, to the exclusion of all considerations of nationality. The Iraqi Government did not of course themselves seek out or approach the British Oil Development Company. It was the Company which took the initiative and approached the Iraqi Government with certain offers and it is the opinion

²⁰ Not printed.

²¹ Not printed; see telegram No. 103, April 22, 6 p. m., to the Ambassador in Great Britain, p. 604.

²² Arthur Henderson, British Secretary of State for Foreign Affairs.

²³ Treaty of alliance, League of Nations Treaty Series, vol. xxxv, p. 13.

of His Majesty's Government that other oil interests have had similar opportunities and sources of information, and that it has been open to them to approach the Iraqi Government in the same way as did the British Oil Development Company. Had they done so, the Iraqi Government would have felt themselves bound to consider, and undoubtedly would have considered, their offers in the same way as they have considered the offers made by the British Oil Development Company.

In fact, however, the Iraqi Government have not at present granted any concession to the British Oil Development Company, and, although they cannot bind themselves to postpone indefinitely the grant of concessions in the remaining available oil bearing land in Iraq, the United States Government will see from the terms of a notice issued in the Iraq Official Gazette on June 21st (a copy of which I enclose for convenience of reference ²⁴) that they are still free and willing to consider offers which may be made to them before September 30th next, by any other oil interests, in respect of the whole or any part of the area remaining outside the concessions already granted to the Iraq Petroleum Company and the Anglo-Persian Oil Company.

Yours very sincerely,

LANCELOT OLIPHANT

890g.6363/306

The Secretary of State to the Chargé in Great Britain (Atherton)

No. 1011

WASHINGTON, November 27, 1931.

SIR: Reference is made to the Embassy's despatch No. 2122 of July 18, 1931, enclosing a copy of a communication from the Foreign Office regarding the question of oil concessions in Iraq.

It is noted that in the opinion of the Foreign Office the provisions of Article 11 of the Anglo-Iraq Treaty of October 10, 1922, and paragraph (1) of the Protocol attached to the Tripartite Convention of January 9, 1930, "do not require that every concession shall, before being granted, be put up to public tender, but only that in all matters relating to the grant of concessions, the decision of the Iraq Government must be based upon the best interests of Iraq, to the exclusion of all considerations of nationality".

The Department does not consider it necessary to enter into a formal discussion of this statement with the Foreign Office, since it is possible that it may be susceptible of an interpretation substantially acceptable to both Governments. However, in order to obviate the possibility of any future misunderstanding, it is considered desirable that you seek an early occasion to present informally to the Foreign Office the following views of the Department on certain aspects of the question.

²⁴ Not printed.

It is suggested that these views might appropriately be presented in the form of a letter to Mr. Oliphant as a reply to his communication of July 17, 1931, addressed to the Counselor of the Embassy.

In the first place, this Government would not wish to insist that each and every concession for the development of natural resources in Iraq must, before being granted, be put up to public tender. Thus, it is recognized that it would be proper for the Iraq Government to grant a concession for the exploitation of certain of the natural resources of Iraq to native inhabitants of the country, who were technically and financially in a position to operate it, without calling for bids from nationals of the United States or from other foreign nationals. In a case of this kind it would of course be understood that the concession was actually for the exclusive benefit of the native inhabitants of Iraq and that it would not be turned over to the nationals of a foreign country.

Again, in the case of small local concessions of minor importance it is recognized that it might be uneconomic and impracticable to call for tenders when such a course would involve an undue delay in the development of an essential project or excessive expense or inconvenience in relation to the scope and importance of the project. A certain reasonable latitude may be permissible in cases of the character mentioned in order to secure the promotion of enterprises which are clearly for the benefit of the native inhabitants of Iraq.

In the opinion of this Government, however, cases of this character are the rare exception to the general rule which appears clearly to require that no concession for the development of the natural resources of Iraq shall be granted to any foreign (i. e. non Iraqi) national, unless the nationals of the United States are given a reasonable opportunity to compete therefor. Such reasonable opportunity can in practice be afforded only if all projects for the development of the natural resources of Iraq are opened to competitive offer, which usually means an invitation to public tender. This Government considers, therefore, that the failure of the Iraq Government to observe a suitable procedure which definitely assures competitive opportunity, except in the case of special circumstances such as those discussed above, would *ipso facto* constitute a case of discrimination in violation of the pertinent provisions of the Tripartite Convention of January 9, 1930, and of the Protocol attached thereto.

The Department will look forward with interest to receiving a report of the informal representations which you undertake at the Foreign Office in accordance with these instructions.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

890g.6363 Wemyss, Lord/84 : Telegram

The Chargé in Iraq (Sloan) to the Secretary of State

BAGHDAD, December 22, 1931—1 p. m.

[Received December 22—11:35 a. m.]

17. Your telegram No. 7, December 18, 5 p. m.²⁵ Competent Minister stated that four tenders submitted. Taking into consideration all the circumstances British Oil Development offered Government best terms, all other tenders therefore rejected.²⁶

SLOAN

890g.6363/316

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 2479

LONDON, December 24, 1931.

[Received January 6, 1932.]

SIR: I have the honor to refer to the Department's instruction No. 1011, November 27, 1931, regarding the question of oil concessions in Iraq, and to enclose a copy of a Foreign Office note, dated December 23, 1931, received in reply to an informal communication, a copy of which was transmitted to the Department with the Embassy's despatch No. 2449, December 10, 1931.²⁷

I should appreciate instructions as to whether any further action should be taken in this matter.²⁸

Respectfully yours,

For the Ambassador:

RAY ATHERTON

Counselor of Embassy

[Enclosure]

The British Assistant Under Secretary of State for Foreign Affairs (Oliphant) to the American Counselor of Embassy (Atherton)

No. E 6320/5/93

[LONDON,] 23 December, 1931.

MY DEAR ATHERTON: I duly received your letter of December 9th in which you were so good as to define further the attitude of the United States Government concerning the grant of concessions in Iraq.

After sympathetic examination of the points which you have raised,

²⁵ Not printed.

²⁶ The convention signed on April 20, 1932, between the Iraq Government and the British Oil Development Company was ratified by Iraq on May 21, 1932 (*Iraq Government Gazette*, No. 27, July 3, 1932).

²⁷ Neither printed.

²⁸ In its instruction No. 1051, January 21, 1932, the Department replied that "In view of the existing situation, the Department is of the opinion that no further action need be taken in the matter at this time."

we remain of the opinion that the legal position was correctly set forth in my earlier letter of July 17th. I hope, however, that you will agree that further discussion of this point would be of academic rather than of practical importance. For, as I understand the position, the main contention of your Government is—details apart—that nationals of the United States should be given reasonable opportunities to compete for concessions in Iraq; and as was clearly shown in my letter of July 17th, such reasonable opportunities were, in fact, given to United States nationals in the particular case which has given rise to the present correspondence.

Yours very sincerely,

LANCELOT OLIPHANT

IRISH FREE STATE

ARRANGEMENT BETWEEN THE UNITED STATES AND THE IRISH FREE STATE REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES, EFFECTED BY EXCHANGE OF NOTES SIGNED SEPTEMBER 21 AND NOVEMBER 18, 1931

Executive Agreement Series No. 27
841 D. 8561/5

*The American Chargé in the Irish Free State (Denby) to the Min-
ister for External Affairs of the Irish Free State (McGilligan)*

No. 380

DUBLIN, September 21, 1931.

YOUR EXCELLENCY: I have the honor to refer to the note of March 10, 1931,¹ in which Your Excellency was so good as to apprise the Legation of the willingness of the Government of the Irish Free State to enter into negotiations for a reciprocal load line agreement with the Government of the United States of America.

Under instructions from my Government to whom the matter was at once referred, I beg to inform Your Excellency that the competent American authorities have examined the load line regulations in force in the Irish Free State and that the said American authorities found these regulations to be as effective as the United States load line regulations.

My Government accordingly is prepared to agree that, pending the coming into force in the United States and in the Irish Free State of the International Load Line Convention signed in London on July 5, 1930,² the competent authorities of the Governments of the United States and the Irish Free State, respectively, will recognize as equivalent the load line marks and the certificate of such marking of merchant vessels of the other country made pursuant to the regulations in force in the respective countries: provided, that the load line marks are in accordance with the load line certificates; that the hull and superstructures of the vessel certificated have not been so materially altered since the issuance of the certificate as to effect the calculations on which the load line was based, and that alterations have not been made so that the—

- (1) Protection of Openings,
- (2) Guard Rails,
- (3) Freeing Ports,
- (4) Means of Access to Crews Quarters,

have made the vessel manifestly unfit to proceed to sea without danger to human life.

¹ Not printed.

² *Foreign Relations*, 1930, vol. I, p. 261.

Let me add that it will be understood by my Government that, on the receipt by the Legation of a note from Your Excellency expressing the concurrence of the Government of the Irish Free State in the agreement and understanding as above set forth, the reciprocal agreement will be regarded as having become effective.

I avail myself [etc.]

JAMES ORR DENBY

Executive Agreement Series No. 27
841D.8561/5

The Minister for External Affairs of the Irish Free State (McGilligan) to the American Minister in the Irish Free State (Sterling)

[DUBLIN,] 18 November, 1931.

YOUR EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's Note No. 380 of the 21st September stating that your Government, after examination by the competent authorities of the load line regulations in force in this country, are willing to enter into a reciprocal Loadline Agreement with the Government of the Irish Free State.

I have accordingly the honour to inform you that the Government of the Irish Free State on the advice of the Minister for Industry and Commerce hereby concur in the terms of the agreement as set out in Your Excellency's Note, that is to say, that pending the coming into force in the United States and in the Irish Free State of the International Load Line Convention signed in London on July 5, 1930, the competent authorities of the Governments of the United States and the Irish Free State, respectively, will recognize as equivalent the load line marks and the certificate of such marking of merchant vessels of the other country made pursuant to the regulations in force in the respective countries: provided, that the load line marks are in accordance with the load line certificates; that the hull and superstructures of the vessel certificated have not been so materially altered since the issue of the certificate as to affect the calculations on which the load line was based, and that alterations have not been made so that the—

- (1) Protection of Openings,
- (2) Guard Rails,
- (3) Freeing Ports,
- (4) Means of Access to Crews Quarters

have made the vessel manifestly unfit to proceed to sea without danger to human life.

I am to add that the Government of the Irish Free State regard the Agreement as having become effective by this exchange of Notes.

I avail myself [etc.]

SEAN MURPHY
For the Minister

ITALY

TREATY BETWEEN THE UNITED STATES AND ITALY MODIFYING THE TERMS OF ARTICLE II OF THE TREATY TO ADVANCE THE CAUSE OF GENERAL PEACE OF MAY 5, 1914, SIGNED SEPTEMBER 23, 1931

711.6512/55

The Italian Chargé (Marchetti) to the Secretary of State

WASHINGTON, September 30, 1930.

MR. SECRETARY OF STATE: I have the honor to refer to the note of the Department of State dated May 8th¹ concerning the recognized opportunity of altering the provisions of the Treaty for the Advancement of Peace concluded between the United States and Italy on May 5, 1914² so as to make the terms of office of the Members of the International Commission of indefinite duration.

My Government, having carefully examined the draft of treaty³ enclosed in said note, has some suggestions to make regarding the wording of the draft. Such suggestions, however, do not affect the substance of the text, but are only intended to render its provisions more precise.

1) In the Preamble, the reference to the Treaty of 1914 does not appear to be quite exact, inasmuch as that Treaty is referred to as "Treaty of Conciliation" while its title is "Treaty for the Advancement of Peace".

2) Concerning Article I of the draft, it appears that no mention is made of the presidency of the Commission to be constituted, nor of the eventuality of the substitution (sometimes necessary) of a Member in the same Commission before examination of a question; while both such points seem to be important and calling for a definition. It seems, moreover, that it would be advisable to render more precise the provisions concerning costs and compensations involved in the operation of the Commission. My Government suggests the opportunity of employing a formula on the like of those generally used with reference to the composition of similar Commissions, provided for in recent Arbitration Treaties, which formula would make the wording of Article I read as in the enclosed draft (in Italian).

3) Concerning Article III, my Government observes that the reference to ratification "in accordance with the constitutional requirements of the High Contracting Parties" does not seem opportune,

¹ Not printed.

² *Foreign Relations*, 1915, p. 551.

³ Draft not printed

since the question is a mere internal order, exhausting its effects, for either State, within the province of its own juridical system.

Moreover, in accordance with the procedure customarily followed that the exchange of ratifications be accomplished in the country wherein the signature of an International Act has not taken place, my Government has expressed the desire that the ratifications be exchanged at Rome. Article III might therefore be worded as follows: "The present treaty shall be ratified, and the ratifications thereof shall be exchanged in Rome as soon as possible, etc."

I would be very much obliged to Your Excellency for kindly taking into consideration the points that precede and to examine whether the suggestions made are acceptable to the United States Government. In such case, should Your Excellency have no objection, my Government would propose, for the treaty to be entered into, the text the Italian reading of which is herewith enclosed.⁴

In case Your Excellency concur in the suggestions submitted above, I should be greatly indebted to Your Excellency for having the proposed text translated into English and the translation sent to me, so that I may obtain from my Government its definitive approval.

Accept [etc.]

MARCHETTI

711.6512/55

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, April 16, 1931.

EXCELLENCY: I have the honor to refer to your note of September 30, 1930, in which you discuss the draft submitted by this Government, as a result of a previous suggestion made by you, for the alteration of the treaty for the advancement of peace signed by the United States and Italy on May 5, 1914.

The proposals stated in your note of September 30, 1930, have been carefully examined and are in considerable part acceptable to this Government.

I am very glad to concur in your proposal that three of the members of the international commission shall be designated by the two parties by common consent. I have no objection, moreover, to the provision that either party may revoke the appointment of a member chosen by it and appoint his successor at any time when there is no case before the commission.

I am not able, however, to concur in the provision that either party may withdraw its consent to the designation of members of the commission which have been designated by the two parties acting jointly. I feel that the revocation of such designations should occur only by common agreement between the two parties.

⁴ Not printed.

The additional details included in the draft which you have submitted seem to me unobjectionable with the exception of those which relate to expenses, especially the fixing by the respective parties of the allowances to be paid to the members of the commission appointed by them. I feel that there is no strong reason why the compensation of all the commissioners should not be the subject of mutual agreement as it is in the treaty of May 5, 1914. On the question of compensation, I prefer, therefore, that the provisions in Article II of that treaty should be continued.

I agree with you entirely that there is no need to specify that the required ratification by the respective parties shall be in accordance with their respective constitutional requirements. I am also glad, in view of the fact that signature is expected to take place at Washington, to have the ratifications exchanged at Rome.

There is enclosed a revised draft⁵ of the proposed treaty for amending the treaty of 1914. In this draft I have undertaken to include the various alterations requested by you as far as they are acceptable to this Government.

Accept [etc.]

HENRY L. STIMSON

711.6512/66

*The Italian Embassy to the Department of State*⁶

By his note of April 16, 1931, His Excellency the Secretary of State sent to the Italian Ambassador a draft treaty which should replace the Treaty for the Advancement of Peace signed between Italy and the United States on May 5th, 1914.

By this draft treaty, while certain suggestions made by the Italian Government are accepted, two are not concurred into: viz: the one concerning the fixing of the allowances to be paid by the respective parties to the members of the Commission appointed by them, and the one regarding the possibility that either party withdraw its consent to the designation of members of the Commission designated by the two parties acting jointly.

In order to facilitate the conclusion of the agreement the Italian Government does not insist on the first of these suggestions.

As to the second, the Italian Government wishes to point out that the provision suggested on its part is inserted in numerous treaties of the same nature stipulated by Italy, as for instance the Italo-Swiss Treaty of Conciliation and Judicial settlement ("Trattato di conciliazione e regolamento guidiziario") of September 20, 1924⁷ (Art.

⁵ Not printed.

⁶ Handed to the Assistant Chief of the Treaty Division by the Counsellor of the Italian Embassy, July 23, 1931.

⁷ League of Nations Treaty Series, vol. xxxiii, p. 92.

3) which may be described as one of the most complete and modern among agreements of this type.

The Italian Government, however, recognizing that this provision might give rise to the one inconvenience of leaving open to one of the two contracting Parties the possibility of obstructing—by the withdrawal of the assent given for the appointment of the Members selected of one accord—the functioning of the Commission and the beginning of the conciliation procedure, would be ready to accept the insertion of a provision to the effect that a period of time be established within which the member designated in common and revoked by the will of one of the two Governments must be replaced.

The Italian Ambassador expresses the hope that this suggestion will be acceptable to the United States Department of State.

WASHINGTON, July 21, 1931.

711.6512/66

*The Acting Secretary of State to the Italian Ambassador
(De Martino)*

WASHINGTON, August 12, 1931.

EXCELLENCY: I have the honor to refer to a memorandum of the Embassy which was left with one of the officers of the Department on July 23, 1931,^a and which dealt with the negotiations in progress between the Governments of the United States and Italy for the purpose of amending the treaty for the advancement of peace which was signed on behalf of the two countries on May 5, 1914.

I am gratified that the position of this Government, with reference to the fixing of allowances to be paid by the respective Governments to members of the International Commission, is acceptable to your Government.

I am prepared, moreover, in principle, to agree to the request of the Italian Government that either Government may be permitted to revoke the designation of members designated by common agreement of the two Governments. I feel, however, that it should be made clear that this principle will apply only when there is no case pending before the Commission and also that it is necessary to provide that in such cases the revocation of the designation of a member shall not become effective until his successor has been agreed upon by the two Governments. Accordingly, I feel that the alteration in the draft submitted with this Government's note of April 16, 1931, should be in the following terms:

^a *Supra*.

(1) Replace the second sentence of the fifth paragraph of Article I of the draft by the following sentences:

"Either Government may, moreover, at any time when there is no case pending before the Commission, revoke the designation of one or more of the members chosen by the two Governments in common agreement."

(2) After the first sentence in the sixth paragraph of Article I, add the following new sentence:

"Revocation by either Government of the designation of a member chosen by the two Governments in common agreement shall not become effective except simultaneously with the designation of his successor."

I venture to hope that the foregoing arrangement may prove to be satisfactory to your Government.

Accept [etc.]

W. R. CASTLE, JR.

Treaty Series No. 848

Treaty Between the United States of America and Italy, Signed at Washington, September 23, 1931^{*}

The President of the United States of America and His Majesty the King of Italy, being desirous of modifying the terms of Article II of the treaty to advance the cause of general peace between the United States of America and Italy, signed on May 5, 1914, with respect to the appointment of and other provisions relating to the members of the International Commission constituted in accordance with the provisions of that Article, have resolved to enter into a treaty for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Henry L. Stimson, Secretary of State of the United States of America; and

His Majesty the King of Italy: His Excellency Nobile Giacomo de Martino, Knight of Grand Cross, Senator of the Kingdom, Royal Ambassador at Washington;

Who, after having communicated to each other their respective full powers found to be in proper form, have agreed upon the following articles:

ARTICLE I

Article II of the treaty between the High Contracting Parties, signed on May 5, 1914, is hereby abrogated and the following provisions are substituted therefor:

^{*} In English and Italian; Italian text not printed. Ratification advised by the Senate, June 18 (legislative day of June 15), 1932; ratified by the President, June 25, 1932; ratified by Italy, February 18, 1932; ratifications exchanged at Rome, July 30, 1932; proclaimed by the President, August 9, 1932.

The International Commission shall be composed of five members, as follows:

One member shall be appointed from each country by the Government thereof;

The other three members shall be designated by the two Governments by common agreement. The three members designated by common agreement shall not be nationals of either the United States of America or Italy, or domiciled within the territories of either country, or employed in the service of either Government. The two Governments shall, also, by common agreement, designate one of these three members to be President of the Commission.

At any time when there is no case pending before the Commission, either Government may revoke the appointment of the member who is its own national and may appoint his successor. Either Government may, moreover, at any time when there is no case pending before the Commission, revoke the designation of one or more of the members chosen by the two Governments in common agreement.

Vacancies occurring by revocation or in any other manner shall be filled as soon as possible in the manner of the original appointments. Revocation by either Government of the designation of a member chosen by the two Governments in common agreement shall not become effective except simultaneously with the designation of his successor. The term of office of the members of the Commission shall continue indefinitely.

When the members of the Commission are occupied in the examination of a question they shall receive a compensation which will be mutually agreed upon by the two Governments. Such compensation and also the other expenses of the Commission shall be paid by the two Governments in equal parts.

ARTICLE II

The members of the International Commission at present in office under the provisions of Article II of the treaty of May 5, 1914, are continued in office in accordance with the provisions of the present treaty.

ARTICLE III

The present treaty shall be ratified and the ratifications thereof shall be exchanged at Rome as soon as possible. It shall take effect on the day of the exchange of ratifications and shall remain in force during the term of the treaty concluded between the High Contracting Parties on May 5, 1914.

In faith whereof, the respective Plenipotentiaries have signed this treaty in duplicate, in the English and Italian languages, and have hereunto affixed their seals.

Done at Washington this twenty-third day of September in the year of our Lord one thousand nine hundred and thirty-one.

HENRY L. STIMSON [SEAL]

G. DE MARTINO [SEAL]

AGREEMENT BETWEEN THE UNITED STATES AND ITALY REGARDING
RECIPROCAL RECOGNITION OF CERTIFICATES OF INSPECTION OF
VESSELS ASSIGNED TO THE TRANSPORTATION OF PASSENGERS,
EFFECTED BY EXCHANGE OF NOTES, SIGNED JUNE 1, 1931, AND
AUGUST 5 AND 17, 1931

Executive Agreement Series No. 23
865.854/20

The Acting Secretary of State to the Italian Chargé (Marchetti)

WASHINGTON, June 1, 1931.

SIR: I have the honor to refer to previous correspondence with the Italian Embassy concerning an agreement between the United States and Italy for the reciprocal recognition of certificates of inspection of vessels assigned to the transportation of passengers. Particular reference is made to the Embassy's note of October 1, 1930,¹⁰ submitting additional data relating to the Italian laws and regulations, regarding the building and classification of vessels and the inspection of their structure and machinery. The laws and regulations of Italy have been found to approximate those of the United States on the subjects mentioned.

Accordingly, I have the honor to inform you that, in consideration of a like courtesy being extended to vessels of the United States in Italian ports, the appropriate agency of this Government will recognize in United States ports the unexpired certificates of inspection of passenger vessels of Italy issued and determined pursuant to the laws of Italy as fulfilling the requirements of the steamboat inspection laws and regulations of the United States, and that it will not be necessary in this regard for vessels of Italy to be reinspected at any port of the United States.

I shall be glad to be informed when appropriate steps under Italian laws and regulations have been taken to give effect to a reciprocal exemption in favor of vessels of the United States.

This Government considers that the existence of the arrangement between the two countries on this subject may appropriately be evidenced by this note and your reply thereto.

Accept [etc.]

W. R. CASTLE, JR.

¹⁰ Not printed.

Executive Agreement Series No. 23
865.854/26

*The Italian Ambassador (De Martino) to the Acting Secretary
of State*

No. Uff. Em. 4608

WASHINGTON, August 5, 1931.

SIR: I have the honor to refer to previous correspondence with the United States Department of State, particularly to your Note No. 865.854/20 dated June 1st, 1931, concerning an agreement between Italy and the United States for the reciprocal recognition of certificates of inspection of vessels assigned to the transportation of passengers.

In reply thereto I take pleasure in informing you that the Italian Authorities have assured that, in consideration of the fact that both Governments have now established the equivalence of their laws and regulations regarding the building and classification of vessels and the inspection of their structure and machinery, the unexpired Certificates of Inspection of passenger vessels of the United States will be equally recognized and accepted by the competent Italian Authorities as will the Certificates of Inspection of passenger vessels of Italy be recognized and accepted by the competent American Authorities.

I am glad to state that the Italian Government has expressed the desire that the agreement become effective, if satisfactory to your Government, on August 15th 1931. This reciprocity in the recognition of certificates of inspection would, in that event, be made effective in Italy by means of a Decree bearing said date.

I shall greatly appreciate to receive your kind advices in this matter at your earliest convenience.

Accept [etc.]

G DE MARTINO

Executive Agreement Series No. 23
865.854/27

*The Acting Secretary of State to the Italian Ambassador
(De Martino)*

WASHINGTON, August 17, 1931.

EXCELLENCY: I have the honor to acknowledge your note No. Uff. Em. 4608 of August 5, 1931, regarding an agreement between the United States and Italy for the reciprocal recognition of certificates of inspection of vessels assigned to the transportation of passengers.

With reference to the Italian Government's desire that the agreement become effective on August 15, 1931, I have pleasure in informing you that this Government will consider the agreement to be effective as of that date. Instructions necessary for this Government to

give effect to the agreement have been issued to the inspectors of the Steamboat Inspection Service. Copies of the circular letter containing these instructions will be furnished you for transmittal to the proper Italian authorities as soon as they have been printed.

In order that this Government's record of the agreement may be complete I shall appreciate it if you will furnish the Department with a copy in duplicate of your Government's decree of August 15, 1931, giving effect to the agreement.

Accept [etc.]

W. R. CASTLE, JR.

ARRANGEMENT BETWEEN THE UNITED STATES AND ITALY REGARDING RECIPROCAL RECOGNITION OF LOAD LINE CERTIFICATES EFFECTED BY EXCHANGE OF NOTES SIGNED SEPTEMBER 8, 1931, AND JUNE 1, 1932

Executive Agreement Series No. 36
865.8561/5

The American Chargé in Italy (Kirk) to the Italian Minister for Foreign Affairs (Grandi)

F.O. No. 693

ROME, September 8, 1931.

EXCELLENCY: I have the honor to inform Your Excellency that I have been instructed by my Government to notify Your Excellency that the competent executive authorities of the Government of the United States have examined the Italian rules and tables of freeboard, which were enclosed in the esteemed *Note Verbale* No. 11196-22 of February 7, 1931,¹¹ and have found them to be as effective as the United States load line regulations.

I have also been instructed to notify Your Excellency in regard to the reciprocal agreement relating to this matter, which was referred to in the abovementioned *Note Verbale*, that my Government understands that the Governments of the United States and of Italy will each recognize as equivalent the load line marks and the certificates of such marking of merchant vessels of the other country pending the coming into force of the international load line convention in the United States and Italy; provided, that the load line marks are in accordance with the load line certificates; that the hull and superstructures of the vessel certificated have not been so materially altered since the issuance of the certificate as to affect the calculations on which the load line was based, and that alterations have not been made so that the—

- (1) Protection of openings,
- (2) Guard Rails,
- (3) Freeing Ports,
- (4) Means of Access to Crews Quarters,

¹¹ Not printed.

have made the vessel manifestly unfit to proceed to sea without danger to human life.

I have the honor to add that it will be understood by my Government that on the receipt of a communication signed by Your Excellency expressing the concurrence of the Royal Italian Government in the understanding of the Government of the United States as above set forth, the agreement in question will become effective.

Accept [etc.]

ALEXANDER KIRK

Executive Agreement Series No. 36
865.8561/5

*The Italian Ministry of Foreign Affairs to the American Embassy
in Italy*

[Translation]

NOTE VERBALE

The Royal Ministry of Foreign Affairs has the honor to inform the Embassy of the United States of America that the competent Italian offices have carefully examined the communications referred to in *Note Verbale* No. 693 of September 8, 1931, regarding reciprocal recognition by Italy and the United States of freeboard certificates until such time as the load line convention signed at London on July 5, 1930,¹² goes into effect.

The Royal Ministry of Foreign Affairs accordingly has the honor to assure the Embassy that the Italian Government fully agrees with the ideas manifested by the American Government and begs the Embassy of the United States of America kindly to communicate with the Department of State at Washington for the purposes of the entrance into effect of the present agreement.

ROME, June 1, 1932.

ARRANGEMENT BETWEEN THE UNITED STATES AND ITALY RE-
GARDING AIR NAVIGATION, EFFECTED BY EXCHANGE OF NOTES
SIGNED OCTOBER 13 AND 14, 1931

Executive Agreement Series No. 24
711.6527/69a

The Secretary of State to the Italian Chargé (Marchetti)

WASHINGTON, October 13, 1931.

SIR: Reference is made to the negotiations which have taken place between this Department and your Embassy for the conclusion of a reciprocal arrangement between the United States and Italy for the

¹² *Foreign Relations*, 1930, vol. I, p. 261.

admission of civil aircraft, the issuance of pilots' licenses, and the acceptance of certificates for aircraft and accessories imported as merchandise.

It is my understanding that it has been agreed in the course of the negotiations that this arrangement shall be as follows:

ARTICLE 1

Subject to the conditions and limitations hereinafter contained and set forth, Italian civil aircraft shall be permitted to operate in the United States of America and, in like manner, civil aircraft of the United States of America shall be permitted to operate in Italy.

Wherever either country is referred to herein it shall be understood to include its territories and possessions.

The right of aircraft of either country to enter the territory of the other country shall be understood to include the right of transit across such territory.

ARTICLE 2

All state aircraft other than military, naval, customs and police aircraft, shall be treated as civil aircraft and as such shall be subject to the requirements hereinafter provided for civil aircraft.

ARTICLE 3

Italian aircraft, before entering the United States, must be registered and passed as airworthy by the Italian Ministry of Aeronautics and must bear the registration markings allotted to them by that Ministry, preceded by the letter "I", placed on them in accordance with the Air Navigation Regulations of the Ministry of Aeronautics.

Aircraft of the United States, before entering Italy, must be registered and passed as airworthy by the United States Department of Commerce, and must bear the registration markings allotted to them by that Department, preceded by the letter "N", placed on them in accordance with the Air Commerce Regulations of the Department of Commerce.

ARTICLE 4

Italian aircraft making flights into the United States must carry:

(a) The Journey Log (compulsory for all aircraft, regardless of the purpose for which used);

(b) The Aircraft Log;

(c) The Engine Log (both compulsory only for aircraft assigned to public transportation of passengers and cargo).

United States aircraft making flights into Italy must carry:

(a) The Journey Log (compulsory for all aircraft, regardless of the purpose for which used);

(b) The Aircraft Log;

(c) The Engine Log (both compulsory only for aircraft assigned to public transportation of passengers and cargo).

Italian aircraft making flights into the United States must also carry the certificates of registration and airworthiness issued by the

Italian Ministry of Aeronautics or by the authority recognized for the purpose by the said Ministry. The pilots shall bear a license issued by the said Italian Ministry of Aeronautics, as well as such permit as may be prescribed by that Ministry. Like requirements shall be applicable in Italy with respect to aircraft of the United States and American pilots making flights into Italy. The certificates and licenses in the latter case shall be those issued by the United States Department of Commerce, and the permits shall be such as may be prescribed by that Department.

ARTICLE 5

Pilots who are nationals of the one country shall be licensed by the other under the following conditions:

(a) The Italian Ministry of Aeronautics will issue pilots' licenses to American nationals upon a showing that they are qualified under the regulations of that Ministry covering the licensing of pilots; and the United States Department of Commerce will issue pilots' licenses to Italian nationals upon a showing that they are qualified under the regulations of that Department covering the licensing of pilots.

(b) The pilots' licenses issued by the Italian Ministry of Aeronautics to American nationals and those issued by the United States Department of Commerce to Italian nationals pursuant to the provisions of the preceding paragraph shall be valid in each instance for a period of six months. At the expiration of a period for which a license has been issued the holder may make application for a renewal to the authority issuing the license.

(c) Pilots' licenses issued by the United States Department of Commerce to Italian nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to American nationals, and pilots' licenses issued by the Italian Ministry of Aeronautics to American nationals shall entitle them to the same privileges as are granted by pilots' licenses issued to Italian nationals.

(d) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to register aircraft in such other country.

(e) Pilots' licenses granted to nationals of the one country by the other country shall not be construed to accord to them the right to operate aircraft in air commerce unless the aircraft is registered in such other country in accordance with its registration requirements except as provided for in Paragraphs (a) and (b) of Article 7, with respect to discharging and taking on passengers and/or cargo.

(f) Italian nationals holding unexpired pilot licenses issued by the Italian Ministry of Aeronautics shall be permitted to operate in the United States, for non-industrial or non-commercial purposes for a period of six months from the time of entering that country, any civil aircraft registered by the Italian Ministry of Aeronautics or by the authority recognized for the purpose by the said Ministry, and/or any civil aircraft registered by the United States Department of Commerce; provided, however, that if the license issued by the said Ministry expires before the expiration of such six month period, the period for which the Italian pilot may operate civil aircraft of Italian registry and/or civil aircraft registered by the United States Department of

Commerce, for non-industrial or non-commercial purposes, in the United States shall be limited to the period for which the Italian license is still valid. No pilot to whom this provision applies shall be allowed to operate civil aircraft in the United States for non-industrial or non-commercial purposes after the expiration of the period for which he may operate by virtue of this provision unless he shall, prior to the expiration of such period, have obtained a pilot's license from the United States Department of Commerce in the manner provided for in this article.

American nationals holding unexpired pilot licenses issued by the Department of Commerce of the United States shall be permitted to operate in Italy for non-industrial or non-commercial purposes for a period of six months from the time of entering that country, any civil aircraft registered by the United States Department of Commerce, and/or any civil aircraft registered by the Italian Ministry of Aeronautics or by the authority recognized for the purpose by the said Ministry; provided, however, that if the license issued by the said Department expires before the expiration of such six month period, the period for which the American pilot may operate civil aircraft of United States registry and/or civil aircraft of Italian registry, for non-industrial or non-commercial purposes, in Italy shall be limited to the period for which the American license is still valid. No pilot to whom this provision applies shall be allowed to operate civil aircraft in Italy for non-industrial or non-commercial purposes after the expiration of the period for which he may operate by virtue of this provision unless he shall, prior to the expiration of such period, have obtained a pilot's license from the Italian Ministry of Aeronautics in the manner provided for in this article.

ARTICLE 6

No Italian aircraft in which photographic apparatus has been installed shall be permitted to operate in the United States, nor shall any photographs be taken from Italian aircraft while operating in or over United States territory, except in cases where the entrance of such aircraft or the taking of photographs is specifically authorized by the Department of Commerce of the United States.

Like restrictions shall be applicable to aircraft of the United States with respect to their operation in or over Italian territory, and in such cases the entrance of aircraft in which photographic apparatus has been installed, and the taking of photographs shall not be permissible without the specific authorization of the Italian Ministry of Aeronautics.

ARTICLE 7

(a) If the Italian aircraft and pilots are licensed to carry passengers and/or cargo in Italy, they may do so between Italy and the United States in the operation of a regular Italian air transport line; provided, however, that the establishment of such lines shall be subject to the prior consent of the United States Government given on the principle of reciprocity. Such lines, if established, may not engage in air commerce between points in the United States, except that subject to compliance with customs, quarantine and immigration

requirements, such aircraft shall be permitted to discharge passengers and/or cargo destined to the United States from points beyond the boundaries of United States territory at one airport in the United States, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in the United States, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on at different airports in United States territory passengers and/or cargo destined to points beyond the boundaries of that territory.

(b) If the United States aircraft and pilots are licensed to carry passengers and/or cargo in the United States, they may do so between the United States and Italy in the operation of a regular American air transport line; provided, however, that the establishment of such lines shall be subject to the prior consent of the Italian Government given on the principle of reciprocity. Such lines, if established, may not engage in air commerce between points in Italy, except that subject to compliance with customs, quarantine, and immigration requirements such aircraft shall be permitted to discharge passengers and/or cargo destined to Italy from points beyond the boundaries of Italian territory at one airport in Italy, according landing facilities to foreign aircraft, and to proceed with the remaining passengers and/or cargo to any other airports in Italy, according landing facilities to foreign aircraft, for the purpose of discharging the remaining passengers and/or cargo; and they shall in like manner be permitted to take on at different airports in Italian territory passengers and/or cargo destined to points beyond the boundaries of that territory.

(c) Each of the parties to this arrangement shall, with respect to all matters concerning the operation of civil aircraft and so far as the executive branch of the Government shall possess authority under the provisions of legislation on this subject, accord to the civil aircraft of the other party, subject to the foregoing provisions of this Article, and on condition of reciprocity, most favored nation treatment.

ARTICLE 8

The right accorded to Italian pilots and aircraft to make flights over United States territory under the conditions provided for in the present arrangement shall be subject to compliance with the laws, rules and regulations in effect in the United States and its territories and possessions governing the operation of civil aircraft.

The right accorded to American pilots and aircraft of the United States to make flights over Italian territory, under the conditions herein provided for, shall be subject to compliance with the laws, rules and regulations in effect in Italy and its territories and possessions governing the operation of civil aircraft.

ARTICLE 9

Certificates of airworthiness issued in connection with aircraft, and acceptance test certificates issued in connection with aircraft engines and spare parts of aircraft and engines, built in Italy and

imported into the United States from Italy as merchandise, will be accepted by the Department of Commerce of the United States if issued by the Italian Ministry of Aeronautics or by the authority designated for the purpose by the said Ministry in accordance with their requirements as to airworthiness. Certificates of airworthiness for export issued in connection with aircraft, aircraft engines, and spare parts of aircraft and engines, built in the United States and imported into Italy from the United States as merchandise, will, in like manner, be accepted by the Italian Ministry of Aeronautics, if issued by the Department of Commerce of the United States in accordance with its requirements as to airworthiness.

The competent authority of Italy will have the right periodically to check and test the materials of the classes specified in the preceding paragraph after being brought into Italy for the purpose of ascertaining their proper condition as to preservation and maintenance, according to the rules and regulations in force in Italy. Likewise, the United States Department of Commerce will have the right periodically to check and test such materials after being brought into the United States, for the purpose of ascertaining their proper condition as to preservation and maintenance, according to the rules and regulations in force in the United States.

ARTICLE 10

It shall be understood that this arrangement shall be subject to termination by either Government on sixty days' notice given to the other Government, or by a further arrangement between the two Governments dealing with the same subject.

I shall be glad to have you inform me whether it is the understanding of your Government that the arrangement agreed to in the negotiations is as herein set forth. If so, it is suggested that the arrangement become effective on October 31, 1931.

Accept [etc.]

HENRY L. STIMSON

Executive Agreement Series No. 24
711.6527/69a

The Italian Chargé (Marchetti) to the Secretary of State

[Translation]

WASHINGTON, October 14, 1931, Year IX.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of the note of the 13th instant in which Your Excellency communicated to me the text, agreed upon, of the reciprocal arrangement between Italy and the United States for the admission of civil aircraft into the respective countries, the issuance of pilot licenses, and the acceptance of certificates for aircraft and accessories imported as merchandise. This text, in the opinion of Your Excellency, is in accord

with the understandings reached during the negotiations, now terminated, between the two countries.

The text communicated to me by Your Excellency is reproduced in Italian below :

[Here follows the Italian text of the arrangement, articles 1 to 10 inclusive, which is the equivalent of the English text communicated to the Royal Italian Embassy by the Department of State in its note of October 13, 1931, *supra*.]

I am glad to assure Your Excellency that the foregoing text is what has been accepted by my Government in the course of the negotiations and is approved by it.

In accordance with the suggestion of Your Excellency, it is understood that the arrangement will come into force on the 31st of October, 1931.

Please accept [etc.]

MARCHETTI

REPRESENTATIONS TO THE ITALIAN GOVERNMENT REGARDING UNJUSTIFIED ARRESTS OF AMERICAN CITIZENS IN ITALY ¹³

365.1121 Slavich, Nickola/14 : Telegram

The Acting Secretary of State to the Ambassador in Italy (Garrett)

WASHINGTON, July 25, 1931—3 p. m.

118. Your 133, July 22, 10 a. m., and 134, July 22, 4 p. m.¹⁴ I am much concerned in regard to the recent series of apparently unjustified arrests of American citizens traveling in Italy.

Request an interview with Grandi. Make clear that you are acting under instructions from your Government. Attempt to obtain a dismissal of the case against Slavich. If that is impossible, insist that the case be brought to trial with the least possible delay and inform Grandi that the trial will be attended by a member of your staff or by a member of the staff of the Consulate General. In discussing the case with Grandi, make clear the attitude of American public opinion toward the arrest and prolonged incarceration of American citizens upon such charges as those made against Slavich and Tancredi, based upon the kind of evidence which appears from your telegram to have been accepted in these cases. The Department is informed that there already exists the conviction in certain circles that American citizens traveling on Italian ships are subjected to constant surveillance and that in some cases, they are egged on by the personnel of those ships

¹³ For previous correspondence regarding the right of American citizens when arrested to communicate with American consular officers, see *Foreign Relations*, 1926, vol. II, pp. 440 ff.

¹⁴ Neither printed.

to make remarks of a kind innocuous under American law, but apparently criminal under Italian law.

Make vigorous representations to Grandi in regard to the Italian regulations and the practices of the Italian authorities which hamper, delay, or prevent communication between American citizens arrested in Italy and American consular officers. Point out that these regulations and practices make it impossible for consuls "to defend the rights and interests of their countrymen" as provided for in Article IX of the Consular Convention of 1878 between the United States and Italy.¹⁵ Express the hope that the custom, which formerly obtained in Italy, of notifying consular officers immediately upon the arrest of American citizens will be adhered to in the future. (See instruction No. 651 of November 9, 1926).¹⁶ Invite Grandi's attention to the cases of Slavich, Tancredi, Rossi, and others recently incarcerated for long periods without the knowledge of American consuls. (See Despatch from Consul, Milan, May 6, 1931).¹⁷ Insist that consular officers be permitted to visit and converse with American citizens incarcerated in Italy and that such visits be not delayed by unnecessary administrative procedure, and that such conversations be not hampered by the undesired presence of third parties. Cite instances from recent cases in which consuls have been prevented from carrying out their duties as specified in Article IX referred to above.

Report by telegram the result of your conversation with Grandi, and transmit full report by pouch, together with a copy of the *note verbale* which you will present on this occasion.

A friend of Slavich informs me that 14 others were arrested at the same time. Is this exact? If so, were any of them American citizens?

CARR

365.1121 Slavich, Nickola/15: Telegram

The Ambassador in Italy (Garrett) to the Acting Secretary of State

ROME, July 27, 1931—3 p. m.

[Received 5:28 p. m.]

138. Department's telegram No. 118, July 25, 3 p. m. Owing to the fact that Grandi has not returned to the Foreign Office since his departure for London and that he is expected to be absent from Rome for several days more, it has been and still is impossible for me to talk matter over with him.

¹⁵ Malloy, *Treaties*, 1776-1909, vol. I, p. 977.

¹⁶ *Foreign Relations*, 1926, vol. II, p. 443.

¹⁷ Not printed.

As stated in my telegram 125 [131], July 18, 11 a. m.,¹⁸ however, I wrote a personal letter to Grandi on July 17th calling to his attention several cases of American citizens imprisoned in Italy to whom American Consular Officers have been allowed access only after long delays and with whom consular officers have not been permitted to converse without the presence of an interpreter, and pointing out to him the gravity of such a state of affairs. This communication, I am told, has been brought to the attention of the Chief of the Government. Upon the receipt of the Department's telegram No. 116, July 18, 6 p. m.,¹⁸ as both Grandi and the Under Secretary were still absent, I called in person on the Chief of the American section of the Foreign Office and reviewed with him the entire matter in the light of the objectives which had been repeatedly made to him by the Embassy since the cases arose. I told him that the American Government viewed with the greatest seriousness the arrest and imprisonment of American citizens on such charges as those brought against Slavich and Tancredi, and I repeated the protests against the delays experienced by consular officers in getting in touch with the prisoners. I was assured that Embassy would be notified of the dates of the trial of the cases under discussion in order that an American diplomatic or consular officer might attend, and that the permits to visit the prisoners would be expedited. These representations have been repeatedly pressed even since the release of Tancredi on July 22nd (see my telegram 133, July 22, 10 a. m.)¹⁸ and I am now addressing a communication to Grandi in the sense of the Department's telegram 118 of July 25, 3 p. m. [Paraphrase.] While I was given no definite assurance, today at the Foreign Office I was given to understand that there was a chance that the proceedings against Slavich would be dropped and that he would not be tried. I did receive assurance that the police authorities had been given instructions to report all cases of arrest and imprisonment of aliens to the appropriate consular officers or to the Foreign Office. I was told, however, that broad discretion had to be left in the hands of the police because of the number of cases in which there was suspicion of activities against the head of the Government.

On July 22 I asked the Consul General at Naples to instruct our consulates in Italy that the Embassy should be advised in all cases of the arrest and imprisonment of United States citizens within their respective jurisdictions. [End paraphrase.]

GARRETT

¹⁸ Not printed.

365.1121 Slavich, Nickola/18: Telegram

The Ambassador in Italy (Garrett) to the Acting Secretary of State

ROME, July 29, 1931—11 a. m.

[Received July 29—9:55 a. m.]

139. My telegram No. 138, July 27, 3 p. m., and Department's 118, July 25, 3 p. m., last paragraph. Consul General Naples states that in so far as he is able to ascertain there were no other arrests of passengers arriving with Slavich and that, if so, none have claimed American citizenship as otherwise Consulate General would have been notified by local authorities. Consul General adds that the rumor of further arrests may have originated in imprisonment several weeks ago on charges similar to those brought against Slavich of large number of Italians amongst whom were professors and doctors and some of whom are still in confinement.

GARRETT

365.1121 Slavich, Nickola/22

Memorandum by Mr. Joseph C. Green of the Division of Western European Affairs

[Extract]

[WASHINGTON,] July 30, 1931.

A number of American citizens have recently been arrested by the Italian authorities. Several of these arrests appear to have been made upon frivolous charges. Several of the persons arrested have been detained for long periods in prison, and then released without a trial. Several of the cases have been particularly annoying to this Government because of the fact that the Italian authorities have refused to permit communication between the prisoners and the American consular officers, or have hampered such communication by delays due to the administrative procedure necessary for obtaining permission for consular officers to visit prisoners, or by the requirement that conversations between consular officers and prisoners be conducted in the presence of an interpreter designated by the Italian authorities.

The following brief notes will indicate the nature of a few of the cases referred to, chosen from among those concerning which our information is most complete:

NICKOLA SLAVICH

Nickola Slavich, a recently naturalized citizen of Yugoslav origin, was a passenger on board the S. S. *Saturnia* en route from New York to Trieste via Naples. Upon leaving the ship at Naples for a few hours on June 16, he was placed under arrest on the basis of the accusation of a steward of the vessel, who testified that he had made de-

rogatory remarks in regard to Mussolini. He denies having made such remarks. The Consul General at Naples experienced difficulties in receiving permission to visit the prisoner, and he was not permitted to do so until July 16. The Italian authorities required that an interpreter designated by them be present at the interview. Slavich is still in prison and according to our latest advices, he is to be tried by the Special Tribunal for the Defense of the State.

JAMES TANCREDI

James Tancredi, an American citizen of Italian origin, sailed from New York on the S. S. *Vulcania* on June 24. It appears that while the vessel was still in the port of New York, he was arrested on the accusation of a steward that he had made a disparaging remark about Mussolini. He states that the so-called disparaging remark was a remark of his in regard to the disorder which occurred when passengers were ordered ashore. He stated that he said on that occasion that another Mussolini was needed to maintain discipline on that ship. He was kept a prisoner throughout the voyage, and was then incarcerated in a prison in Naples. The Consul General at Naples requested permission to visit him on July 7. This permission was not granted until July 17 and then only on condition that an Italian official be present at the interview. As the result of representations by the Ambassador, he was released on July 22.

FRANK ROSSI

Frank Rossi is an American citizen of Italian origin who was arrested at Como on March 6, 1929, apparently for attempting to leave Italy on a French instead of on an Italian ship. He was detained in prison nine days at Como, one day at Milan, three days at Bologna, two days at Ancona, and one day at Castello Amaro before he was finally released without trial. He states that upon his release, he was warned by the Chief of Police at Chieti not to relate his experiences to any American consul.

JOSEPH C. GREEN

365.1121 Slavich, Nickola/19 : Telegram

The Ambassador in Italy (Garrett) to the Acting Secretary of State

ROME, July 31, 1931—4 p. m.
[Received July 31—2:23 p. m.]

141. My telegram No. 138, July 27, 3 p. m. last paragraph. Slavich was released from prison last night and is expected to leave for Yugoslavia at once.

In view of the representations which have already been made in connection with these cases as outlined in my telegram No. 138, July

27, 3 p. m., and as I am assured that the Italian authorities are earnestly endeavoring to adopt measures to prevent such cases from developing in the future, I would strongly advise against sending at this moment the note which has been prepared in accordance with the Department's instruction No. 118, July 25, 3 p. m., and which has been held for a few days on the chance of Grandi's returning to Rome so that I might present it personally to him. As soon as possible after Grandi's return I shall see him, and am sure that by talking with him it will be possible to clarify this situation further on the basis of the principles involved, without giving the Foreign Office opportunities to engage in correspondence relating to the facts of special cases which it might be inclined to do if the note were sent.

GARRETT

365.1121 Slavich, Nickola/20 : Telegram

The Acting Secretary of State to the Ambassador in Italy (Garrett)

WASHINGTON, July 31, 1931—6 p. m.

120. Your 141, July 31, 4 p. m. The emphasis in my 118 of July 25, 3 p. m., was placed entirely upon the statements which you would make verbally to Grandi. It was presumed that in the interests of clarity and accuracy you might wish to leave with him a *note verbale* summarizing the points covered in your conversation. Although this procedure appears to me to be preferable, I leave it entirely to your discretion whether or not such a *note verbale* be left as a record of the conversation.

Report by telegram the results of your conversation and report fully by despatch enclosing a copy of the *note verbale* if you decide to leave one with Grandi.

CASTLE

365.1121/8

Memorandum by the Under Secretary of State (Castle)

[WASHINGTON,] August 20, 1931.

In the course of conversation with the Italian Ambassador, I took up with him the various cases which have made trouble recently of American citizens arrested on arrival in Italy for alleged statements made on shipboard derogatory of Mussolini; also one or two other cases in Italy where people have had difficulty in communicating with American Consular Officers. I told the Ambassador with a good deal of vigor that these cases were getting altogether too numerous to be pleasant; that the Italian authorities were acting in a very stupid manner for their own good because these American citizens, when they came back to this country, might well tell stories to the

press which would react against Italy. I told him, also, that we were getting very fed up ourselves with the situation, that it seemed fantastic that an American citizen crossing on an Italian boat should be arrested on arrival merely on the word of a steward, who perhaps felt that he had not received a sufficient fee. I said that, if this situation continued and the press got hold of it, we should simply be compelled to say that the stories were correct. The result of this, as I pointed out, would obviously be that very few people would run the risk of traveling on an Italian line.

The Ambassador seemed very much disturbed, said that, on account of the danger from anarchists, the police had had to act more vigorously in matters of the kind, but that obviously in the cases which I had discussed with him, they had gone altogether too far. He said he would immediately communicate with his Government as to how we felt about the situation here.

W[ILLIAM] R. C[ASTLE, JR.]

365.1121 Slavich, Nickola/26 : Telegram

The Ambassador in Italy (Garrett) to the Acting Secretary of State

[Paraphrase]

ROME, September 1, 1931—5 p. m.

[Received 5:10 p. m.]

164. Department's 118, July 25, 3 p. m. According to my information from Grandi, consuls have no right beyond the terms accorded the prisoner's own lawyer to see the prisoner alone. Immediately before the issuance of the summons or act of accusation, the defending lawyer has the right to visit the prisoner alone and without special permission. Prior to that time, the defense lawyer can see his client only by permission of a competent judicial authority and under the surveillance of a representative of the prison or judicial authorities.

Beyond this, Grandi stated, he could not go.

He did say, however, that upon his initiative the matter was now being discussed anew. The object was a practical understanding among the Ministries involved, that is to say, the Ministries of Justice, Foreign Affairs, and Interior. Grandi has assured me that forthcoming instructions would certainly reduce to a minimum future errors and abuses; perhaps, prevent the latter. The instructions would be formalized, definite, and obligatory.

Over a period of years there has been considerable talk about a treaty relative to naturalization between Italy and the United States. Grandi doubts whether he can persuade the Italian Government to

act on this matter. Nevertheless, he intends to consult them again on it.

GARRETT

365.1121 Slavich, Nickola/27 : Telegram

The Acting Secretary of State to the Ambassador in Italy (Garrett)

[Paraphrase]

WASHINGTON, September 4, 1931—5 p. m.

133. Embassy's 164, September 1, 5 p. m. Please try to find out the usual length of time between the making of an arrest and the completion of the "instruction".

According to treaty provision and to the traditional practice of nations, nationals under arrest should be immediately accessible to the respective consular officials. In view of these circumstances, how do the Italian authorities justify the regulation which requires the issuance of a special permit in the discretion of a competent judicial authority?

It is to be hoped that abuses in the future will be prevented by the proposed method to which you refer in your telegram of September 1. Until such a procedure is established you are to make the Italian authorities aware of the fact that American citizens are subject to grave injustice because consular officials are refused immediate access to prisoners. Awards by international claims commissions are based on such situations. The United States would be satisfied only with a solution which recognized the right of a consul to see an American citizen alone within 24 hours after his detention. In stressing this procedure, you are to state that it is a generally accepted and long established practice.

CASTLE

365.1121 Slavich, Nickola/29 : Telegram

The Chargé in Italy (Kirk) to the Secretary of State

[Paraphrase]

ROME, September 10, 1931—noon.

[Received September 10—8:35 a. m.]

172. The Minister of Foreign Affairs and the Chief of the American Section are on leave. Consequently, while I have transmitted the essence of your No. 133, 4th of September, 5 p. m., the replies will not be immediately forthcoming.

At the Foreign Office I learned that the procedure relative to the detention and imprisonment of foreigners in Italy has been reviewed

by officials of the several Ministries concerned. The final report, however, has not been sent yet to the Ministry of Foreign Affairs.

KIRK

**REPRESENTATIONS BY THE ITALIAN AMBASSADOR REGARDING
NEWSPAPER ATTACKS IN THE UNITED STATES AGAINST THE
ITALIAN GOVERNMENT²¹**

811.918/237

*The Italian Ambassador (De Martino) to the Acting Secretary
of State*

WASHINGTON, December 18, 1930.

MY DEAR MR. CASTLE: I want to call your attention on the closing paragraph of the article published in the November 29th issue of the radical paper *Il Martello*, entitled "Civiltà' Fascista". A copy and translation of this paragraph is herewith enclosed.

You will see that this paragraph contains a clear instigation to murder: which confirms once more the dangerous character of the publications of said paper.

You will, I believe, agree with me that publications of this sort are an insult and a menace to the Chief of a Government which entertains cordial relations with the United States, not only, but they represent beyond doubt, an encouragement to crime.

I would, therefore, be very grateful to you for considering what measures could be taken against *Il Martello* so that its criminal propaganda may be stopped.

Believe me [etc.]

G. DE MARTINO

[Enclosure]

**EXCERPT FROM THE ISSUE OF NOVEMBER 29TH, 1930, OF THE ITALIAN
RADICAL PAPER "IL MARTELLO" PUBLISHED IN NEW YORK**

Article entitled "Civiltà' Fascista" on the first page (last paragraph)

"Lo abbiamo detto tante volte, e lo ripetiamo: uccidere il fascismo nelle persone dei suoi responsabili e' Opera Santa. Per l'Italia, per il monde intero".

Translation

"We have said it so many times and we repeat it: to kill fascism in the persons of those responsible for it is a Holy Work. For Italy, for the whole world".

²¹ For previous representations of this nature by the Italian Ambassador, see *Foreign Relations*, 1927, vol. III, pp. 129 ff.

811.918/241

*The Assistant Secretary of State (Rogers) to the Italian Ambassador
(De Martino)*

WASHINGTON, March 18, 1931.

MY DEAR MR. AMBASSADOR: Referring to previous correspondence concerning an article published in the November 29 issue of the paper *Il Martello*, which you consider contains a clear instigation to murder, I have to inform you that a communication has been received from the Governor of New York²² concerning this matter, the pertinent portion of which I quote hereunder for your information:

"The matter of your communication of February 26th,²³ with the enclosed translation and copy of the publication of the Italian paper, *Il Martello*, has been given careful consideration by the Attorney General and by myself. Viewed in the light of the context of the article, it does not appear that the last sentence of the said article, to which the complaint of His Excellency, the Italian Ambassador, is addressed, is so definitely limited to the meaning placed upon it by him that it could be made the subject of any proceeding against the publication or the editors thereof.

"Under the guaranty of freedom of the press by the first amendment to the Constitution of the United States, and Article I, Section 8, of the Constitution of the State of New York, this article would not be subject to such interpretation as would warrant any legal action against the publication. The provision of the Constitution of the State of New York is far more definitive than the provision of the first amendment of the Federal Constitution. Article I, Section 8, of the Constitution of the State of New York, reads as follows:

'Sec. 8. Liberty of speech and press. Libel. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.'

"With specific reference to the article complained of, I do not feel that it embodies language warranting the conclusion that it constitutes criminal propaganda or instigating murder."

In a letter of January 9, 1931,²³ the Postmaster General of the United States informed the Department that this matter would be investigated and that he would advise me of any action taken. As soon as we receive a further report from the Postmaster General I shall communicate with you again.

I am [etc.]

JAMES GRAFTON ROGERS

²² Franklin D. Roosevelt.

²³ Not printed.

811.918/244

*The Postmaster General (Brown) to the Secretary of State*²⁴

WASHINGTON, April 24, 1931.

MY DEAR MR. SECRETARY: Referring to your letter of January 2, 1931, WE 811.918/237,²⁵ transmitting a copy of a communication from the Italian Ambassador relative to a certain article which appeared in the November 29, 1930, issue of the Italian language newspaper *Il Martello*, I have to advise you that this matter has been investigated by post office inspectors and the facts presented to the United States Attorney at New York, New York, who has expressed the opinion that prosecution of the publishers under Section 334, Title 18, U. S. Code, does not appear to be warranted.

Very truly yours,

WALTER F. BROWN

811.918/246

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, June 11, 1931.

EXCELLENCY: With further reference to your note of December 18, 1930, and subsequent correspondence in regard to the article which appeared in *Il Martello* on November 29, 1930, I have the honor to inform you that I am in receipt of a letter from the Department of Justice²⁶ in regard to this matter. The Assistant Attorney General informs me that there does not appear to be any action which can be taken under the laws of the United States in respect to the article in question.

Accept [etc.]

For the Secretary of State:

W. R. CASTLE, JR.

811.918/249

The Italian Ambassador (De Martino) to the Under Secretary of State (Castle)

WASHINGTON, June 16, 1931.

MY DEAR MR. CASTLE: I have your note of the 11th instant and I want to thank you for your communication.

²⁴ The Secretary of State in a letter dated May 5 informed the Postmaster General that the substance of this letter would be communicated to the Italian Ambassador. No record of such communication has been found in the files.

²⁵ Not printed.

Though taking note that, under the laws of the United States, no action can be taken concerning the article which appeared on *Il Martello* of November 29th, 1930, I deem it my duty to call your attention, nevertheless, to the article published by the same paper in the issue of June 6th, 1931, under the title "Ai mani di Michele Schirru". In this editorial occurs the sentence which I reproduce and translate here below:

"Ma la questione rimane nei suoi termini categorici: Perche' l'Italia viva, Benito Mussolini deve morire. E non lui soltanto".

("But the question remains in its categorical terms: So that Italy must live, Benito Mussolini must die. And not he alone".)

Believe me [etc.]

G. DE MARTINO

811.918/248

*The Acting Secretary of State to the Italian Ambassador
(De Martino)*

WASHINGTON, July 2, 1931.

MY DEAR MR. AMBASSADOR: I am in receipt of your letter of June 16, 1931, in regard to *Il Martello*. As you are aware under our regime of freedom for the press, it is extremely difficult to initiate judicial proceedings in respect to published utterances of the nature of those which you quote in your letter.

I am [etc.]

W. R. CASTLE, JR.

**EXPRESSION OF REGRET BY THE AMERICAN GOVERNMENT FOR
REMARKS OF MAJOR GENERAL SMEDLEY BUTLER REGARDING THE
PRIME MINISTER OF ITALY**

865.002 Mussolini/2

The Secretary of State to the Secretary of the Navy (Adams)

WASHINGTON, January 27, 1931.

MY DEAR MR. SECRETARY: With reference to the speech of General Smedley Butler, which has been given such unfortunate publicity, I am quoting for your information the text of a telegram which the Italian Ambassador in this capital received yesterday from Prime Minister Mussolini.

"The story told by General Butler is an abominable outrage. I have never driven around Italy with an American and I challenge General Butler to prove the contrary. I have never run over any child, or man, or woman. If such a misfortune had happened, it is useless to say that I should have done all one must do, that is I would have stopped and

brought help. It is indeed unworthy of a General to spread such an ignoble lie. I have no doubt that the American Government will see to it that I obtain a formal solemn explicit public reparation."

Very sincerely yours,

H. L. STIMSON

865.002 Mussolini/24

Press Release Issued by the Department of State on January 29, 1931

STATEMENT BY THE SECRETARY OF STATE

Having learned from the Navy Department that Major-General Smedley D. Butler, United States Marine Corps, has admitted that the quotation of his remarks in the press was substantially correct, I have this morning handed a note to the Italian Ambassador expressing to Signor Mussolini and to the Italian people the deep regret of this Government at this unauthorized action on the part of an officer on active duty.

The text of the note is as follows:

"January 29, 1931.

"His Excellency

Nobile Giacomo de Martino,
Royal Italian Ambassador.

"Excellency:

"I have the honor to express the deep regret which this Government feels at the reflections against the Prime Minister of Italy in the unauthorized speech of Major-General Smedley D. Butler, United States Marine Corps, at Philadelphia on January 19. The sincere regrets of this Government are extended to Mr. Mussolini and to the Italian people for this discourteous and unwarranted utterance by a commissioned officer of this Government on active duty.

"Accept, Excellency, the renewed assurance of my highest consideration.

(Signed) HENRY L. STIMSON."

865.002 Mussolini/11 : Telegram

*The Italian Premier (Mussolini) to the Italian Ambassador in the United States (De Martino)*²⁸

ROME, January 30, 1931—2 p. m.

[Received January 30—9 a. m.]

Your telegrams 88 and 89. I felt sure that I would obtain just and prompt redress from the fairness, the loyalty and the friendship of the

²⁸ Text in English handed to the Secretary of State by the Italian Ambassador, January 30, 1931.

American Government and the American people whose respect for truth is well known to me. Will you please communicate to the Federal Government that I consider closed the incident which for my part I have already forgotten. After making this communication to the American Government Your Excellency may give the press this text.

MUSSOLINI

865.002 Mussolini/13 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

ROME, February 1, 1931—11 p. m.
[Received February 2—7:29 a. m.]

8. All the papers report fully the Butler incident and are unanimous in stating that it has been correctly handled, that satisfaction is complete and that as far as Italy is concerned the incident is closed.

GARRETT

865.002 Mussolini/16 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

[Paraphrase]

ROME, February 2, 1931—4 p. m.
[Received February 2—3:40 p. m.]

9. Speaking for Signor Mussolini, the Foreign Minister requested that I should convey to you his appreciation for the manner in which the Department and the nation have reacted to the Butler affair. During the course of the conversation today, Grandi asked me what I thought would be your attitude toward a request for grace from the Prime Minister. Grandi was of the opinion that, while the proceedings against the General might possibly continue, harmful speculation in the press would be curbed thereby, and the possibility of strained relations between Italy and the United States lessened. Control over the press is possible here; but not elsewhere in Europe. I am delaying my reply to the Foreign Minister until advised by the Department.

GARRETT

865.002 Mussolini/23 : Telegram

The Secretary of State to the Ambassador in Italy (Garrett)

[Paraphrase]

WASHINGTON, February 3, 1931—5 p. m.

17. Embassy's 9, February 2, 4 p. m. The international aspects of the Butler incident no longer exist. All that remains is for the Navy

Department to take disciplinary action. Therefore, we feel that the request of Prime Minister Mussolini is inappropriate.

STIMSON

VISIT OF DINO GRANDI, ITALIAN MINISTER FOR FOREIGN AFFAIRS,
TO THE UNITED STATES, NOVEMBER 16-27, 1931

033.6511 Grandi, Dino/1 : Telegram

The Ambassador in France (Edge) to the Secretary of State

[Paraphrase]

PARIS, October 3, 1931—noon.

[Received October 3—11:40 a. m.]

631. From the Ambassador to Italy (Garrett). Yesterday, Vitetti, one of Grandi's secretaries, was sent here to see me. The request was that I inform the Department of Grandi's desire to come to Washington. Grandi told me, shortly after your visit to Rome, that he hoped to visit Washington. The press which got its information from the Foreign Office Tuesday went so far as to report that the Foreign Minister intended to return your visit. On September 18, however, Grandi wrote me that he had to give up the idea for this year. Now, however, he has reconsidered his decision. On November 7, he plans to sail from Naples for New York, spend 10 days in America and return on November 27. I believe that for him to make this visit would give great satisfaction and help in our relations. There is a certain difficulty which I am positive the Department can cope with in regard to the form an invitation should take. Vitetti was sent to talk with me particularly in connection with that matter. In view of the invitation extended to Laval,²⁹ Grandi would appreciate it if you, knowing beforehand that he would come, should express the pleasure it would give you to have the Minister of Foreign Affairs visit Washington. He would appreciate a statement similar to the following, if you could see your way to making it:³⁰

"It would have given the President the greatest pleasure to receive the Chief of the Italian Government, but knowing that he could not come the Secretary of State has expressed the pleasure it would give him to receive the Italian Minister for Foreign Affairs."

I deem it of great importance that the sensitiveness of these officials should be given careful consideration. The matter should be handled in a way that will permit them to escape criticism both in Italy and elsewhere. It might be stated, I believe, if a communication is issued, that the Foreign Minister had expressed a desire to come to the

²⁹ See pp. 237 ff.

³⁰ Quotation not paraphrased.

United States shortly after the visit of the Secretary of State; that his visit had been necessarily postponed on account of the meetings in Geneva and his visit to the German capital and other matters which made it necessary for him to remain in Europe.

According to Vitetti, Grandi is especially anxious to avoid being in Washington after the convening of Congress for obvious reasons. Therefore, he must arrange his visit between the departure of Laval and the meeting of Congress.

I can convey any answer received before I sail on October 8. Announcement of the proposed visit will be sent to the Italian Embassy which will be instructed to keep it strictly secret. [Garrett.]

EDGE

033.6511 Grandi, Dino/2: Telegram

The Secretary of State to the Ambassador in France (Edge)

[Paraphrase]

WASHINGTON, October 5, 1931—5 p. m.

476. Embassy's 631, noon, 3d of October. For Ambassador Garrett. I authorize you to inform the Minister for Foreign Affairs that a written invitation will be sent to him as soon as you are definitely aware that an acceptance will be forthcoming. In that event your note should be based on the following:³²

"I have been instructed by the Secretary of State to inform you that he would be most happy if it were convenient for you to make a visit to the United States. He would be pleased to take this occasion to present you to the President of the United States who has expressed gratification at the prospect of seeing you. Both the President and the Secretary of State feel that such an opportunity for personal acquaintance and discussion would be of the greatest value."

You will kindly add, orally, a statement indicating my personal pleasure at the opportunity of renewing our friendship which such a visit would furnish.

You should also tell Grandi that, when he desires to make public his plans, a statement in the following sense will be issued to the press:³²

"Following a hope expressed to Signor Grandi by the Secretary of State when he was in Italy last summer, the Secretary has extended an invitation to Signor Grandi to visit the United States and has been informed that Signor Grandi proposes to sail from Naples for New York on November 7. He plans to spend 10 days in the United States returning to Italy on November 27. The President would have been pleased to have received the Chief of the Italian Government but

³² Quotation not paraphrased.

knowing that he could not avail himself of such an invitation the Secretary of State has expressed to the Italian Minister for Foreign Affairs the pleasure it would give him if he would visit Washington."

You should inform the Department with regard to Grandi's plans. Allow sufficient time for press release arrangements to be made between the Department and your Embassy before any public statements are issued.

STIMSON

033.6511 Grandi, Dino/12: Telegram

The Chargé in Italy (Kirk) to the Secretary of State

ROME, October 10, 1931—4 p. m.

[Received October 10—11:55 a. m.]

204. My October 10, 1 p. m.³³ Following is translation of Grandi's reply to my communication of today.

"Mr. Chargé d'Affaires: I have the honor to thank you for your kind communication of the courteous invitation of the Secretary of State for me to visit the United States. I am highly gratified at this invitation, and am very happy to be able to accept it.

It is with the greatest pleasure that I look forward to an early opportunity of seeing Mr. Stimson, and of exchanging ideas with him. I recall with the deepest satisfaction our meeting in Rome and in London and to this satisfaction today is added the very great pleasure of being able to visit the United States.

The Chief of Government attributes the greatest value to the visit which I shall have the honor of paying to President Hoover, and to Mr. Stimson.

I shall be particularly obliged to you if you will kindly convey to the Secretary of State my warmest and most cordial thanks.

Accept, Mr. Chargé d'Affaires, the expression of my high consideration."

Signed Grandi and dated October 10.

KIRK

033.6511 Grandi, Dino/99

Memorandum by the Under Secretary of State (Castle) of a Conversation With the Italian Minister for Foreign Affairs (Grandi), November 16, 1931

[WASHINGTON,] November 17, 1931.

Grandi and [I] talked for two hours or more on the way from New York. He showed me the hand-out he had for the press after his call at the White House. It was good, and especially so since it tied up his visit with that of Laval, as "forging another link in the

³³ Not printed.

chain of international understanding." I told him I thought it would make a good impression here and particularly, which was of more importance, in France. Grandi admitted that really good relations between Italy and France were important, that there were many minor trouble-making questions, but that the only real cause of difference was on armament and what should be done about it. Such a question as that of the Italian Colonies he said he would guarantee to settle with two hours talk with Laval. As to armament, he thinks that Italy is distinctly more menaced than before the War because there is France on one side and the Little Entente on the other. France does not need so much in the way of armament as she now has and France is unreasonable in her demands for the price of reduction. "France wants security, absolute security; but absolute security for France means there must also be absolute security for every other nation. And how is this to be achieved?" Of course, this will make things next year at Geneva difficult—this and many other things—and one of Grandi's main reasons for coming to Washington is to find out just exactly how far we want to go at the Conference.³⁴ He says Italy will go as far as we do, but does not want to go further; neither does he think we ought to push for too much or else we shall fail altogether. He thinks that if we can get a 10% or 15% reduction we shall be doing well and that all we can hope for is to make a first step. He talks very sensibly on the subject. I told him the Secretary feels that there is little hope of any success unless first the political questions of Europe can be settled, beginning with the Polish corridor. Grandi said that a real settlement of the corridor question would be one of the greatest safeguards to peace and good understanding, but agreed with me that it could not possibly be settled now without war. It is an infinitely complex question in any case, he said, because the population is undeniably Polish and yet this corridor cuts off an equally undeniably German East Prussia. He thinks the only real settlement can be the eventual annexation to Poland of Lithuania, but he agrees also that this could not possibly be done today without war, in which Russia might well be included. He said that Italy, of course, stands for the revision of the Treaties, but that this is in theory, and something to be looked for in the future—not necessarily the immediate future. This he tried to impress on Bruening³⁵ when in Berlin a fortnight ago, tried to make him promise that he would enter into an engagement with France not to raise any of these questions for the next few years. Bruening said he could enter into no engagement in the matter as his Government would instantly fall, but that if no

³⁴ The World Disarmament Conference scheduled for Geneva, February 1932; for correspondence regarding preparations for the conference, see vol. I, pp. 471 ff.

³⁵ Heinrich Bruening, German Chancellor.

publicity were attached he could pretty well stop the talk about these hoped-for revisions. Grandi thinks that probably this is a correct statement of the case. He likes Bruening, but doubts whether he can last long, is inclined to agree with the French that perhaps it might be just as well to have the Nazis in for a time as they would not dare, in his opinion, seriously to change the German foreign policy and if the rest of Germany saw that even they would have to appeal for outside help the people might settle down and try to make the best of things. (At this point he took occasion to say that it annoyed the regime in Italy to have the Hitlerites call themselves fascists as they had nothing in common with fascism.)

So far as Russia is concerned, Grandi says that the relations are purely commercial. Italy is an island in the Mediterranean so far as trade is concerned, must look both eastward and westward. The Black Sea region must furnish grain and oil to Italy, but beyond these commercial relations Italy will not go with Russia; since no two nations have such utterly conflicting ideals of government. Grandi feels strongly that the world must trade with Russia and would like to see France and Germany together make an effort to open up the country. He wants this because it will be good for Europe, but primarily because as Germany and France work together along one line they will be likely to work together along others and the great world problem today is to get these two nations, which are out of step with the rest, which are both "bad" nations from the international point of view, really thinking and acting together. Italy wants to help in this as Grandi is sure we all do.

As to the question of debts and reparations, Grandi says that if the United States will scale down the debts Italy will join with other European nations in scaling down the reparations. I said that in this case it seemed to me that he had hold of the wrong end of the animal, that actually it was now up to Europe to act, to cut down on the reparations to a point where Germany might be able to pay and that if this were done I had no doubt that the United States would be generous to its debtors. I reminded him, however, that we had never admitted any connection between reparations and war debts. Grandi said that Italy had accepted enthusiastically the President's proposal of last June for the cancellation of inter-governmental debts,³⁶ not really for one year but for all time—that it seemed to Italy that the old situation could never be resumed, that it meant a real sacrifice for Italy since there was a large balance of in-payments over out-payments, but that Italy had felt it must make this sacrifice for the general good.

³⁶ For correspondence on this subject, see vol. I, pp. 1 ff.; for the Italian acceptance of the proposal, see *ibid.*, pp. 219 ff.

I reminded him that actually the proposal was for one year only, that, although it was probably true that the old order of payments might never be resumed, this plan had saved a momentary situation and had given time to work out some more permanent solution. He said that what had pleased the Italians most was to see the United States taking the lead in international affairs. He hoped we would not renounce this lead. I said that the plan had given an opportunity to Europe to get its house in order and an atmosphere in which definite solutions could be worked out; that we were waiting to see whether Europe would take advantage of this and do something for itself.

W[ILLIAM] R. C[ASTLE, JR.]

033.6511 Grandi, Dino/115

*Joint Statement by the Italian Minister for Foreign Affairs (Grandi)
and the Secretary of State*

[WASHINGTON,] November 19, 1931.

Full advantage has been taken of the opportunity afforded by this visit for a frank and cordial exchange of views respecting the many problems of world importance in which the Governments of Italy and the United States are equally interested.

Realizing that restoration of economic stability and confidence within our respective national boundaries can only find ultimate achievement through the further establishment of international financial stability and through a confidence that can extend itself to include all nations, we have attempted to continue the efforts already initiated towards this end by a candid discussion of the many significant and related international problems, the solution of which have become a recognized necessity. The discussions have embraced subjects of such importance as the present financial crisis, intergovernmental debts, the problems surrounding the limitation and the reduction of armaments, the stabilization of international exchanges, and other vital economic questions.

We believe that the existing understandings between the principal naval powers can and should be completed and that the general acceptance of the proposal, initiated by Signor Grandi, for a one-year's armaments truce³⁷ is indicative of the great opportunity for the achievement of concrete and constructive results presented by the forthcoming conference for limitation of armaments.

³⁷ See vol. I, pp. 440 ff.

It has not been the purpose of this meeting to reach any particular arrangements, but the informal discussions and exchanges of views have served to clarify many points of mutual interest and have established a sympathetic understanding of our problems. We feel confident that the relationships fostered during this visit will prove valuable in laying the foundations for beneficial action by our respective Governments.

033.6511 Grandi, Dino/144 : Telegram

The Chargé in Italy (Kirk) to the Secretary of State

[Paraphrase]

ROME, December 10, 1931—1 p. m.

[Received 1:29 p. m.]

235. Embassy's 234, noon, 10th of December.⁸⁸ The Minister for Foreign Affairs has just handed me the English translation of the speech regarding his visit to America. He will deliver it before the Senate this afternoon. I was requested to forward it to you at once in order that you might have it before the press account reached Washington. Consequently the speech is being sent to you *en clair* and in full.

Furthermore, Grandi requested me to tell you that in the preparation of this speech he took pains to keep within the boundaries of the substance of the joint statement issued at Washington; that he made use of this opportunity to indicate the points which he hoped he had made clear during his stay in Washington. The points were that he did not go to Washington to ask for anything concrete on behalf of Italy but only to promote the general welfare of all nations through a mutual understanding. His visit, he continued, was to be regarded as one of the series of exchanges of views between the leading statesmen of the United States and Europe. The trip was not to be viewed as a direct consequence of Premier Laval's visit to Washington. Finally, he and the Italian Government were not keeping an attitude of secrecy or reserve. They wished only to cooperate openly and frankly in the task of restoring confidence among nations and prosperity throughout the world.

KIRK

⁸⁸ Not printed.

033.6511 Grandi, Dino/149 : Telegram

The Secretary of State to the Chargé in Italy (Kirk)

WASHINGTON, December 11, 1931—11 a. m.

161. Your 234³⁹ and 235, December 10. I appreciate very much Minister Grandi's courtesy in giving you in advance an English translation of his speech regarding his visit to the United States. The generous and friendly tone of Signor Grandi's remarks cannot fail to make a good impression in the United States.

STIMSON

³⁹ Not printed.

LIBERIA

PROPOSED INTERNATIONAL COMMITTEE OF CONTROL IN LIBERIA AND CONTINUED NONRECOGNITION OF THE BARCLAY ADMINIS- TRATION¹

882.5048/378a : Telegram

The Secretary of State to the Chargé in Liberia (Reber)

WASHINGTON, January 2, 1931—2 p. m.

2. The Liberian Consul General was received this morning by Mr. Marriner.² Under instructions from his Government he orally conveyed the Liberian notes quoted in your telegrams No. 177, December 18, 9 p. m.,³ and No. 181, December 24, 2 p. m.,⁴ and asked for an expression of this Government's views.

The Consul General was informed that in view of the conditions disclosed by the International Commission, this Government had no interest in partial reforms or in measures falling short of compliance with adequate enforcement provisions. Mr. Marriner discussed at length the attitude of this Government on the above subject, as well as concerning the forced withdrawal of the Chief Medical Adviser,⁵ the seriousness of general conditions, et cetera, and informed the Consul General that you had received full instructions in the premises.

The question of our present relations with the Liberian régime was not discussed.

STIMSON

882.5048/379 : Telegram

The Chargé in Liberia (Reber) to the Secretary of State

[Paraphrase]

MONROVIA, January 2, 1931—8 p. m.

[Received January 3—5:05 p. m.]

1. At the request of Edwin Barclay, I called informally and unofficially upon him this afternoon. Beginning the conversation, he stated that his Government, much disturbed by the memorandum presented

¹ For previous correspondence relating to conditions in Liberia, see *Foreign Relations*, 1930, vol. III, pp. 329 ff.

² J. Theodore Marriner, Chief of the Division of Western European Affairs.

³ *Foreign Relations*, 1930, vol. III, p. 387.

⁴ *Ibid.*, p. 390.

⁵ See *ibid.*, pp. 415 ff.

last December 3,⁶ desired now to ascertain the world's attitude to the recently submitted new reform program. I replied that the United States Government did not feel disposed to discuss Liberia's partial compliance with the recommendations of the Commission⁷ and added that no evidence was forthcoming of acceptance by the new regime of the Commission's report or of a proposal to effect any reforms except partial and, judged by international public opinion, what could only, therefore, be unsatisfactory ones. Barclay then inquired how such acts as that opening the hinterland could be taken as not complying with the Commission's recommendations. He stated his intention of appointing the two Commissioners merely as a preliminary measure, and he requested an informal submission of the principal objections to the reform program. Referring to my previous statement, I added that apparently further discussions depended upon Liberia's acceptance in full of the Commission's report and that it would seem to be important to have a declaration of the Liberian Government's intentions in regard thereto. Such a declaration Barclay then promised to submit in a few days.

Thereupon he endeavored to discuss the sanitation question, and I took occasion to deliver to him the message in the Department's 121, December 29, noon.⁸

How Barclay reconciles a declaration of this sort with his former antforeign attitude it is difficult to see; but now it seems evident, following his nomination by the True Whig Party convention on December 13 for the May presidential election, he wishes to obtain recognition from the foreign powers and to that end is willing to make concessions. It also seems probable that he is apprehensive of the results from possible international concerted action.

REBER

882.01 Foreign Control/8

Memorandum by the Chief of the Division of Western European Affairs (Marriner) of a Conversation Between the Secretary of State and the British Ambassador (Lindsay)

[WASHINGTON,] January 6, 1931.

The Secretary said he had been thinking over the suggestions which Sir Ronald Lindsay had discussed with Mr. Marriner last week⁹ with

⁶ See memorandum of November 17, 1930, to the Liberian Consulate General at Baltimore, *Foreign Relations*, 1930, vol. III, p. 369.

⁷ See telegram No. 115, September 8, 1930, 4 p. m., from the Chargé in Liberia, *ibid.*, p. 348; also Department of State, *Report of the International Commission of Inquiry into the Existence of Slavery and Forced Labor in the Republic of Liberia, Monrovia, Liberia, September 8, 1930* (Washington, Government Printing Office, 1931), p. 137.

⁸ *Ibid.*, p. 444.

⁹ See memorandum of December 30, 1930, *Foreign Relations*, 1930, vol. III, p. 393.

regard to action or recommendations for action by the Council of the League at its forthcoming meeting, with reference to the situation presented in the report of the International Commission of Inquiry into the Existence of Slavery and Forced Labor in Liberia. The Secretary said that he felt that some sort of international endeavor along the lines suggested by Sir Ronald for a commission to be composed, possibly, of two Liberians and three foreigners, one of whom should be an American, would seem satisfactory, but that it would accord better with the American interests concerned if the emphasis in any recommendations made by the Council should be upon a supervision of Liberian affairs by a commission made up of Signatories of the International Slavery Convention of 1926.¹⁰

Sir Ronald said he understood this and agreed.

The question came up of whether or not any force might be needed to bring about the acceptance of a recommendation of this character by Liberia and the suppression of the slave traffic, and Sir Ronald said he did not think it would be necessary, because he felt that the combined weight of nations as represented by the League of Nations would no doubt cause the Liberians, who are equally signatories of the Anti-Slavery Convention, to consent to a plan of this nature, and that ultimately, at the worst, the only necessity might be to send out Commissioners on a cruiser of some sort and provide white officers for the Frontier Force. He agreed with the Secretary of State that it was very desirable to have the Liberians request such a type of control and he felt that this would be altogether possible.

J. THEODORE MARRINER

882.5048/382 : Telegram

The Chargé in Liberia (Reber) to the Secretary of State

MONROVIA, January 6, 1931—10 a. m.

[Received 4:43 p. m.]

2. My telegram No. 1, January 2, 8 p. m. The declaration referred to in my recent conversation with Barclay has today been received from the Department of State in the following form.

The note reads in part:

"The Government of the Republic of Liberia accepts in principle the recommendations suggested in the report of the International Commission of Inquiry on Slavery and Forced Labor in Liberia and adopts these recommendations as a basis upon which ameliorations in social policy of the Republic will, within the limits of its means, be regulated.

To this end legislation has been suggested and passed by the Legislature of Liberia covering all subjects having relation to these recom-

¹⁰ Dated September 25, 1926, *ibid.*, 1928, vol. I, p. 419.

mendations upon which legislation is necessary. These laws will be broadly interpreted by the administration and will be amended from time to time should experience indicate such a course to be desirable and necessary".

This hardly seems satisfactorily to fulfill the conditions imposed and can only be interpreted as a further expression of unwillingness to accept and execute in full the Commission's report and recommendations. I shall so intimate to Barclay unless it should be desired that a more formal acknowledgment be made.

REBER

882.5048/380 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 6, 1931—4 p. m.

[Received January 6—12:45 p. m.]

2. Consulate's December 26, 11 a. m.¹¹ Sottile¹² called on me today and, emphasizing that he was only expressing his personal opinion, gave his views respecting the present status of the relations between the United States and Liberia. He made in substance the following statements:

(1) That the United States Government had made a categorical demand on the new Liberian Government that it at once put into execution literally all of the "recommendations" embodied in the report of the Commission of Inquiry;

(2) That Liberia had put into operation all of these recommendations that she is financially able to undertake at this time;

(3) That the only reason why Liberia has not placed the remaining recommendations in execution is for lack of financial means;

(4) That the United States Government has made the literal execution of all of the recommendations a condition precedent to the recognition of the new Liberian Government;

(5) That in taking this position the United States Government expresses its lack of faith in the sincerity of the Liberian Government.

Sottile dwelt a great deal upon the alleged circumstance that the Department had made no reply to Liberia's request that the United States Government nominate "two commissioners" for the carrying out of the "recommendations".

[Paraphrase.] Repeatedly Sottile announced he was speaking privately to me and not under his Government's instructions. However, the obvious implication is that the Liberian Government is keeping him informed closely. While Sottile's statements may be regarded as not important in themselves, they may be considered in

¹¹ *Foreign Relations*, 1930, vol. III, p. 391.

¹² Liberian representative at Geneva.

relation to a special circumstance. At the January meeting of the League of Nations Council, when Liberian affairs are before it, it is understood that Liberia, in accordance with article IV of the League Covenant,¹³ will be represented, by Sottile presumably. I therefore inform the Department of his statements, since he may follow this general line when presenting the case of Liberia to the Council meeting. [End paraphrase.]

GILBERT

882.01 Foreign Control/10

Memorandum by the Chief of the Division of Western European Affairs (Marriner)

[WASHINGTON,] January 10, 1931.

The British Ambassador called to say that he had received a telegram from his Government stating that the British Government hoped that Liberia, being a Member of the League, would recommend to the Council that an International Commission should take over the power in the country in order to effect the recommendations suggested by the International Slavery Commission, and that furthermore, as the British Government was to be *rapporteur* in this question, it did not feel that it could properly make a suggestion of this character, as the *rapporteur* was supposed to maintain a certain impartiality of judgment.

I told the Ambassador that in view of the fact that Great Britain and the United States were the two principal Powers having diplomatic representatives in Liberia, it seemed to me that if Great Britain, being a member of the League of Nations, could not urge such a step, the United States, not being one, could certainly not do so, and assuredly could not be expected to do so alone.

I told the Ambassador that we had received a telegram this morning¹⁴ giving the substance of a conversation between Sottile, the Liberian representative at Geneva, and Wilson, our Minister at Berne, and that Sottile had, among other things, suggested American support for a loan from the League of Nations, and that this might give a peg on which to hang a hint to Liberia that the United States would not object to their seeking the advice and assistance of the Council of the League at the forthcoming meeting. I told him that we could instruct our Chargé d'Affaires that Sottile's suggestion would seem to indicate that Liberia was about to do this and that the United States would have no objection, but I felt that without support or recommendation from the British representative, Liberia would feel that there was some difference of opinion between the two countries on

¹³ *Treaties, Conventions, etc.*, 1910-1923, vol. III, p. 3336.

¹⁴ Telegram No. 5, dated January 9, 1931, 5 p. m., not printed.

this subject and would attempt to widen that difference and make use of it.

He agreed that this was so, and said that he would inform his Government that it would seem impracticable for the United States to make suggestions of this character in any case and impossible for them to do so without the British Government, but that the Chargé d'Affaires would be informed that in case Liberia contemplated asking advice and assistance of the League, the American Government would have no objection.

J. T[HEODORE] M[ARRINER]

882.5048/391a : Telegram

The Secretary of State to the Chargé in Liberia (Reber)

[Paraphrase]

WASHINGTON, January 12, 1931—1 p. m.

6. On January 9 the Liberian representative at Geneva, Sottile, saw Minister Wilson at Berne to propose that they carry on all the negotiations concerning the Liberian question and to request United States financial assistance or, failing that, support by the United States of the Liberian Government's endeavor to obtain a loan under League of Nations auspices.

The British Ambassador on January 10 called at the Department and stated that his Government hoped a request for action would be made by Liberia of the League Council at the forthcoming meeting. Sir Ronald Lindsay was informed that such action could not be urged by this Government upon the Liberian Government, but that the latter would be informed by you that you had heard of its contemplated request for advice and assistance from the League Council to carry out the International Commission's recommendations and that this Government would not have any objection to this being done by Liberia.

The Minister in Switzerland has been informed that there does not seem to be an adequate reason to consider Sottile's proposal and that instructions are being sent you in the matter.

STIMSON

882.5048/393 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 14, 1931—11 a. m.

[Received January 14—9:30 a. m.]

9. Consulate has just received from Secretariat of League document,¹⁵ dated January 10, 1931, embodying the following communica-

¹⁵ League of Nations document C.50.M.27.1931.VI.

tion to Secretary General, dated January 9, from Sottile, Chargé d'Affaires, permanent delegate of the Liberian Republic to the League of Nations.

"In continuation of my letter of December 15 last which you circulated with the report of the International Commission of Inquiry, I have the honor to inform you that my Government, being desirous of giving evidence of its sincerity by definite acts at the earliest possible moment, has instructed me to make the following declaration to you:

'The Government of the Liberian Republic accepts in principle the recommendations made by the International Commission of Inquiry in its report on slavery and forced labor in Liberia and adopts these recommendations as a basis for regulating any improvements which may be made in the social policy of the Republic, to the full extent of its resources'.

You will observe that my Government, again acting in the frank and loyal spirit in which it set up the International Commission of Inquiry, is firmly resolved, so far as its resources will permit, to adopt the recommendations of the Commission, although they are merely recommendations and suggestions submitted for guidance which no government could, legally or politically, be compelled to accept, more particularly since the Convention for the Abolition of the Forced or Compulsory Labor, concluded in 1930,¹⁶ has not yet come into force.

I said 'so far as its resources will permit', because the Commission, in making its recommendations, seems to have ignored the world economic crisis which is particularly severe in Liberia, and the very precarious financial position of the country.

I feel sure that, in view of this declaration, no member of the League and no non-member state can now question my Government's good faith and sincerity.

I would ask you to bring the foregoing as rapidly as possible to the knowledge of the members of the Council and of the League of Nations and publish it".

GILBERT

882.01 Foreign Control/11

Memorandum by the Chief of the Division of Western European Affairs (Marriner) of a Conversation With the British Ambassador (Lindsay), January 14, 1931

[WASHINGTON,] January 15, 1931.

The British Ambassador called late in the afternoon to say that he had received another telegram from his Government on the Liberian question. He said that the Foreign Office, which apparently had

¹⁶ Adopted by International Labor Office conference at Geneva, June 28, 1930; in effect between ratifying states upon registration with the League of Nations; text of draft convention printed in *British and Foreign State Papers*, vol. cxxxiv, p. 449.

been blowing very cold on the subject a few days ago, was now blowing extremely hot. He read a copy of a telegram which had gone to the British Chargé d'Affaires at Monrovia telling him to act in close association with the American Chargé. I told Sir Ronald that in that case he would have very little action to take since we had told our Chargé to inform the Liberian Government that there was no objection on our part to their requesting advice and assistance from the League. Sir Ronald said he was aware of our point of view on that subject and stated that he thought the remainder of the instructions would take care of that situation. The British Chargé was instructed to inform the Liberian Government forthwith saying that, in the circumstances, the only thing for Liberia to do was to request the League for an International Commission of Control to take over the country, and that if Liberia were unwilling to do this, Great Britain would view it with grave concern and it would imperil the friendly relations existing between the two countries.

At the same time the British Chargé was to urge the Liberians to request a loan from the League of Nations. I told Sir Ronald that I did not think this was a very wise idea as Liberia already had one loan not large in itself but of good size in connection with its revenues and resources and that one of the principal troubles at present in the administration of the country was the extravagance and waste which was everywhere in evidence in connection with the expenditure of the present loan. Furthermore, there was still approximately \$500,000 of the present loan not taken up and that advances on it had been withheld due to the Liberian failure to cooperate properly. This is particularly true in connection with sanitation and I had been informed that an advance for this purpose would be forthcoming at any time that the Liberian Government showed a disposition to put proper enforcement measures into effect to carry out the sanitation program. In other words, it would seem that what Liberia needs at the present moment was not more money but the proper management of what it now had.

Sir Ronald said that he entirely agreed with me and would telegraph at once to his Government on this point.

The Ambassador then said that his Government felt that it would be very important for us to state our point of view to the Governments of Italy, Germany, France and Japan, so that they might be prepared at Geneva and at Monrovia to support action of the character that the British were suggesting. I told him that I thought we could inform these countries in accordance with the tenor of our instructions to the Chargé at Monrovia.

J. THEODORE MARRINER

882.5048/396 : Telegram

The Chargé in Liberia (Reber) to the Secretary of State

[Paraphrase]

MONROVIA, January 16, 1931—4 p. m.

[Received 5:35 p. m.]

9. I am told by the British Chargé that he has been instructed to cooperate with me in strong representations to the Government here. In view of his telegram stating that instructions have already been sent me regarding procedure to be adopted, should I regard the second paragraph of the Department's No. 6, January 12, 2 [1] p. m., as containing these instructions, which are to be supplemented by the Department's further expression of views in regard to the ineffectiveness of the Liberian reform program?

REBER

882.01 Foreign Control/13 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, January 16, 1931—6 p. m.

[Received January 16—2:35 p. m.]

20. The Counselor of the British Embassy called this afternoon to say that they had received instructions from London to support any representations which we might make to the French Government to secure their cooperation concerning Liberian slavery situation. British Embassy indicated matter was very urgent as it was to be referred to present session of Council of League of Nations.

I informed him that no instructions had as yet been received in the matter.

EDGE

882.01 Foreign Control/13a : Telegram

The Secretary of State to the Chargé in Liberia (Reber) ¹⁷

WASHINGTON, January 16, 1931—7 p. m.

11. The following is the substance of conversations yesterday between Mr. Castle¹⁸ and the Ambassadors of France, Germany, Italy and Japan:

"The American Government has learned that the British Government is suggesting to the Liberian Government that Liberia request

¹⁷ Repeated, except for the last paragraph, to the Ambassador in France as circular of January 17, 1931, 11 a. m., with instructions to repeat to the Consul at Geneva, the Minister in Switzerland, and the Ambassadors in Germany and Great Britain (882.01 Foreign Control/13b).

¹⁸ William R. Castle, Jr., Assistant Secretary of State,

international control until the abuses shown in the slavery report have been corrected, and the American Government has instructed its Chargé d'Affaires at Monrovia to inform the Liberian Government that the United States would have no objection to such a request on their part. In this connection, the American Government feels that similar action by the Governments of France, Germany, Italy and Japan both at Monrovia and ultimately at Geneva, would be most helpful.

While it would not accord with the established policy of the United States to assume any exclusive responsibilities on the African continent, the American Government, in view of the social and humanitarian principles involved and the traditional friendly interest of the American people in the welfare of Liberia, would be prepared to give sympathetic consideration to affirmative international cooperation destined to assist the Liberian people in a solution of the present problems concerning both slavery and sanitation."

The contemplated British action referred to in the first paragraph quoted was communicated by the British Ambassador on January 14.

STIMSON

882.5048/396 : Telegram

The Secretary of State to the Chargé in Liberia (Reber)

WASHINGTON, January 17, 1931—4 p. m.

12. Your telegram No. 9, January 16, 4 p. m. Your presumption correct. The Department's telegram No. 11, January 16, 7 p. m., will no doubt have made the situation clear.

STIMSON

882.5048/401 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 20, 1931—2 p. m.

[Received January 20—12:05 p. m.]

11. Sottile has addressed a formal letter to the Secretary General of the League dated January 13 which has just been made public.¹⁹ The substance of his letter is:

(1) That rumors are being circulated that after the departure from Liberia of the International Commission of Inquiry, the Liberian Government instituted reprisals against witnesses who had testified before the Commission and that a situation eventuated which has been described as a "revolt";

(2) That these rumors which tend to prejudice the international position of Liberia at the present juncture are based upon a mendacious exaggeration of a minor incident arising from a misunderstanding

¹⁹ League of Nations document C.73.M.30.1931.VI.

among the natives in the village of Nana-Kru which was settled by peaceful means, that no fighting has occurred and no property has been damaged and that in particular no retaliatory or repressive measures as described have been taken by the Liberian Government since the departure of the Commission.

GILBERT

882.01 Foreign Control/16 : Telegram

The Chargé in Liberia (Reber) to the Secretary of State

[Paraphrase]

MONROVIA, January 21, 1931—6 p. m.

[Received January 22—7:24 p. m.]

11. Department's 12, January 17, 4 p. m. Having received instructions from their Governments to make strong representations to the Government here in regard to the International Commission's findings, my British and German colleagues and I this afternoon called upon Edwin Barclay.

I stated that I did not consider it necessary at this time to recall to him the views of my Government concerning conditions which the International Commission of Inquiry had found to exist, as these had already been communicated to the Liberian Government in notes previously delivered. Since then there had been no satisfactory evidence of Liberia's sincerity in expressing a desire for reform and the Liberian program as submitted does not comply with the International Commission's recommendations and therefore can be considered only as partial and unsatisfactory. I explained that, while assumption of exclusive responsibility by the United States for measures looking toward effectively terminating these conditions in Liberia would not accord with traditional American policy, this Government was prepared to be associated with other Governments in such measures as were intended to aid in solving Liberia's problems. Should the Liberian Government accordingly apply to the League of Nations for aid, assistance, and possible international supervision, the American Government would present no objections.

The British Chargé thereupon read a memorandum of his Government's instructions reviewing the unsatisfactory nature of Liberia's program and stating the British Government's feeling that Liberia could not execute effectively the necessary reforms without some form of international control. The Government of Liberia was strongly urged by Great Britain to request from the League Council an international governing commission on which Liberia would be represented. Refusal on Liberia's part could not but react unfavorably upon the friendly relations existing between the two countries.

The German representative, acting upon instructions, then read a communication to the effect that the German Government, which did not regard the reform program as submitted to the League Secretariat as satisfactory, considered Liberia would not be able effectively to carry out the recommended reforms without an international commission of control. Should Liberia apply for such a commission, the German Government would be willing to use its influence before the League Council in support of this Liberian request.

Barclay then replied that these suggestions might be deemed to imply an infringement upon the sovereignty of Liberia, but Liberia must bow to the world's opinion and would not be averse to applying for aid and advice to the League of Nations. He was gravely concerned, he added, but must consult his Cabinet before he made a definite reply to the representations. He promised an answer on January 23.

REBER

882.01 Foreign Control/17: Telegram

The Chargé in Liberia (Reber) to the Secretary of State

[Paraphrase]

MONROVIA, January 22, 1931—11 a. m.

[Received 7:45 p. m.]

12. My 11, January 21, 6 p. m. This morning Barclay sent for me, apparently to ascertain whether by appealing to the United States he could avoid the necessity of an application to the League for a control commission, since he inquired if yesterday's conversation implied an American withdrawal from Liberia.

Replying I said I was unable to add to my yesterday's statement, although it was my belief that the United States Government felt its offer of aid and advice was predicated upon complete acceptance of the International Commission's recommendations and upon the execution immediately of effective and sincere reforms and not upon a partial complying with the suggestions of the Commission. The American Government had made representations on other occasions to the Liberian Government regarding much needed reforms; heed was not paid these, and it was my opinion that my Government would not be willing to assume further responsibility for these conditions continuing to exist. When now international public opinion and the Governments which were interested in Liberia's welfare had determined that Liberia's problems could be effectively solved only by outside assistance, I understood my Government to be agreeable to the suggestion that through the League of Nations such assistance would be brought

about. Personally I was convinced that the request was to be regarded as in Liberia's best interests.

Barclay then inquired as to the extent to which the United States would take part in the commission's appointment. My reply was that I lacked information respecting this point but was of the opinion that the details would be settled at Geneva where there would be an opportunity for Liberia to present its views, and I added that it was my understanding that the United States was ready to cooperate in reform measures with the other Governments. Barclay stated that Sottile had informed him of a proposed commission of three members, and Barclay hoped that the details of this body's scope and authority had not been arranged without Liberia being able to voice its views. I remarked that I was of course not in a position to discuss this, though it did not seem likely a conclusion was reached prior to receipt of Liberia's request.

Barclay's answer tomorrow to my British and German colleagues is expected to request the League's aid, but the inclusion of a request for a control commission is hardly probable unless it is decided that Liberia will face more serious consequences without it.

REBER

882.5048/406 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 22, 1931—7 p. m.

[Received January 23—2:25 p. m.]

15. Liberian question considered by Council this morning. It was represented chiefly by three statements on the part of (1) Sottile, (2) Christy,²⁰ and (3) Henderson.²¹

1. Sottile declared:

(a) That he made a formal reservation to the report and recommendations of the Commission of Inquiry to the effect that the policy of the Liberian Government could not be made a matter of discussion;

(b) That the Commission has not made a distinction between witnesses who talked for political purposes and those who testified in good faith;

(c) That the Liberian Government has at no time pursued a policy of intimidation or repression;

(d) That the Commission has confused bad administration and abuse of power by officials with slavery and forced labor;

²⁰ Dr. Cuthbert Christy (British), Chairman of International Commission of Inquiry in Liberia.

²¹ Arthur Henderson, British Secretary of State for Foreign Affairs.

(e) That the Commission has not distinguished between corrupt officials and the Government;

(f) That the Commission has not followed the ordinary procedure of investigations in that commissioners sometimes held hearings singly in separate places;

(g) That the factor of export of labor is a commercial matter as [and?] that "similar practices" existed "elsewhere";

(h) That the Liberian Government itself has initiated this inquiry and that its courage and frankness in so doing should be recognized;

(i) That the Liberian Government is not compelled to accept the recommendations of the Commission as juridically they are not binding upon Liberia;

(j) That in spite of this liberty of action the Liberian Government has accepted in principle the suggestions set forth in the report and has undertaken reforms;

(k) That Liberia must however be kept free to choose the "recommendations" which Liberia considers appropriate;

(l) That the financial conditions of Liberia are serious and have prevented the carrying out of all the recommendations;

(m) That a foreign government of great financial strength has insisted upon the appointment of more foreign supervisors for internal affairs than Liberia can afford;

(n) That in order to show good faith, Liberia asked a foreign government to name two such supervisors but that the foreign power had insisted upon Liberia fulfilling the recommendations to the letter;

(o) That he would appeal to British and French Governments to state frankly if they have any criticisms or reproaches to make as to the attitude of Liberia;

(p) That the Liberian Government will examine with sympathy any proposals the Council may make with regard to the application of the recommendations of the Commission (he here implied that financial assistance might be accepted) provided the independence and sovereignty of Liberia is respected.

2. Christy declared:

(a) That if the legality of the recommendations was contested by Sottile, it should be noted that the terms of reference empowered the Commission to make recommendations and that conditions were such as made necessary recommendations which went beyond questions of slavery and forced labor;

(b) That with respect to Sottile's remarks on political motives of the witnesses, he wished to state that a candidate for the Presidency had attempted to influence the work of the Commission and that he had to take decided steps to end such interference;

(c) That the lamentable conditions still prevail and that the Liberian Government has insufficient power to change them;

(d) That in spite of the declared intentions of the Liberian Government, it is probably true that Liberia is unable to find the material means to carry out the necessary reforms without external assistance.

3. Henderson (speaking in an imperative manner) declared:

(a) That the criticisms of Sottile have not undermined the main conclusions of the report and that the Liberian Government has recognized this by accepting its recommendations;

(b) That the report indicated the absolute necessity of a change of policy and of a change of administration on the part of Liberia;

(c) That action of Liberian Government in carrying out recommendations must not be delayed;

(d) That it was not the kind of a question which [*where?*] financial considerations should dominate;

(e) That the report has convinced the Council that some immediate and definite steps must be taken;

(f) That he trusted that the *rapporteur* may be able to submit proposals for the proper handling of this problem in all its aspects.

The *rapporteur*, Zaleski,²² thereupon asked the Council to adjourn its decision to a later date, which would give him time to prepare his report. It is understood that Zaleski will probably make a report during this session of the Council.

GILBERT

882.124a/123

The British Ambassador (Lindsay) to the Secretary of State

No. 16

WASHINGTON, January 23, 1931.

SIR: I have the honour to inform you that, on being apprised of the circumstances in which the United States Government had been obliged to conclude that the further presence of Surgeon Howard F. Smith in Liberia as Chief Medical Adviser could not be justified and to direct him to return to the United States,²³ His Majesty's Government instructed His Majesty's Chargé d'Affaires at Monrovia to inform the Liberian Government that they had learnt with profound displeasure of the failure of the Liberian Government to take advantage of Dr. Smith's advice and of the small measure of support which that Government had accorded to him.

I have [etc.]

R. C. LINDSAY

²² Of Poland.

²³ See memorandum of December 12, 1930, to the British Embassy, *Foreign Relations*, 1930, vol. III, p. 441.

882.5048/410 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 23, 1931—9 p. m.

[Received January 24—9:45 a. m.]

19. Consulate's 15, January 22, 7 p. m. I have learned that the following are the more significant portions of the report which the *rapporteur* will in all probability make to the Council on the subject of Liberia.²⁴ Please keep this information confidential until advised Council's action is completed.

1. The Council will note with satisfaction the promise of Liberia to adopt the recommendations of the Commission and to carry them out up to the limit of its means and as quickly as its finances will permit. However, the execution of such reforms should not be subordinated to the granting of financial assistance and to this end the Council associates itself with the opinion of Henderson.

2. The report will suggest the ratification by Liberia of the Convention on Forced Labor drawn up in June, 1930, at the International Labor Conference. This ratification would accord Liberia the means of reporting each year the measures it has taken in execution of the provisions of this Convention.

3. The Council will designate a small interim committee to study questions of administrative assistance necessary to carry out the suggested reforms and also question of financial assistance.

4. The above mentioned committee will be authorized to invoke the cooperation of the technical organizations of the League and of the President of the Commission of Inquiry. "Furthermore, in view of the particular interest which the United States has evinced in the execution by the Government of Liberia of reforms suggested by the Commission of Inquiry, the committee of the Council should be authorized to invite the Government of the United States to take part in its work to an extent which would be considered opportune".

5. The report of this committee could be considered at the next session of the Council.

6. The *rapporteur* will propose that the committee consist of the representatives of Germany, British Empire, France, Italy, Liberia, Venezuela, Poland.

GILBERT

²⁴ See League of Nations document C.133.1931.VI.

882.01 Foreign Control/20 : Telegram

The Chargé in Liberia (Reber) to the Secretary of State

MONROVIA, January 23, 1931—10 p. m.

[Received January 24—2 p. m.]

14. My telegram No. 11, January 21, 6 p. m. The Acting Secretary of State called this evening to hand me the following unsigned memorandum:

"The President of Liberia having considered with serious attention the advice offered the Government of the Republic of Liberia, in the several *notes verbales* presented to him on the 21st of January 1931, by the representatives of the United States, of Great Britain and of Germany, desires to record in the name of his Government his sincere appreciation of the interest which these Governments manifest in the welfare of the Republic and in the maintenance of its international prestige.

In respect of the suggestion [that] the Government of Liberia should be committed for a time to an international governing commission, the President of Liberia is compelled to observe that acceptance thereof would not only be a violation of the constitution of the Republic, but would also be tantamount to [a] surrender of its sovereignty and autonomy. This course of action the President and Government of the Republic are without authority to undertake and it is not believed that the traditional friends of Liberia, the powers to whom this note is addressed, would intentionally insist upon it.

Possibly, as has been suggested, the measures which have been taken by the Government of Liberia may not be fully adequate or satisfactory in order to bring about the desired reforms, but it is nevertheless true that the Government of Liberia have not been advised in a concrete manner as to the respect in which the[se] measures are either inadequate or unsatisfactory.

The Liberian Government being sincerely desirous, however, of attuning their actions to international ideals, and with a view to giving evidence of their sincere will to institute the reforms indicated in the report of the International Commission of Inquiry have decided to apply to the Council of the League of Nations now in session for experts who will serve as advisers to the Government of Liberia in the following spheres of administration:

- (a) economics and finance;
- (b) judicial organization and procedure;
- (c) sanitation;
- (d) native administration.

The Government of Liberia are of the opinion that with the constructive results expected to be achieved by them on the advice of such experts, the administrative and social conditions complained of will be improved without infringing upon the autonomy and sovereignty of the Republic, and to the carrying out of this [idea, the] friendly aid and support at the Council of the League of Nations is earnestly solicited of the Governments to whom this note is addressed."

In spite of the divergence of representations the identic memoranda were delivered to the three representatives.

[Paraphrase.] Past British and American experience with the Liberian system of advisers would appear to indicate that their appointment can achieve nothing, especially since there is no assurance that advisers would be given adequate authority or that recommendations by them would be put into effect. My two colleagues and I agree concerning the unsatisfactory nature of the Liberian proposal, and we are cabling our respective Governments accordingly. The evasive tone of the Liberian reply, while less than what was anticipated, may be regarded only as an attempt to escape from the need of a commission or of fixing the essential reforms. [End paraphrase.]

REBER

882.5048/411 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, January 24, 1931—4 p. m.
[Received January 24—1:35 p. m.]

21. Consulate's 19, January 23, 9 p. m. Report submitted and adopted by Council today as summarized in Consulate's telegram under reference with the following changes to be noted:

Paragraph 14 [4]. Last line changed to read "to take part in its meetings as that Government may deem appropriate".

Paragraph 6. Add "Spain".

At the meeting of the Council this morning Zumeta²⁵ offered the following amendment: Paragraph 4. After words "President of the Commission of Inquiry" add "and any expert opinion which may be needed in agreement with the Government of Liberia". The significant portion of this is of course "in agreement with the Government of Liberia". It is understood that Zumeta in presenting this was inspired by Sottile who has been active in employing all technical means possible to retain Liberia's influence in the proceedings and who, it is understood, particularly objects to presence of Christy on proposed committee. Although this amendment was adopted it was accompanied by a statement on the part of Henderson to the effect that the Council did not wish to have its hands so tied that it could not get on with its work. This is interpreted as meaning that the leading representatives of the Council on the committee will not permit Liberia's objections to any essential part of its procedures to be sustained.

After the adoption of the report, the Council voted Swiss francs 100,000 for the expenses of the committee.

²⁵ Of Venezuela.

The committee held a preliminary meeting following the Council meeting this morning for the purpose of organization. Henderson was elected chairman. It is understood that the Secretary General will immediately communicate with the Government of the United States in the sense of paragraph 4 of the Consulate's telegram under reference as modified by this telegram. It is not clear yet, however, whether the United States will first be asked if it cares to participate, and, if so, in what matter [*manner*], or whether a definite invitation will be sent. It is understood that the committee hopes to begin its work early in February.

GILBERT

882.01 Foreign Control/22a : Telegram

The Secretary of State to the Chargé in Liberia (Reber)

WASHINGTON, January 26, 1931—2 p. m.

16. Your telegram No. 14, January 23, 10 p. m. On January 24 the League Council appointed an interim committee composed of representatives of Germany, British Empire, France, Italy, Spain, Poland, Venezuela and Liberia empowered to study questions of financial and administrative assistance necessary to carry out the reforms recommended by the International Commission of Inquiry, and to submit a report to the next (May) meeting of the Council. Henderson was elected chairman.

The Committee was authorized to invoke the cooperation of the technical organizations of the League, the chairman of the recent Commission of Inquiry (Christy), "and any expert opinion which may be needed in agreement with the Government of Liberia". The Committee was also authorized to invite the American Government to participate in its meetings.

The Council adjourned on Saturday.²⁶

You are authorized to sail on February 7; see second paragraph of Department's telegram No. 5, January 8, 6 p. m.²⁷

STIMSON

882.01 Foreign Control/25 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, January 31, 1931—1 p. m.

[Received 3 p. m.]

18. Your 15, January 30, 1 p. m.²⁷ Following is text of note addressed to you by Acting Secretary General, dated January 30th:

²⁶ January 24.

²⁷ Not printed.

"I have the honor to inform you that the Council of the League of Nations at its meeting on January 24, 1931, adopted on the proposal of the representative of Poland a report regarding certain questions connected with the execution by the Liberian Government of the reforms recommended by the recent Commission to inquire into the existence of slavery or forced labor in that country. From this report I quote the following paragraph[s]:

'Having adopted [*I think*] that the Council might appoint a small committee, selected from among its own members, to examine the problem raised by the Liberian Government's request. This committee would consider in what manner it might be possible to assist the Liberian Government to carry out its decision to give effect to the recommendations and suggestions of the International Commission of Inquiry. The committee might among other matters examine the question of the administrative assistance necessary for giving effect to the social reforms suggested by the Commission of Inquiry and also the question of financial and public health assistance with a view to the carrying out of these reforms.

The committee will doubtless desire to obtain the assistance of the technical organs of the League, of the Secretariat and if necessary of the President of the International Commission of Inquiry and to secure any expert opinion which may be needed, in agreement with the Liberian Government.

Further, in view of the special interest which has been shown by the United States of America in the execution by Liberia of the reforms proposed by the Commission of Inquiry, the committee appointed by the Council might be authorized to invite the United States Government to take such part in its meetings as that Government may deem appropriate.

The committee's report might be examined by the Council at its next session (. . . ²⁹).

The Council, which included a representative of Liberia, unanimously approved this proposal and appointed the representative[s] of the British Empire, France, Germany, Italy, Poland, Spain, Venezuela, as well as the representative of Liberia, to be members of the committee. A short meeting of the committee was held immediately afterwards to consider the organization of its work. At that meeting the committee named the British representative as chairman and decided to act upon the suggestion of the Council as regards the participation of the United States in its work, requesting me to notify you to that effect.

In accordance with these decisions I have the honor to invite the Government of the United States to participate in the meetings of the committee in such manner as it may deem appropriate.

No date has been fixed for the first regular meeting of the committee but it appears probable that the President may desire to convoke it in the near future. I should therefore appreciate it very much if I might know the pleasure of your Government as soon as possible in order that I may duly inform the members of the committee.

I am forwarding you herewith copy of the two reports ³⁰ submitted to the Council at its sixty-second session by the representative of Poland, *rapporteur*, on the subject of the report of the International Commission of Inquiry in Liberia".

WILSON

²⁹ Omission indicated in the original telegram.

³⁰ League of Nations documents C.90.1931.VI and C133.1931.VI (Geneva, January 20 and 23, 1931).

882.01 Foreign Control/25 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, February 2, 1931—5 p. m.

16. Your telegram No. 18, January 31, 1 p. m. Kindly deliver in the usual informal manner the following reply to the Acting Secretary General of the League:

"The Secretary of State of the United States of America has received, with appreciation, the note of January 30, 1931, from the Acting Secretary General of the League of Nations, informing the American Government of the establishment by the Council of the League of Nations of a Committee to examine various questions relating to recommended social and administrative reforms in Liberia, and inviting the American Government to participate thereon.

The American Government is hopeful that the work of this Committee, having to do with subjects regarding which the cooperation of the American Government has already been indicated through its adherence to international slavery, sanitary and other conventions, may contribute in a practical way toward the execution of highly desirable reforms destined to improve the condition of the Liberian people, for whose welfare the people of the United States have always maintained a sympathetic interest.

The American Government accordingly takes pleasure in accepting the above invitation, and is appointing as its representative upon the Committee, Mr. Samuel Reber, Jr., an American diplomatic officer who is at present Chargé d'Affaires ad interim at Monrovia. Mr. Reber has been instructed to leave Monrovia this week and may be expected shortly in Geneva."

This communication will be given to the press for publication in the morning papers on February 5.

STIMSON

882.01 Foreign Control/38 : Telegram

The Minister in Switzerland (Wilson) to the Secretary of State

BERNE, February 13, 1931—1 p. m.

[Received February 13—10:15 a. m.]

22. Gilbert's 29, February 12, 1931.³¹ Sugimura³² has addressed through me to Reber a formal notification of the convocation of the meeting of the Liberian Committee at London, February 26th. He adds informally that he will arrange for some of his colleagues to be in London by February 23 in order to have preliminary talks with Reber. Reber's notification forwarded London and Geneva informed.

WILSON

³¹ Not printed.

³² Y. Sugimura (Japanese), Under Secretary General and Director of Political Section of the League of Nations.

882.5048/420 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, February 14, 1931—noon.
[Received February 14—6:58 a. m.]

31. Consulate's 19, January 23, 9 p. m., paragraph 2, and despatch No. 60, political, February 5.³³ Liberia has informed Secretary General that Council's pertinent recommendation has been complied with by Liberia's ratification of Convention on Forced Labor of 1930. Instrument of ratification not yet deposited.

GILBERT

882.01 Foreign Control/53 : Telegram

The Vice Consul at Monrovia (Wall) to the Secretary of State

MONROVIA, February 15, 1931—8 a. m.
[Received 11:30 a. m.]

22. Attorney General Grimes, designated to collaborate with Sottile at Geneva on slavery matters, sailed on S. S. *Sultan* of the German-African Line February 14th.

WALL

123 Mitchell, Charles E./45 : Telegram

The Secretary of State to the Vice Consul at Monrovia (Wall)

WASHINGTON, February 20, 1931—1 p. m.

24. The following instructions to the Minister³⁴ should be decoded immediately for presentation to him on his arrival:

In view of the continued failure of Liberia to adopt and execute effective measures of reform, and the attitude of the present Liberian administration, as indicated both by the Liberian delegate at Geneva last month and by recent events in Monrovia, I do not desire you to present your credentials at this time, nor to call upon either the Acting President or the Acting Secretary of State.

When required, informal communications may continue to be sent to the Acting Secretary of State, who should be addressed by name but not by title. These communications (which should, of course, either be prepared by you or with your approval) should be signed by Wall, who should use no title.

Should the Acting Secretary of State call upon you you may receive him informally and unofficially. You should take occasion to explain

³³ Despatch not printed.

³⁴ The Minister, Charles E. Mitchell, assumed charge of the Legation in Liberia on February 22, 1931.

the position of this Government as outlined in the first paragraph and to say that, should Liberia request international control in order to assist it to execute absolutely necessary reforms, the American Government, as Mr. Reber has already explained, would offer no objection. You may add that the American Government feels that in such action on the part of Liberia lies the only hope for the future.

For your information: The International Committee referred to in the Department's telegram No. 17, February 3, noon,³⁵ will hold its first meeting on February 26, in London instead of Geneva.

STIMSON

882.01 Foreign Control/72: Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON,, February 24, 1931—5 p. m.

[Received February 24—2:50 p. m.]

53. From Reber: The meeting of the Liberian committee has been postponed until February 27th. If Henderson has not then returned from Paris he will probably designate the chairmanship either to Cecil ³⁶ or Dalton.³⁷

From preliminary informal conversations with members of the League Secretariat it appears that they are anxious to send to Liberia two experts who would study general administrative, financial and allied questions of reform, which would then be telegraphed to the committee and referred by it to the League Council in May. In addition to the time I foresee difficulties in this plan in that any further delay will make more difficult the ultimate acceptance by Liberia of the necessary authority to be granted any foreign officials and consider that the committee should first meet the main question which I believe to be that of how far the committee may properly go to insure that recommended reforms will be carried out. Sanctions for their effective execution, I should think, might be adopted by agreement in the committee on the ground that Liberia has itself asked for advice, aid and assistance in the appointment of advisers. This question is one that will ultimately have to be solved and I feel it is important that it should at once be discussed by the committee rather than await the details of the experts' report.

The League people consider that there is insufficient material here from which the committee might make its definite recommendations for administrative authority and reforms and apparently believe that

³⁵ Not printed.

³⁶ Lord Robert Cecil of Chelwood.

³⁷ Hugh Dalton, British Parliamentary Under Secretary of State for Foreign Affairs.

this group has little authority on which to proceed even in making a decisive report to the Council. From informal conversations I judge that British tend to agree with my point of view.

I would appreciate the Department's instructions as to whether I should proceed with discussions along this line with members of the British Foreign Office, who moreover are in absolute accord as regards the ineffectiveness of any system of advisers without adequate sanctions.

Another point has been raised by members of the League Secretariat which includes the question of what documents may be made part of the committee records. I have been requested to furnish, if possible, Dr. Smith's report on sanitation, a copy of which I have with me.

An early reply would be greatly appreciated in view of the fact that both British and League officials desire to continue these preliminary conversations prior to the meeting on Friday. [Reber.]

DAWES

882.01 Foreign Control/77

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the French Counselor of Embassy (Henry), February 24, 1931

[WASHINGTON,] February 25, 1931.

Mr. Henry came to see me to read a telegram from his Government concerning Liberia. He said the French Government wanted to be very sure that in League discussions in the matter it should be understood that what was being done was being done at the request of the Liberian Government. I told him that this was exactly our point of view.

I am not sure as to the reason for the French worry in this matter, but made Mr. Henry understand that we knew just as well as the French Government knew that any pressure brought to bear on Liberia must appear to be as a result of the request of the Liberian Government for assistance.

W. R. C[ASTLE], JR.

882.01 Foreign Control/73 : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, February 25, 1931—1 p.m.

47. For Reber: Your telegram No. 53, February 24, 5 p.m. I do not desire to make a decision, in advance of the meeting of the Committee, either for or against the sending of further investigators to

Liberia. I have assumed that the normal procedure for the Committee would be to examine the data on hand from all sources with respect to conditions in Liberia, and then to consider what steps might appropriately be taken in order to bring about effective reforms. The question of the amount of authority necessary would naturally arise in this connection.

For the above reason I believe it would be desirable to await the meetings of the International Committee and then to make available material such as Dr. Smith's report, as each subject comes up for discussion.

CARR

882.01 Foreign Control/74 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, February 27, 1931—5 p.m.

[Received February 27—3:55 p.m.]

55. From Reber: Liberian committee met this morning at 11 under chairmanship of Lord Cecil, who welcomed the representative of the United States in the name of the committee and asked the Liberian and American members if they had any observations to make.

Sottile stated he welcomed what he called a departure from the usual American procedure and hoped the United States would consider for the purpose of the meeting that it was a member of the League. He wished to stress the importance his Government laid upon the question of the nationality of advisers to be chosen in reply to Liberia's request and attempted to delay discussions until the arrival of Grimes tomorrow when the full Liberian plan of reform could be presented.

In my reply I thanked the chairman and committee for their welcome and added that in its answer to the invitation of the League the United States had expressed its readiness to cooperate with this international committee.

Cecil stated he considered that the main purpose of this meeting was to consider the nomination of experts who could proceed to Liberia in order to make a detailed study of the reforms necessary and for this reason he felt that the question of the nationality of these experts was not involved as they should be selected by the committee solely on the basis of their qualifications.

As regards the question of experts Sottile stated his Government had asked the League for advisers in specified fields and again attempted to delay a discussion of this point. The Polish representative said he believed it was important before the experts should be chosen that their full instructions be prepared by the committee, and the

matter was then brought up for decision. In agreeing to discuss the question of experts I stated I felt my Government would not be disposed to give a definite opinion on this subject until the question of their instructions and duties had been fully determined.

Zumeta added he thought it important that the experts be limited solely to a study of "purely technical questions" as it was felt in some quarters that the Commission of Inquiry had exceeded its powers. To this the chairman answered he did not feel that an adequate plan of reform could be devised if the League nominees were too limited in their fields of investigation.

The meeting was adjourned until Monday³⁸ in order that the Secretariat might have the opportunity of presenting a draft proposal of instructions to the experts and of their duties.

Although Zumeta expressed to me his hope that the United States had not construed as unfriendly his remarks at the last meeting about the third party invited to participate in the committee and the power of the League to invite another nation, adding he had merely raised a legal question, he is apparently desirous of limiting as far as possible the functions of the committee and of any experts who may be chosen. Lord Cecil on the other hand seems disposed to grant as wide powers as may be possible to the experts.

I hope to be able to communicate the substance of the draft instructions this evening and respectfully request the Department's comments prior to the meeting on Monday. [Reber.]

DAWES

882.01 Foreign Control/76: Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, February 28, 1931—noon.
[Received February 28—10:50 a. m.]

56. From Reber: Embassy's telegram 55, February 27, 5 p. m. The following is the substance of the draft resolution regarding nomination of experts as determined by informal discussions. It will be submitted to the committee for approval on Monday.

(a) The committee is of the opinion that in order to prepare a concrete plan of assistance to Liberia it should have the advice of experts competent in general administration, finance and health matters and will designate experts in these fields.

(b) These experts will study how the Liberian Government may be assisted to carry out its decision to effect the recommendations of

³⁸ March 2.

the International Commission of Inquiry and among other matters examine the question of administrative assistance necessary, questions of public health, and financial provisions required to carry out reforms.

(c) Experts will advise on general lines of reform and order in which they should be undertaken, examining possibility of proceeding by stages, first giving assistance most urgently needed and then extending assistance as resources permit.

(d) Concerning the appointment of specialists, the experts in addition to the general question will consider powers which will be necessary as well as length of time specialist assistance needed.

(e) Experts will make a survey of resources available to carry out proposals.

(f) As soon as possible experts will proceed to Liberia to study the present situation and such measures as may be found necessary, making ad interim reports by telegram as and when necessary and a final report to the committee.

(g) The Liberian Government will insure every facility and assistance to the experts and will supply all information they may require.

It is tentatively suggested that a Frenchman with wide colonial experience be appointed as the expert in general administration, a Dutchman as the expert in finance and a member of the League health organization as the expert in health matters. [Reber.]

DAWES

882.01 Foreign Control/75 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, February 28, 1931—1 p. m.

[Received February 28—9:50 a. m.]

57. From Reber: The Liberian committee will discuss immediate sanitary measures to be taken in Monrovia. The British Government is prepared to dispatch a health officer from Sierra Leone immediately for a temporary detail if (first) adequate authority is granted him by Liberian Government and (secondly) funds are made available to him.

In view of the delay which would be experienced if funds were requested from the Liberian Government, the chairman is anxious to ascertain prior to more formal discussions whether there is a possibility that \$5,000 of loan funds could be released on the definite understanding that such release would not prejudice outstanding questions and intended to secure safety of white population and experts to be sent out.

I have been asked to transmit this message to the Finance Corporation. Therefore, should the Department approve it is respectfully requested that it be forwarded and that the reply be sent either direct to the chairman or through me. [Reber.]

DAWES

882.01 Foreign Control/79 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, February 28, 1931—4 p. m.

53. For Reber: Your telegram No. 57, February 28, 1 p. m. This Government would be gratified to learn that the International Committee had arranged with Liberia for the prompt dispatch of a qualified public health officer from Sierra Leone. It believes that in view of the experiences of Dr. Smith, the essential elements of authority and finances should be settled by the Committee with the Liberian Government direct, through the Liberian representative on the Committee, and that the Liberian Government should itself arrange for the requisite funds.

[Paraphrase.] You are informed confidentially that the contents of your telegram and this reply in substance will be reported to the Finance Corporation so that, in the event the Liberian Government makes a request to the Fiscal Agents through the Financial Adviser, the Finance Corporation may consider whether it wishes to make any further advance. [End paraphrase.]

STIMSON

882.01 Foreign Control/80 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, February 28, 1931—5 p. m.

54. For Reber: Your telegram No. 56, February 28, noon. You may state that while your Government had hoped that the data available to the International Committee in London might have enabled it to formulate a concrete plan looking toward the rehabilitation of Liberia, it of course could entertain no objection to the sending to Liberia of further expert investigators for this purpose. The American Government believes that it would be desirable for these experts to proceed as promptly as possible in order that the people of Liberia may have the benefit of the report of the recent International Commission of Inquiry through the effective adoption of the reforms unanimously recommended.

STIMSON

882.01 Foreign Control/84

*Memorandum by Mr. Ellis O. Briggs of the Division of Western European Affairs*³⁹

[WASHINGTON,] March 2, 1931.

Mr. Reber referred to his telegram No. 56, of February 28, concerning the draft resolution providing for the appointment by the International Committee of further experts to proceed to Liberia for the purpose of investigating administrative and social reforms. He stated that the text had been discussed this morning and that, with a few minor changes, it would probably be taken up for final decision tomorrow morning, thus precluding his asking for further instructions by cable. He inquired whether the Department had any comments which it would be desirable for him to make on behalf of this Government tomorrow with respect to our position in the matter.

Mr. Marriner said that while we had hoped that the sending to Liberia of still more investigators, who would doubtless merely substantiate much of the material already available regarding the necessity of reforms, might have been avoided, we naturally would make no objection to such a course. He said that Mr. Reber should make this point clear to the Committee, explaining that, should the Committee nevertheless desire to send these men, we believed it would be well for them to proceed to Liberia as promptly as possible.

Mr. Reber said that with the adoption of the resolution described above, the work of the International Committee would probably be over for the time being. Mr. Marriner answered that in that case Mr. Reber should arrange to come to Washington in order that he might discuss the Liberian situation with the Department in advance of the receipt of telegraphic reports on the work of the experts.

E[LLIS] O. B[RIGGS]

882.01 Foreign Control/83 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, March 3, 1931—11 a. m.

[Received 11:30 a. m.]

59. From Reber: The Liberian Committee accepted in principle instructions to experts as outlined in Embassy's telegram No. 56 of February 28, reserving final approval for session today. In addition it was agreed as an emergency measure to despatch a medical officer forthwith from Sierra Leone to undertake preliminary sanitary work in collaboration with Liberian Government and to invite "the Liberian

³⁹ Of trans-Atlantic telephone conversation between Mr. Reber in London and Mr. Marriner in Washington.

Government to accept his assistance and give prompt effect to his recommendations to the full extent of its resources".

The Committee has named Mr. Brunot, a Frenchman, and Mr. Ligthart, a Dutchman, as administrative and financial experts, respectively, and is asking the health organization to designate an expert in health matters. They will proceed as soon as possible.

In agreeing to discuss these matters Grimes accepted with reservation that Liberian sovereignty will not be infringed.

[Paraphrase.] Apparently the attacks by Grimes upon the Finance Corporation and foreign advisers and the combined efforts of both Liberian representatives to avoid having Liberia make any commitments to put into effect the recommendations of the provisional experts in sanitation served to alienate almost all of the Committee members. The Venezuelan representative, who had until then opposed extension of the Committee's authority beyond nominating the experts, personally expressed to me his sincere hope of finding a formula which, though avoiding the appearance of interference by the League with the sovereignty of a member state, would serve effectively to insure the carrying out of any recommendations of the experts. To any such formula he promised his full support, and he stated that he would do everything in his power toward assisting such a solution. I considered it advisable, in view of the attitude of the Committee majority, not to reply to the insinuations made by the Liberian representatives. [End paraphrase.] [Reber.]

DAWES

882.01 Foreign Control/85 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, March 4, 1931—1 p. m.

[Received March 4—9:05 a. m.]

61. From Reber: The Liberian Committee adjourned yesterday having approved the instructions to the experts and the resolution regarding immediate sanitary measures. The Liberian delegation accepted these and the Venezuelan delegate added a reservation to the effect that the experts' recommendations must be held within the terms of reference of the Committee.

Sottile requested that the American Government facilitate the release of funds for sanitation. Summarizing the position of the Financial Adviser under the loan agreement,⁴⁰ I replied I did not see in what way the American Government was directly connected with this question as it would appear to relate to a private agreement between the Finance Corporation and the Liberian Government. [Reber.]

DAWES

⁴⁰ Dated September 1, 1926, *Foreign Relations*, 1926, vol. II, p. 573.

882.01 Foreign Control/92 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

LONDON, March 11, 1931—3 p. m.
[Received March 11—12:35 p. m.]

70. From Reber: Embassy's telegram No. 57, February 28, 1 p. m. Doctor Howells, British Health Officer, should arrive in Monrovia about the 12th of March. The British Foreign Office and League Secretariat have again approached me to know whether any reply has been received to inquiry with regard to funds. Although the Liberian Government has agreed to find "part of the cost" it is felt it will attempt to delay as long as possible thus affecting the work of the experts. Should it be possible to obtain a reply as soon as possible and proceed with the departure of the experts on March 20th it would be appreciated as other provisions for funds might have to be made. Am arranging to have information communicated through Embassy here. [Reber.]

DAWES

882.01 Foreign Control/94 : Telegram

The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, March 19, 1931—11 a. m.

75. Reber's No. 70, March 11, 3 p. m., and Department's 66, March 12, 2 p. m.⁴¹ The Finance Corporation states that no request for funds for sanitation for the use of Dr. Howells and/or other medical officer designated by the International Committee has been received from the Liberian Government.

STIMSON

882.01 Foreign Control/105 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, March 30, 1931—5 p. m.
[Received March 30—4:13 p. m.]

54. Department's No. 28, March 4, 6 p. m., to American Legation, Berne, last paragraph.⁴² Since receipt of telegram under reference, I have avoided all contact with Secretariat respecting Liberian affairs.

Secretariat officials, however, informed me today that they had some information to give me which they regarded as important respecting

⁴¹ Latter not printed.

⁴² Not printed; it stated: "In view of the thorough exchange of views on these matters in London, I do not believe it would be advisable for you or Gilbert to discuss them with League officials" (882.01 Foreign Control/87).

developments in the Liberian situation. After a conversation with the American Legation, Berne, I decided that I should be receptive to the information both because of its possible importance and because of the misunderstanding which might be created should I not be responsive to their approach in such a matter. The information and viewpoint which was imparted to me this morning by League officials may be summarized as follows:

1. Reber's position in London was understood to be that the experts, to study conditions in Liberia, should proceed as soon as possible.

2. Council Committee desired to meet American wishes but hesitated respecting early despatch of experts to Monrovia in view of health conditions there, reluctant to expose experts to undue dangers.

3. Compromise plan was finally decided on whereby sanitary measures might be taken before the arrival of experts in Liberia. This eventuated in British Government lending services of government physician at the Gold Coast, who proceeded to Monrovia on March 19 to take immediate measures to improve health conditions there. League is paying his salary and subsistence expenses.

4. Secretariat now learns that British physician has not been able to undertake any work due to failure of Liberian Government to provide necessary funds estimated at maximum of \$5,000.

5. Secretariat feels that physician cannot be left indefinitely in Monrovia without accomplishing anything, nor does it feel that the experts can proceed until health conditions are improved.

6. Secretariat understands the Liberian Government, with respect to not providing for funds, takes the position that they are willing to provide them but that they are unable to do so as not within "limits of their resources" because the Financial Adviser will not or cannot make funds available.

7. It is contemplated that the foregoing situation may shortly have to be laid before the Council Committee on Liberia inasmuch as it has been planned that the experts proceed on May 6th.

8. If the matter be laid before Council Committee, Secretariat feels that the outcome is doubtful. The result may be that the physician may be withdrawn and the proceeding of the experts indefinitely delayed, in any event delayed until the beginning of the dry season at the end of the year.

9. Secretariat feels that the entire plan is being impaired by League loss of prestige in Liberia should the present situation continue. Moreover, the situation is such that the whole project may be jeopardized by action which might be taken by members of the Council or by members of Council Committee who are unfriendly to it. The League is confronted by serious budgetary difficulties, and the project might be given up or indefinitely postponed on the plea of economy, which would receive the support of states unfriendly to the plan or not interested in it. This would be particularly true if no substantial progress in carrying out of the plan is made before the next assembly.

In view of portion of Department's telegram referred to, I would appreciate instructions as to the attitude it is desired I assume should

I again be approached by Secretariat officials respecting Liberia. It would appear inevitable that I will again be approached in this matter.

GILBERT

882.01 Foreign Control/105 : Telegram

The Secretary of State to the Consul at Geneva (Gilbert)

WASHINGTON, April 10, 1931—6 p. m.

35. Your telegram No. 54, March 30, 5 p. m. I understand from the Legation at Monrovia that the Liberian Government has made certain funds available for sanitation under Dr. Howells.

Since I regard this matter as a question between the International Committee and the Liberian Government, I do not believe it would be desirable for you to discuss it with League officials. If again approached, you should state that you understand from the reports of the London meeting that your Government hoped that the experts might proceed to Liberia at as early a date as practicable.

STIMSON

123 Mitchell, Charles E./53 : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

[Paraphrase]

WASHINGTON, May 2, 1931—3 p. m.

33. Your attitude to the present regime in Liberia is assumed to be in accord with the Department's instructions telegraphed in its No. 24, February 20, 1 p. m. I propose to consider the question again immediately following the Liberian elections, and you should then telegraph a report in summary of the political situation, referring particularly to the points which were outlined in No. 24, and with your recommendations respecting the desirability of your credentials being presented.

STIMSON

882.00/875 : Telegram

The Minister in Liberia (Mitchell) to the Secretary of State

[Paraphrase]

MONROVIA, May 6, 1931—9 p. m.

[Received 10:45 p. m.]

36. The instructions in your 24, February 20, 1 p. m., have been complied with.

The election of Edwin Barclay to the Presidency of Liberia is indicated by local returns. Returns from many districts will be delayed by heavy rains. Monrovia's election returns are as follows: total registration, 1,716; total votes polled by the People's Party, 1,405; total votes polled by the True Whig Party, 1,962.

The election was orderly, public demonstrations being apparently in sympathy with Barclay's election. The consensus of foreign opinion is that he is an astute politician and an able man.

The strained relations now existing are very keenly felt by the Liberian Government, and unofficial representation has been made that a renewal of the friendly relations previously existing would be welcomed. It is declared that, as soon as Barclay is certain of retaining office, drastic changes inuring to the people's benefit will be made. In my opinion, a much desired change in policies of the Government will follow the advent of the experts who have been named by the League of Nations. The sanitary campaign is continuing daily without a hitch, and Liberia deserves pity rather than censure.

In the view of Liberians, foreign governments constantly have sought to intervene. I believe the United States too great and you too magnanimous to permit a small nation to have reason for any such sinister thoughts concerning the American Government.

Your instructions will be followed to the letter always, and it is my belief that presentation of my credentials at your pleasure would be conducive to establishing a better relationship than now exists.

When official election returns reach Monrovia, the Department will be duly informed.

MITCHELL

882.01 Foreign Control/110: Telegram

The Chargé in Switzerland (Greene) to the Secretary of State

BERNE, May 8, 1931—11 a. m.
[Received May 8—9:40 a. m.]

55. Letter dated May 7 from Under Secretary General of League states that while no proposal has as yet been made there is a possibility that advantage may be taken of the forthcoming session of the Council to hold a further meeting of the Liberian Committee. He also states that the report on the work so far accomplished by the committee (See Department's telegram 46, May 1, 3 p. m.⁴³) will be put before the Council. Under Secretary General concludes that should the American Government desire to arrange to participate in or specially follow

⁴³ Not printed.

the Council proceedings he would be very glad if he might be informed as soon as possible.

GREENE

882.01 Foreign Control/110 : Telegram

The Secretary of State to the Chargé in Switzerland (Greene)

WASHINGTON, May 8, 1931—6 p. m.

52. Your telegram No. 55, May 8, 11 a. m. You may inform the Under Secretary General that should it be determined to hold a further meeting of the Liberian Committee I would appreciate learning of it sufficiently far in advance to enable an American representative to participate in its discussions. This would be difficult to arrange prior to June 10.

[Paraphrase.] Please inform the Minister of my preference that this Committee hold no further meetings until after the investigations have been instituted by the experts which it designated. The date of their departure for Monrovia is now understood to be scheduled for June 6.

Although it is not desired by the Department that any special arrangements be made to participate in the proceedings of the League Council, information respecting the Council discussions should be obtained informally in the usual way and telegraphically reported here. [End paraphrase.]

STIMSON

882.01 Foreign Control/112 : Telegram

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, May 21, 1931—5 p. m.

[Received 11:45 p. m.]

72. The Liberian question based upon the report of the Council Committee on Liberia came before the Council at its meeting this morning.

Zaleski the *rapporteur* stated that he had nothing to add to the report.

Zumeta then made a long speech in which he reasserted in general the position which the Consulate understands that he took in London. The points he made were as follows:

1. He took exception to certain elements in the report, in particular to points 3, 4, 5 and 6 of the resolution instructing the experts.

2. He had desired that a committee of jurists be appointed to determine the right of the League under the terms of the Covenant to take the proposed measures of intervention in a sovereign state, which had in them elements of "action".

3. Although Liberia had consented, Grimes had indicated in London that the consent was not unconditional, and, from the viewpoint of the League, points of principle were still involved even with Liberia's acceptance, the consent of the weak being a questionable source of authority.

4. It would be more advisable to follow the terms of the Slavery Convention which lays down the procedures to be followed in such cases.

5. The former were juridical considerations, but there remained perhaps more important factors. In particular he felt that such action as was contemplated in Liberia would shake the faith of the world respecting the independence and honor of nations and stated that his position in this respect had the support of the "moral elite" of the United States.

The position taken by Sottile in his speech (in which he announced that he was speaking under instructions) was unexpected. He expressed surprise at the extent to which Zumeta had gone in his statements and declared that the assurances which Liberia had received that the League action would not go beyond the terms of the Covenant and would not infringe Liberia's sovereignty completely satisfied his Government. He fully acquiesced in the measures as now framed in which, with the assurances given, he perceived no elements of "intervention". He took particular exception to Zumeta's statement that the work of the experts would be to suppress forced labor inasmuch as forced labor had been suppressed in Liberia 7 months ago. In thanking the Council he stated that at that moment two and one-half millions of Liberians were expressing gratification to the League.

Zaleski assured the Liberian delegate that there was nothing further from the minds of the Council than any alienations of Liberian sovereignty.

Zumeta made formal reservations on points 3, 4, 5 and 6 of the resolution instructing the experts and announced that Venezuela would abstain from voting.

The report was adopted with Venezuela's abstention, Venezuela's reservations and Zaleski's reassurances being noted.

With respect to the position taken by Sottile the Consulate has reason to believe that it was due to advice given him by Sugimura and other members of the Secretariat.

With respect to Zumeta it is the general opinion here that his statements were chiefly with a view to Venezuelan and Latin American consumption. In this connection the Consulate has been reliably informed that the Guatemalan and Peruvian members of the Council had no knowledge of what Zumeta would say and that they expressed themselves after the Council meeting to the effect that they did not approve of the position which he had taken.

882.001 Barclay, Edwin/7 : Telegram

The Minister in Liberia (Mitchell) to the Secretary of State

MONROVIA, May 26, 1931—4 p. m.

[Received May 27—7:34 a. m.]

45. Referring to your telegram No. 34, May 12, 3 p. m.,⁴⁴ *Weekly Mirror*, official Whig organ, dated May 21st, released May 26th, announces election of Edwin Barclay as President and James S. Smith, Vice President. Official announcement will be made at meeting of the Legislature scheduled for the [first] week in December. Inauguration January 4, 1932.

MITCHELL

123 Mitchell, Charles E./57 : Telegram

The Acting Secretary of State to the Minister in Liberia (Mitchell)

[Paraphrase]

WASHINGTON, May 29, 1931—5 p. m.

41. I have concluded after careful consideration that it would not be desirable for your credentials to be presented until after the experts appointed by the International Committee have investigated and their findings have been examined, particularly with reference to the so urgently needed humanitarian and social reforms. Your relations with the present Liberian administration should be continued upon the informal basis as outlined in the Department's 24, February 20, 1 p. m. If it is necessary for any written communications to be addressed by you, they may be signed by yourself without using the official title following your name or in the address.

CASTLE

882.5048/341a : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

WASHINGTON, June 8, 1931—6 p. m.

44. Department's telegrams No. 40, May 26, 2 p. m., and No. 42, June 4, 6 p. m.⁴⁵ The following is submitted for your further information and guidance with respect to the experts of the International Committee who will shortly arrive:

These officials are the representatives of the International Committee and as such they will doubtless deal direct with the Liberian Government, rather than through the local diplomatic missions of

⁴⁴ Not printed.

⁴⁵ Neither printed.

the countries represented at Monrovia whose Governments may also be members of the International Committee. Consequently, while I hope that you will cultivate friendly personal relations on the basis of which you will be able to obtain informally reports of the progress of their work for transmission to the Department, I desire you carefully to avoid on the one hand any appearance of acting as intermediary for the experts, and on the other any activity which might be construed as an effort to influence the course of their investigations or the substance or extent of their recommendations. (In this connection please see the Department's telegram No. 34 of April 3, 1 p. m., 1930,⁴⁶ particularly the first paragraph and the third and fourth sentences of the second paragraph; and Department's telegram No. 47, May 8, 3 p. m., 1930,⁴⁷ first paragraph).

Should you have any doubt as to a specific case which might arise, further instructions should be sought.

STIMSON

882.01 Foreign Control/123a : Telegram

The Acting Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, July 14, 1931—6 p. m.

80. Reports from Monrovia indicate that the League Experts are preparing their report in sections and are endeavoring to obtain the approval of the Liberian Government on each section with the idea of submitting to the Committee a program which has already received the approval of the Liberian Government. It appears doubtful, however, that this whole program will be acceptable to Liberia. Moreover, I have been informed that the League Experts have approached the American Minister apparently in the hope of securing an expression of the American Government's future attitude as regards this report and the action of the Committee to follow.

I consider it would be helpful in securing a complete program of effective reform if the League Experts should be informed that this Government is in sympathy with what it understands they are endeavoring to accomplish in the nature of reforms. You may see Drummond ⁴⁸ informally and talk with him along the following lines: We are anxious to support the efforts of the Committee and hope the Experts' program will provide a satisfactory basis for improvement in general conditions in Liberia. In order that we may be in a position to determine how we may best afford assistance to the League Committee when it next meets we would be glad to receive currently all

⁴⁶ *Foreign Relations*, 1930, vol. III, p. 343.

⁴⁷ Not printed.

⁴⁸ Sir Eric Drummond (British), Secretary General of the League of Nations.

possible information regarding the program of the Experts and copies or the substance of their recommendations. If it is possible, we should like to have a telegraphic report of the ones which have been made up to the present time.

In view of the difficulties which will undoubtedly arise during the next meeting of the Committee with regard to the acceptance by Liberia of the Experts' report if it is not previously agreed to by Liberia, this Government hopes that as far as possible all recommended reforms will be accepted by the Liberian Government before the Experts leave. This does not, of course, mean that we could be expected to concur in an unsatisfactory compromise, but we consider that the presence of the Experts in Liberia provides a better opportunity to secure the Liberian Government's consent to the greatest possible number of measures for reform. If these are not decided upon until the Committee reconvenes further loss of time will ensue and greater difficulty will be had in securing the adherence by Liberia at long distance to the complete program.

Should it be possible, we would appreciate it if Drummond could telegraph an expression of our position to the League Committee.

CASTLE

882.01 Foreign Control/128 : Telegram

The Minister in Liberia (Mitchell) to the Acting Secretary of State

[Paraphrase]

MONROVIA, July 24, 1931—2 p. m.

[Received July 25—6:24 a. m.]

59. The League Committee of Experts called at 10 a. m. on the Legation. Having completed their investigation, they are leaving on July 26 by the steamship *Brazza*.

The views of the Liberian Government and the experts do not seem to coincide. The Liberian Government gave no final answer to the program which the experts submitted and stated that their answer would go to the League.

Liberia's financial conditions being in such a chaotic state, the experts did not discuss this subject with the Government.

The official recommendations of the experts will be presented to the Committee at Geneva when an American representative is present. The experts believe that Liberia's rehabilitation is dependent upon the collaboration of both the United States and the Firestone Company, especially the latter. Money must be obtained on better terms, and if possible some easement must be offered in regard to the \$2,500,000 due the Liberian Government in return for certain considerations

impossible to be met. If the Finance Corporation can arrange this, it will prove of great aid at this time.

A momentous question concerns labor and how Firestone can expect to obtain extra labor needed to cultivate their vast areas in a few years.

The sanitary expert,⁴⁹ while in accord with the program thus far carried out, is doubtful that it will be maintained without provision of the necessary funds. In order to give the natives of the interior a chance, the Commissioners report the necessity of drastic recommendations affecting the administration of the interior. The development of resources and opening up of main roads have been strenuously urged, and it is admitted that Liberia's natural resources should be developed and valuable minerals do exist.

MITCHELL

882.01 Foreign Control/134 : Telegram

The Consul at Geneva (Gilbert) to the Acting Secretary of State

GENEVA, August 14, 1931—6 p. m.
[Received August 15—10:05 a. m.]

100. Communication from Sottile to Secretary General, dated August 13, 1931, indicates probable position of Liberian Government when Liberian matter comes before the next meeting of Liberian Committee or before the Council. I understand that Sottile desired that his letter be published but League officials have decided to distribute it only to members of the Liberian Committee. Considering Sottile's attitude it may be expected however that he will not keep his letter confidential.

The chief points of his communication are as follows:

1. Acceptance by Liberian Government in principle of recommendations in report of International Commission of Inquiry does not imply acceptance of report as a whole or in all details.

2. Acceptance by Liberian Government of the report in principle limited to meaning that "it recognized the desirability of certain reforms, that it accepted the principle of these recommendations as being submitted for guidance and certainly not as being imperative".

3. Liberian Government declares "this limitative acceptance in principle refers only to improvements in social policy. All other non-social questions being excluded." The questions thus excluded are described as those having to do with the "judicial or military organization of the political or administrative divisions of the territory" and the Liberian Government "did not agree to accept any assistance, suggestions or plans for reform" respecting these matters.

4. The Liberian Government reiterates that it will undertake nothing which infringes on its sovereign rights or its Constitution and that

⁴⁹ Dr. M. D. Mackenzie, British.

all measures must be undertaken within the limits of its financial resources and only in full agreement with that Government.

5. Its acceptance in principle is confined to "technical" assistance in social, public health and financial reforms.

6. Liberian Government takes the same position respecting work and expected report of Committee of Experts.

7. Letter implies with reference to the foregoing position of the Liberian Government that the administrative member of the Committee of Experts may have exceeded his competence.

8. Letter states "In the event of failure to observe these conditions as accepted by the Council or in the event of the experts exceeding their powers, my Government reserves the power to forego the assistance offered or, alternatively, to request the Council to modify or limit the extent of that assistance".

9. The Liberian Government renews its objection to nationals of states having territory neighboring to Liberia serving on commissions having to do with Liberia.

The two following portions of Sottile's letter obviously refer to the United States:

(a) "To interpret the mandate and powers of the experts in any other sense would be to venture on arbitrary ground, and to endeavor to frustrate the League's work in Liberia or disturb the relations between Liberia and the League, a result which non-members of the League would be glad to see."

(b) "In the speech which I made before the Council on January 22nd last I informed the Council and the League of the singular and paradoxical conduct of a government, which, taking advantage of its financial powers, thought it had the right to impose its will on my Government and to compel it to accept and follow literally and in every detail these singular recommendations and suggestions, some of which it may be said in passing have no connection with the task and powers which my Government had conferred upon the Commission".

Communication does not state that it was made under instructions from the Liberian Government.

Copy of letter transmitted by Secretariat direct to Reber.

Informed by American Legation, Berne, that it has telegraphed Department respecting meeting of Liberian Committee.

GILBERT

882.01 Foreign Control/135 : Telegram

The Minister in Switzerland (Wilson) to the Acting Secretary of State

BERNE, August 17, 1931—10 a. m.

[Received August 17—8:25 a. m.]

106. Your 91, August 15, noon.⁵⁰ It is definitely anticipated by League Secretariat that the report of the experts who meet today in Geneva cannot be transmitted to the two distant Governments inter-

⁵⁰ Not printed.

ested, namely, the United States and Liberia, in time to permit the Committee to meet and submit recommendations to the forthcoming session of the Council. It is impossible now to give even an approximate date when the Committee might be convened but the Secretariat sees no probability of such a meeting before the close of the Assembly in September.

The report will be sent to all members of the Committee and Liberia. The United States and Liberia were mentioned specifically in my 105, August 14, midnight [noon],^{50a} to emphasize the time element.

Such additional information as may be obtained during or directly following the experts' session will be telegraphed.

WILSON

882.01 Foreign Control/134 : Telegram

The Acting Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, August 19, 1931—1 p. m.

92. Your 106, August 17, 10 a. m., and Gilbert's 100, August 14, 6 p. m. The Department is particularly interested in information regarding the following points, but does not desire to approach the League of Nations at this time with a suggestion respecting procedure:

In order not to delay indefinitely consideration of the experts' report and recommendations (by technical or general objections, for example, similar to those stated by Sottile in his letter of August 13),⁵¹ the Department feels it would be highly desirable that a specific date be fixed for the next meeting of the International Committee. Does such action seem to be imminent?

Is it anticipated that the question of Liberia will in any way come before the League Council during the forthcoming session?

CASTLE

882.01 Foreign Control/140 : Telegram

The Minister in Switzerland (Wilson) to the Acting Secretary of State

[Paraphrase]

BERNE, August 20, 1931—noon.

[Received August 20—10:25 a. m.]

108. Your 92, August 19, 1 p. m. (1) Indications are lacking that the matter of Liberia will come before the League Council, and the

^{50a} Not printed.

⁵¹ See telegram No. 100, August 14, 6 p. m., from the Consul at Geneva, p. 690.

agenda contains no item involving this country. It can not of course be guaranteed that the question will not be raised by someone, but this is deemed to be highly unlikely.

(2) The British Foreign Secretary has the duty of fixing a date for the Commission's meeting. It is understood by the Secretariat that Mr. Henderson is anxious to set the date at the earliest moment which is convenient to the United States. As soon as the experts have completed their report, it will be mailed to the Department. The United States will then be consulted regarding a date for the Commission's meeting. The hope is for a date allowing the Commission to meet toward the end of next month.

In view of your first paragraph, I was not willing to go farther than inquiring concerning this matter.

WILSON

882.01/27 : Telegram

The Minister in Liberia (Mitchell) to the Secretary of State

[Paraphrase]

MONROVIA, October 3, 1931—9 p. m.

[Received October 5—7:37 a. m.]

79. During an informal conversation on October 2 Mr. Barclay unofficially expressed with earnest emphasis the desire of his Government to send to the United States Government a special envoy instructed to ascertain the understanding or definite terms upon which the Liberian Government may obtain formal recognition from the United States Government, consequently restoring its traditional friendship and its active interest in perpetuating Liberia's independence.

If granted direct contact with the United States Government, the envoy could present plainly and candidly a statement of facts and his Government's views respecting the economic perplexities and the administrative problems of the Republic. Such knowledge, it is believed, would aid in clarifying any doubt as to Liberian affairs and would pave the way toward reconciling divergent views which now exist.

Mr. Barclay has solicited unofficially this Legation's good offices in making known this desire to my Government and in seeking information in regard to the United States Government's willingness to receive officially such an envoy and to accord a sympathetic hearing to him.

MITCHELL

882.01/27 : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

[Paraphrase]

WASHINGTON, October 6, 1931—2 p. m.

52. Your 79, October 3, 9 p. m. In reply to Mr. Barclay you are authorized informally to state that, since this Government's decision respecting recognition will to a considerable extent depend upon Liberia's attitude toward the report and recommendations of the committee of experts, I feel no useful purpose would be served by the suggestion that a special Liberian representative visit this country prior to the next meeting of the International Committee on Liberia.

You may add that this Government understands the report will be available soon and hopes the meeting of the committee on Liberia will be held in the near future.

STIMSON

882.01 Foreign Control/162 : Telegram

The Secretary of State to the Chargé in Switzerland (Greene)

WASHINGTON, October 16, 1931—6 p. m.

139. Your telegram No. 178, October 6, 3 p. m., and despatch No. 227 [2271], October 6.⁵² Please present the following communication to Sugimura from Reber:

The American representative of the Liberian Committee presents his compliments to the Under Secretary General and Director of the Political Section of the League of Nations, and has the honor to acknowledge the latter's communication of October 3, 1931, relating to the next meeting of the Liberian Committee.

It is noted that the Chairman of the Committee is of the opinion and has accordingly proposed that this meeting should take place toward the middle of January before the next session of the Council opens. With this view and the desire of both the Council and Committee to solve at the earliest possible date the problem raised by the Liberian Government's request for assistance, the American representative has the honor to state that his Government is heartily in accord.

STIMSON

882.01/28

The Minister in Liberia (Mitchell) to the Secretary of State

No. 104.

MONROVIA, October 31, 1931.

[Received December 3.]

SIR: I have the honor to confirm the Legation's telegram No. 79, October 3, 9 p. m. with reference to the desire of the present admin-

⁵² Neither printed.

istration to send an envoy to the United States who would be especially instructed to lay before the Department the policy which will be adopted and put into effect after the inauguration of Mr. Edwin Barclay as President of Liberia on January 5, 1932.

At an informal meeting, a discussion of Liberia and its future development came up and Mr. Barclay repeatedly stated that propaganda circulated as to his being anti-American was without foundation; that it was his intention to give Liberia an administration that would reflect credit upon those entrusted with official duties; that none but those highly qualified educationally and of acknowledged strict integrity would be given positions of trust.

He seemed at a loss to know just what representation could be made to insure the American Government that the reforms as recommended by the International Committee of Inquiry would be speedily and satisfactorily put into operation.

It was finally decided that a cable be sent asking if a special envoy, clothed with the authority to speak for the Government would be given a sympathetic hearing. The Department's reply (No. 52, Oct. 6, 2 p. m.) was repeated to the Honorable Louis A. Grimes, Attorney General, recently returned representative from the League meeting at Geneva where he was in collaboration with Liberia's representative, Signor Sottile.

A few days thereafter Mr. Grimes called at the Legation and after expressing the great regret of the Liberian Government at the continued reluctance on the part of the American Government to signify its intention of renewing the friendly relations which had for so many years existed, placed in my hands the enclosed Memorandum.⁵³

The Legation does not presume to offer any comment on this memorandum in view of the Department's reply contained in the cablegram referred to above and the fact that the text of this document has been to some measure the subject of discussion and review on previous occasions.

Respectfully yours,

CHARLES E. MITCHELL

882.01 Foreign Control/178

The Minister in Liberia (Mitchell) to the Secretary of State

No. 113

MONROVIA, November 24, 1931.

[Received December 29.]

SIR: I have the honor to report to the Department receipt of "The Report of the Experts Designated by the Committee of the Council of the League of Nations appointed to Study the Problems raised by the Liberian Government's Request for Assistance".

⁵³ Not printed.

It is a statement of facts and figures which would aid in the rehabilitation of Liberia if the suggestions were followed by successful application of business principles to governmental problems. It will be criticized from many angles. Its Administrative, Financial, and Judicial reforms will be subjects of debates at the coming session of the Legislature, scheduled to convene December 7th.

Comment by those in authority is being discreetly withheld pending the annual address of the Executive to the Legislature. It is believed that in so far as practicable every conceivable effort will be made to comply with the expressed desire of the Nations, in order that some relief may be given the Liberian Government.

Respectfully yours,

CHARLES E. MITCHELL

882.00/905: Telegram

The Minister in Liberia (Mitchell) to the Secretary of State

[Paraphrase]

MONROVIA, December 9, 1931—4 p. m.

[Received December 10—8:40 a. m.]

86. Department's 55, November 28, 2 p. m.⁵⁴ Complaints purporting to come from a council of native (paramount) chieftains of Maryland and Sinoe Counties have been made to this Legation and to the British Chargé here in an appeal through the Legations to the League of Nations for protection. Forwarded by canoe, the petition says in part that the chiefs report soldiers commanded by Colonel Davis dispatched by the present administration have already killed 400 men, women, and children, and burned or destroyed 13 towns simply because the natives refused recognition to the present administration which is the principal supporter of the slave trade and forced labor.

They appeal through the Legations to the League of Nations for protection of their lives, wives, and children and also for their continued existence, since they are being generally inhumanly treated and slaughtered; and they declare that they are certain, if something is not done immediately, they will not be able to survive much longer under the administration's inhuman treatment.

The native chiefs deny positively the Government's claim that the native tribes own firearms, including 200 or 300 modern rifles.

Whenever native messengers succeed in leaving the disturbed region for Monrovia, they bring confirmation of continued depredations there. The British Chargé is also making representations to his Government.

MITCHELL

⁵⁴ Not printed.

882.01 Foreign Control/168 : Telegram

The Secretary of State to the Chargé in Switzerland (Greene)

WASHINGTON, December 12, 1931—1 p.m.

167. Your telegram No. 199, December 3, 3 p.m.⁵⁵ Please transmit the following to the Secretary General:

"The American member of the Committee appointed to study the problem raised by the Liberian Government's request for assistance has received the note of the Secretary General, dated December 1, 1931,⁵⁵ informing the members of the Committee that its next meeting has been fixed for the middle of January.

In reply, the American Member has the honor to state that his Government is prepared to participate in the session."

You may add informally that Reber expects to sail on January 2 and to arrive in Geneva about the 10th of the month.

STIMSON

882.01 Foreign Control/173 : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

WASHINGTON, December 17, 1931—7 p.m.

57. Shortly after sending you telegram No. 56 of December 15, 5 p. m.,⁵⁵ the Department received a telegram from the American Consul at Geneva ⁵⁵ describing a communication received by the League from the Liberian Government by which the latter endeavors to have the meeting of the International Committee postponed until April 1932. I am transmitting to you herewith for your confidential information only the text of my reply to Mr. Gilbert, sent December 16, 4 p. m.

"You may say informally to Drummond or Von Rentefink⁵⁶ that we feel it would be most unfortunate if the meeting of the Committee were again postponed. The question of Liberian reforms has now been the subject of international discussions for more than 2 years; the report of the Experts was made 2 months ago; and we consider it important that the Committee meet and take action on this report as soon as possible in order that the benefits of it and of the recommendations of the experts may accrue to Liberia without delay.

Reports from Monrovia indicate the existence of unrest among the native peoples, which might lead to disturbances or outbreaks against the Government if reforms are longer delayed. It is said that the natives are awaiting the results of the Committee meeting with impatience.

In your discretion you may add that this Government feels that public opinion in this country would consider attempts on the part

⁵⁵ Not printed.

⁵⁶ In charge of Liberian affairs in the League of Nations Secretariat.

of the Liberian Government further to delay the work of the Committee as evidence of insincerity and as an effort to block the necessary reforms and reorganization. It is, therefore, hoped that the Liberian Government may find it possible to send a representative qualified to speak in its behalf to the Committee in time to hold the meeting in January as scheduled."

Please report any local developments.

STIMSON

882.01 Foreign Control/174 : Telegram

The Minister in Liberia (Mitchell) to the Secretary of State

MONROVIA, December 18, 1931—8 a. m.

[Received 8:52 p. m.]

88. New administration will take office January 4th. Reliably informed that attitude towards suggestions and recommendations of International Commission's report will receive immediate consideration. Several of the recommendations have already been put into effect since Mr. Barclay took office.

Suggestions made in experts' report will be discussed with the Legislature now in [session?] as soon as possible after Mr. Barclay shall have submitted his annual message.

MITCHELL

882.01 Foreign Control/175 : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

WASHINGTON, December 21, 1931—5 p. m.

58. Department's telegram No. 57, December 17, 7 p. m., and your telegram No. 89, December 19, noon.⁵⁸ There is given herewith for your confidential information a summary of a telegram received from the American Consul at Geneva in reply to the message quoted to you in the Department's 57.

The Secretariat of the League still plans to hold the meeting of the International Committee in January as scheduled, and it is understood that Sottile is asking the Liberian Government if it will designate a representative for that meeting. Should no Liberian delegate from Monrovia be named, Sottile will probably act. Apparently Sottile agreed to recommend the foregoing to the Liberian Government on condition that the January meeting would adjourn to a further session in April or May. Thus the former, while not scheduled as such, would be of a preliminary or preparatory character.

STIMSON

⁵⁸ Latter not printed.

882.01 Foreign Control/174 : Telegram

The Secretary of State to the Minister in Liberia (Mitchell)

WASHINGTON, December 21, 1931—6 p. m.

59. Your telegram 88, December 18, 8 a. m. In view of the non-recognition by this Government of the Barclay Administration (see telegram 52, October 6, 2 p. m. and previous communications), you will of course take no part in the inaugural ceremonies.

STIMSON

MEXICO

AMERICAN ASSISTANCE FOLLOWING DESTRUCTION OF TOWNS IN CENTRAL AND SOUTHERN MEXICO BY EARTHQUAKE OF JANUARY 14, 1931

812.48/3827: Telegram

The Consul General at Mexico City (Frazer) to the Secretary of State

MEXICO, January 15, 1931—1 p. m.
[Received 2: 50 p. m.]

Earthquake occurred last evening wide area central and southern Mexico. One person reported killed and 25 injured and over 50 buildings seriously damaged this city. Believe no American citizens or American interest suffered.

FRAZER

812.48/3829

*The Acting National Director of Insular and Foreign Operations,
American Red Cross (Ernest J. Swift), to the Secretary of State*

WASHINGTON, January 19, 1931.

MY DEAR MR. SECRETARY: On January 14th a severe earthquake caused great damage in the central and southern part of Mexico, particularly in the State of Oaxaca. According to a despatch received yesterday from the Mexican Red Cross the needs are great and the resources of the Mexican Red Cross are being heavily drawn against. To help it meet the needs of the sufferers we have made an allotment of \$5,000 and we would be most grateful if the Department of State would transmit this money to the Mexican Red Cross through the American Ambassador. A check for \$5,000, payable to the Department of State, is enclosed.

Appreciating your kindness in this matter,
Sincerely,

ERNEST J. SWIFT

812.48/3828: Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

MEXICO, January 19, 1931—1 p. m.
[Received 6: 44 p. m.]

24. Doctor Serge Eisenstein well known Russian film producer who has just returned from Oaxaca called on me this morning at my re-

quest. He says that about 60 percent of the buildings of the town of Oaxaca were destroyed by earthquake last week and that some neighboring villages were totally destroyed. He says there is no real need there, either for food, medical supplies or clothing and that rebuilding of the city is the main problem confronting the community.

I suggest that in view of the considerable number of deaths, now reported as over 200, the Department may care to send a message of sympathy to the Mexican Government. Furthermore, the Department may consider it advisable to inform the American Red Cross in case that organization should wish to make an offer to the Mexican Red Cross through the medium of the Embassy.

CLARK

812.48/3829 : Telegram

The Secretary of State to the Ambassador in Mexico (Clark)

WASHINGTON, January 19, 1931—5 p. m.

21. Department has received from American Red Cross check for \$5,000 for relief of sufferers from recent earthquake in central and southern part of Mexico. Draw on Department for that amount and deliver proceeds to appropriate officers of the Mexican Red Cross for the purpose stated.

Render separate account.

STIMSON

812.48/3828 : Telegram

President Hoover to the President of Mexico (Ortiz Rubio)

WASHINGTON, January 20, 1931.

It is with the deepest regret that I learn of the recent earthquake in Mexico which has wrought such destruction and loss of life. On behalf of the people of the United States and in my own name, I wish to extend to Your Excellency and to the people of Mexico an expression of sincere sympathy.

HERBERT HOOVER

812.48/3831 : Telegram

The President of Mexico (Ortiz Rubio) to President Hoover

[Translation]

MEXICO, January 21, 1931—8:45 p. m.

[Received January 22—12:29 a. m.]¹

On behalf of the people of my country I deeply thank you for the sympathy which you were pleased to extend to the Mexican Nation in

¹ Received in the Department of State on January 26.

the name of the noble American Nation. On my own part I also thank the people of the United States for their expression of sympathy as well as you for the personal sentiments you express as their worthy Chief Magistrate.

P. ORTIZ RUBIO

812.48/3837

The Ambassador in Mexico (Clark) to the Secretary of State

No. 211

MEXICO, February 21, 1931.

[Received March 2.]

SIR: I have the honor to refer to my despatch No. 196 of February 13, 1931, with its enclosure,² regarding the kind action of Consul Richard F. Boyce, of Nuevo Laredo, in sending a contribution of 205.87 pesos, raised in Nuevo Laredo, Mexico, at Mr. Boyce's initiative, for the earthquake sufferers in Oaxaca. I now wish to report that Mr. Boyce sent the Embassy a supplementary contribution raised in the same manner, of 23.08 silver pesos, and that these two contributions were forwarded to the Foreign Office with the Embassy's note No. 219 of February 16, 1931.³

For the Department's information, I have the honor to enclose copies of the Embassy's note under reference, together with a copy, with translation, of the Foreign Office's note No. 172 of February 18, 1931,⁴ in reply thereto, expressing the sincere appreciation of the Mexican Government for Mr. Boyce's action in raising these funds for the Oaxaca earthquake sufferers.

Respectfully yours,

J. REUBEN CLARK, JR.

**REPRESENTATIONS AGAINST ACTION OF MILITARY PROSECUTOR IN
SUMMONING AMERICAN CONSULAR OFFICER TO GIVE TESTIMONY
WITHOUT AFFORDING HIM OPPORTUNITY TO CONSULT AMERICAN
GOVERNMENT**

812.203/1

The Vice Consul at Guaymas (Yepis) to the Secretary of State

No. 114

GUAYMAS, November 8, 1930.

[Received November 15.]

SIR: I have the honor to inform the Department that this Consulate received on November 4, 1930, an order for the American consular officer at Guaymas to appear on November 5, 1930, at 11:00 A. M.,

² Neither printed.

³ Not printed.

⁴ None printed.

before General Jesús Torres Avilés, Military Prosecutor (*Licenciado y Agente del Ministerio Público Militar*) in this city in connection with an investigation being made with regard to General Pascual González. General González appears to have been assigned to Guaymas as Military Prosecutor and to have arrived here in compliance with his order about one week before the insurrection of March–April, 1929,⁵ started. It further appears that he remained in Guaymas during the time that this port was under the control of the revolution. Although he is stated to be at present in the service of the Mexican Federal Government in his former capacity, he desired that an official investigation be made in order that the Government would see that his actions during the revolt were not belligerent to the Central Government and that he attempted to leave the territory under the control of the rebels.

When the undersigned officer appeared before the Military Prosecutor in answer to the summons, he was given the Court's file on the case to read over and to answer such questions in which the Consulate was mentioned. In one place General González states that the "Consul" (without indicating of what country) had repeatedly offered him asylum during the revolution. In another place he specifically mentions the American Consulate in stating that on one occasion he eluded the constant vigilance placed over him by the Insurrectionists and came to this Consulate in order to ask what requirements there were, and to fulfill them, in order to go to the United States. No other mention, directly or indirectly, was made of "Consuls" or the "American Consulate" in the file mentioned.

With regard to asylum, the writer saw no objection in repeating to the Military Prosecutor what the well-known policy of this office had been during the revolt on that question, that is, that it neither offered nor afforded asylum in the consular premises to any other than American citizens. (It later developed in the testimony given by M. Vielledent, French Consular Agent at Guaymas, that it was he who had actually offered asylum to General González and had at least on one occasion afforded him such asylum under the protection of the premises of the French Consular Agency). With regard to General González' visit to the Consulate in endeavoring to leave rebel territory and to enter the United States, the Military Prosecutor was informed by the undersigned officer that it was not recalled as to whether or not such had been the case. Other minor answers were given by the writer which, however, were of no importance, such as Consul Bursley's charge of the Consulate during the period in question; Consul Bursley's definite absence from Guaymas; and Consul Smale's temporary absence from Guaymas.

Respectfully yours,

A. F. YEPIS

⁵ See *Foreign Relations*, 1929, vol. III, pp. 336 ff.

812.203/2

The Secretary of State to the Ambassador in Mexico (Clark)

No. 7

WASHINGTON, December 4, 1930.

SIR: The Department encloses herewith a copy of a despatch dated November 8, 1930, from Vice Consul A. F. Yepis at Guaymas, Mexico, reporting that on November 4, 1930, his Consulate received an order directing the American consular officer in charge at Guaymas to appear on November 5, 1930, 11 a. m., before General Jesús Torres Avilés, Military Prosecutor, to give testimony at an investigation which he was conducting of alleged activities of General Pascual González during the insurrection of March and April of last year. You will note that the Vice Consul appeared before the Military Prosecutor and gave certain testimony based upon official information contained in the Consulate's files, which information is the exclusive property of this Government.

In view of the facts as reported by the Vice Consul, the Department desires that you bring this matter to the attention of the Mexican Foreign Office and say that, while your Government recognizes that responsibility for the action taken rests with a subordinate military authority, it considers that it should remind the Mexican Government that, under generally recognized practice as between nations, when the testimony of a consular officer is desired and particularly in respect of political matters, the proper course would seem to be for the appropriate official to extend to the designated consular officer a written invitation to give testimony, setting forth therein the date and purpose of the inquiry. Furthermore, you will state that the Vice Consul should have been given sufficient notice in advance to permit him to consult his Government in the premises, assuring the Foreign Office that if the Department had been so consulted it would in all likelihood have given favorable consideration to the wishes of the Mexican Government and authorized the Vice Consul to give testimony at the Consulate.

A copy of this instruction is being sent to the Vice Consul at Guaymas for his information.

Very truly yours,

For the Secretary of State:
J. P. COTTON

812.203/4

The Ambassador in Mexico (Clark) to the Secretary of State

No. 67

MEXICO, December 22, 1930.

[Received December 29.]

SIR: I have the honor to refer to the Department's instruction No. 7 of December 4, 1930, advising me of the Department's desire that I bring to the attention of the Foreign Office an expression of the De-

partment's disagreement with the action taken by General Jesús Torres Avilés, Military Prosecutor at Guaymas, Sonora, in issuing an order to the American Consular officer in charge at that place, who was Vice Consul A. F. Yepis, to give testimony at a hearing conducted by General Avilés on November 5, 1930.

I trust the Department will pardon my recalling its attention to the consular immunity incident of 1927, between the United States and Mexico (see Department's instruction to this Embassy, No. 64, December 17, 1927, file No. 817.00 T 35/20),⁶ when a Senate investigating Committee having summoned before it the Mexican Consul General of New York, the Mexican Government, invoking the principles and practices of international law, expressed the opinion⁷ that the Government of the United States ought to extend to the Consul General of Mexico in New York complete immunity from obedience to the order which he had received, and to our reply thereto,⁸ that the Government of the United States did not on the question of consular immunity hold the views expressed by the Government of Mexico.

If meeting the Department's convenience, I would appreciate receiving an instruction, giving, as nearly textually as may be possible, the exact representation it wishes me to make in this matter, so that I shall be sure properly to set out the Department's views.

Respectfully yours,

J. REUBEN CLARK, JR.

812.203/5

The Secretary of State to the Ambassador in Mexico (Clark)

No. 79

WASHINGTON, January 27, 1931.

SIR: The Department has received your despatch No. 67, December 22, 1930, requesting to be given an exact indication of the representations which the Department desires made to the Mexican Foreign Office concerning the action of the Military Prosecutor at Guaymas, Sonora, in ordering the American Vice Consul at that place to give testimony in a hearing conducted by the Prosecutor November 5, 1930.

It is desired that the representations take the following form:

My Government has been advised by the American Vice Consul in charge at Guaymas, Sonora, that November 4, 1930, he was ordered to appear November 5, 1930, before General Jesús Torres Avilés, Military Prosecutor in that city, in connection with an investigation being made with regard to activities of General Pascual González during the revolutionary demonstrations which occurred in the spring of 1929, and that the Vice Consul appeared before the Military Prosecutor and gave certain testimony based on official information con-

⁶ Not printed; see *Foreign Relations*, 1927, vol. III, pp. 248 ff.

⁷ See note from the Mexican Ambassador, December 14, 1927, *ibid.*, p. 250.

⁸ Not printed.

tained in the files of the Consulate, which information, of course, is the exclusive property of my Government.

In view of the circumstances of this case involving as it did a Mexican political matter, and the disclosure of information from the files of the Consulate, my Government is of the opinion that the practice which prevails generally among nations would have indicated that the Prosecutor should have extended to the Vice Consul an invitation in writing to give testimony, containing a statement as to the purpose of the inquiry and setting forth a date on which the testimony could have been given sufficiently remote so as to afford opportunity for the Vice Consul to have consulted his Government in the premises. In this relation it may be stated that I am informed that if my Government had been so consulted in the instant case, it would in all likelihood have given favorable consideration to the request and authorized the Vice Consul to testify.

My Government recognizes that the action taken in this matter was that of a subordinate military authority, but considers that it should bring the matter to the attention of the Mexican Government.

Very truly yours,

HENRY L. STIMSON

812.203/6

The Ambassador in Mexico (Clark) to the Secretary of State

No. 389

MEXICO, April 30, 1931.

[Received May 12.]

SIR: With reference to the Department's instruction number 79 of January 27, 1931 (file number 812.203/4 [812.203/5]), and to previous correspondence concerning the action of the Military Prosecutor at Guaymas, Sonora, in ordering the American Vice Consul at that place, Mr. A. F. Yepis, to give testimony in a hearing conducted by the Prosecutor at Guaymas on November 5, 1930, I have the honor to transmit herewith, for the Department's information, a copy and translation of note number 5571 dated April 18, 1931, which has been received from the Foreign Office in reply to the Embassy's note number 179 of February 2, 1931, giving textually the representations contained in the Department's instruction under reference.

The Department will note from the enclosures to this despatch that the Mexican Foreign Office expresses the view, with reference to the Prosecutor's order to Vice Consul Yepis to testify in this case, that compliance with a request of this nature is optional.

Respectfully yours,

J. REUBEN CLARK, JR.

[Enclosure—Translation]

The Mexican Minister for Foreign Affairs (Estrada) to the American Ambassador (Clark)

No. 5571

MEXICO, April 18, 1931.

MR. AMBASSADOR: There was received in this Ministry Your Excellency's courteous note number 179, dated February 2nd last, regarding

the case of the Vice Consul in charge of the American Consulate at Guaymas, Sonora, who was summoned to appear before the Agent of the Military Department of Justice in connection with the investigation launched with respect to the revolutionary events which took place in 1929. Your Excellency states that the abovementioned Vice Consul appeared before the authority who notified him and made certain statements based on official data existing in the archives of the Consulate; Your Excellency adds that, since it was a matter in which Mexican political affairs and the disclosure of official reports of the Consulate were involved, you have received instructions to advise me that the American Government is of the opinion that, in accordance with the prevailing practice, the Agent of the Department of Justice should have invited the Vice Consul in writing to testify, informing him as to the purpose of the investigation and fixing a date for the giving of his testimony which would have permitted the Vice Consul to consult his Government in the matter.

It is also stated in the said note that Your Excellency's Government would in this case have authorized the Vice Consul to testify.

Lastly, it is recognized, in the note to which I am making reply, that this action emanates from a subordinate military authority, but it is considered pertinent to call my Government's attention to the matter.

In reply, I should inform Your Excellency that my Government expressed its point of view in the premises when it signed—as did the Government of the United States at the Sixth Pan American Conference—the Convention relating to Consular Agents,⁹ based on the principles universally accepted in this respect and stipulating that in criminal trials the prosecution (Sp., *la acusación*) may request the presence of Consular Agents as witnesses, which request should be made with (all) possible respect for consular dignity and for the duties of that office, and shall be complied with by the consular officer. Although not establishing any exact rule, it is evident that the recommendation to proceed in a manner compatible with consular dignity may be interpreted in the sense that the request should be in writing.

As for the obligation to testify regarding acts or facts (Sp., *hechos*) which have come to the knowledge of the Consular Agent by reason of his official character or which may be found in the archives, my Government fully concurs with (Sp., *abunda en* : literally, abounds in) the idea of Your Excellency's Government that compliance with a request of this nature is optional.

Your Excellency's Government justly recognizes that this is a case involving authorities whose familiarity with international courtesies is not probable; on the other hand, the American Consular Agent, by virtue of his office, could more easily point out to these authorities

⁹ Signed at Habana, February 20, 1928, *Foreign Relations*, 1928, vol. I, p. 598.

that in his opinion (such procedure) constituted a possible violation of the usual rules governing such cases.

I avail myself [etc.]

G. ESTRADA

SHOOTING OF MANUEL GARCÍA GÓMEZ AND EMILIO CORTÉZ RUBIO, MEXICAN CITIZENS, AT ARDMORE, OKLAHOMA, BY DEPUTY SHERIFFS

411.12 Gomez and Rubio/4

The Mexican Chargé (Herrera de Huerta) to the Secretary of State

[Translation]

No. 02373

WASHINGTON, June 8, 1931.

MR. SECRETARY: This Embassy has just been informed that the Mexican youths, Manuel García Gómez and Emilio Cortéz Rubio, the latter being a nephew of the President of Mexico, were shot dead by a traffic policeman in the environs of Armour [*Ardmore*], State of Oklahoma, this morning. These youths were on their way to Mexico in an automobile and there is nothing to lead one to suppose that there occurred [any] provocation on their part justifying the action of the traffic policeman who caused their death.

I beg Your Excellency very courteously to be good enough to interpose your influence with the appropriate authorities to the end that as soon as possible the necessary investigation be made to establish the responsibilities which may be involved in this case.

I avail myself [etc.]

P. HERRERA DE HUERTA

411.12 Gomez and Rubio/5 : Telegram

The Secretary of State to the Governor of Oklahoma (Murray)

WASHINGTON, June 8, 1931.

It has been reported to the Department that two Mexican students, Emilio Cortés Rubio, a cousin [*nephew*] of President Ortiz Rubio, of Mexico, and Manuel Gómez, were shot and killed at Ardmore, Oklahoma, early today. According to the press report the slayers were Oklahoma officers.

In view of the possible international complications in this affair, it will be greatly appreciated if you will direct a minute investigation with a view to determining the circumstances and responsibility and advise me by telegraph of the result. At the suggestion of the American Ambassador to Mexico, it is requested that measures be taken for the proper preparation of the bodies of the two youths for shipment to Mexico.

HENRY L. STIMSON

411.12 Gomez and Rubio/3 : Telegram

The Governor of Oklahoma (Murray) to the Secretary of State

OKLAHOMA CITY, June 8, 1931.

[Received 8:21 p. m.]

Replying to telegram even date have ordered complete investigation of death of the two Mexican citizens. Have sent State criminal investigator and will direct Attorney General to aid County Attorney. Will order at State's expense preparation of the bodies to be shipped to Mexico. Will keep you informed.

GOVERNOR OF OKLAHOMA

411.12 Gomez and Rubio/6 : Telegram

The Secretary of State to the Ambassador in Mexico (Clark)

WASHINGTON, June 8, 1931—6 p. m.

164. Please transmit the following message to President Ortiz Rubio, on behalf of the President:

I have just learned with deep regret of the report that two Mexican students, one of them a relative of Your Excellency, were killed this morning at Ardmore, Oklahoma. I have ordered a minute investigation of the circumstances of this profoundly regrettable incident.

STIMSON

411.12 Gomez and Rubio/1 : Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

MEXICO, June 8, 1931—6 p. m.

[Received 9:50 p. m.]

184. Reference killing of two Mexican youths in Ardmore, Oklahoma.

Pursuant to telephone conversations between Johnson and Lane,¹⁰ I called on the President and Minister for Foreign Affairs this afternoon, transmitted to each a copy of President's Hoover's telegram to President Ortiz Rubio, and expressed the sincere regrets of the Department and my own personal sympathy.

CLARK

411.12 Gomez and Rubio/16

The Governor of Oklahoma (Murray) to the Secretary of State

OKLAHOMA CITY, June 8, 1931.

[Received June 10.]

DEAR SIR: An incident occurred in this State today which resulted in the death of a relative of the President of the Mexican Republic,

¹⁰ Herschel V. Johnson, Chief of the Division of Mexican Affairs, Department of State, and Arthur Bliss Lane, Counselor of Embassy in Mexico.

together with one of his companions, who were traveling homeward from a Kansas College.

I enclose herewith a copy of a letter I have just now addressed to the Mexican Consul of this city, which contains all of the information in my possession at this time.

Thinking perhaps this information might be needed by your department, I am sending it, and shall gladly report further as the facts may come to me.

Yours sincerely,

WM. H. MURRAY

[Enclosure]

*The Governor of Oklahoma (Murray) to the Mexican Consul at
Oklahoma City (Valdes)*

OKLAHOMA CITY, June 8, 1931.

DEAR SIR: I have just learned that Emilio Cortés Rubio, who, I understand, is a nephew of the President of the Republic of Mexico; Manuel Gómez, and Salvador Cortés Rubio, cousin and nephew of the President of Mexico,²¹ His Excellency Ortiz Rubio, were passing through the town of Ardmore, Carter County, in this State, returning from a college in Kansas to Mexico, when they stopped their car and got out. They were observed by the Deputy Sheriff of Carter County, who approached them, and they began to run; whereupon, the two first were shot down.

I deeply deplore the matter, and wish to express my sincere regret at what occurred. The boys, I can understand, not knowing our customs or language, exercised the instinct of attempting to flee, which the American officer too often construes as justifying the firing of his gun. It appears that the boys had done no wrong and had violated no law other than that they were carrying concealed weapons on their persons, which is in violation of our State law.

The purpose of this letter is to express to you and, through you, to His Excellency, The President, my deep regret of this occurrence, and to assure him that diligent effort will be made to ascertain whether the officer was without authority to commit the homicides.

Please to assure The President of these expressions and of the last promise of investigation on the part of the State.

With expressions of sorrow and regret, I am,

Very sincerely,

WM. H. MURRAY

²¹ Manuel Gómez was not related to the President of Mexico; Emilio Cortés Rubio and Salvador Cortés Rubio, who were cousins, were nephews of the President (411.12 Gomez and Rubio/138).

411.12 Gomez and Rubio/7 : Telegram

The Governor of Oklahoma (Murray) to the Secretary of State

OKLAHOMA CITY, June 9, 1931.

[Received 1:30 p. m.]

Further referring to the killing of the two Mexican citizens, I have to report that the State's Criminal Investigator and Attorney General are at Ardmore aiding the investigation. I have also sent my secretary who is a lawyer for the same purpose. In addition I have also commissioned Colonel Charles Clowe to accompany the bodies to Mexico City together with Messena Bancroft Murray to accompany Colonel Clowe to the Mexican boundary. I especially request that you notify the American Minister of [*Ambassador to*] Mexico of the coming of Colonel Clowe as he has no passport and might require same for return.

WILLIAM H. MURRAY

411.12 Gomez and Rubio/8 : Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

MEXICO, June 9, 1931—5 p. m.

[Received 7:07 p. m.]

186. My 185, June 8, 7 p. m.¹² Note just received from Foreign Office requests me to transmit message from President Ortiz Rubio to President Hoover in reply to latter's message. Translation of reply reads as follows:

"I receive with much gratitude the message in which Your Excellency is good enough to express your sorrow for the incident resulting in the death yesterday in Oklahoma of two Mexican students, one of them a relative of mine, and I thank you very much for your kindness in informing me that you have ordered that a minute investigation of this distressing occurrence be made."

CLARK

411.12 Gomez and Rubio/9

The Secretary of State to the Mexican Chargé (Herrera de Huerta)

WASHINGTON, June 9, 1931.

SIR: I have received your note No. 02373 of June 8, 1931, relative to the shooting at Ardmore, Oklahoma, of two Mexican youths, Manuel García Gómez and Emilio Cortéz Rubio, the latter, you state, being a nephew of His Excellency, the President of Mexico:

This information came to the Department yesterday and the appropriate authorities were immediately requested to direct a minute in-

¹² Not printed.

vestigation, with a view to determining the circumstances of the shooting and establishing the responsibilities which may be involved.

I take this occasion to express to you my profound regret at this deplorable incident and to say that I shall not fail to communicate to you the result of the investigation as soon as it shall have been completed.

Accept [etc.]

HENRY L. STIMSON

411.12 Gomez and Rubio/13 : Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

MEXICO, June 10, 1931—1 p. m.

[Received 4:05 p. m.]

188. On receipt of Department's 166, June 9, 4 p. m.,¹³ and of telegram from Governor of Oklahoma to the effect that his representative, Colonel Charles E. Clowe, accompanying remains of Gómez and Cortés Rubio would arrive Laredo 2 p. m. Thursday, June 11, I addressed note to Foreign Office. Embassy also orally inquired whether it would be agreeable to the Mexican Government for Colonel Clowe to accompany remains in Mexico or whether it would be prudent for him to do so in view of reports in the press that hostile demonstrations against United States would take place in Morelia on arrival of bodies there.

Embassy has just been orally advised by Foreign Office that Mexican Government deeply appreciates courtesy of Governor of Oklahoma, but is of the opinion that due to lack of good accommodations to Morelia it would be advisable for Colonel Clowe to accompany remains only to the border. On our again suggesting possibility of demonstrations in Morelia Foreign Office representative said that this was another reason why it would be inadvisable for Colonel Clowe to accompany the remains beyond the border.

If Department sees no objection please communicate foregoing confidentially to Governor. Am advising Consul at Nuevo Laredo.

CLARK

411.12 Gomez and Rubio/14 : Telegram

The Governor of Oklahoma (Murray) to the Secretary of State

OKLAHOMA CITY, June 10, 1931.

[Received 4:55 p. m.]

In addition to matters and things reported yesterday *in re* the killing of the two Mexican citizens I have directed the payment of the transportation of the bodies to Mexico City. Have advised the people

¹³ Not printed.

of Ardmore to pass appropriate resolutions of regret by the City Council, the County Government and Chamber of Commerce and that a large concourse of citizens follow the remains to the train when shipment is made this afternoon. Have done all the things that I could think of to alleviate the strained relations that exist between our [country?] and our neighboring Republic. I await your orders if other matters are needed. Have wired the American Minister [Ambassador] Mexico City place and time of crossing the international border.

WM. H. MURRAY

411.12 Gomez and Rubio/19: Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

[Paraphrase]

MEXICO, June 11, 1931—4 p. m.

[Received 8:08 p. m.]

188. Except for the use of such words as "vilely", and "barbarous", and of an unfriendly editorial in yesterday's *La Prensa* (which paper is almost always anti-American in its point of view), the press has treated the killings at Ardmore, Oklahoma, with forbearance and moderation. I was told that the occurrence has given rise to considerable ill-feeling against the United States especially among those persons who are generally characterized as anti-American.

From two different sources close to President Ortiz Rubio we have been informed that local students and others tried to influence the families of the deceased to send the remains to Morelia, via Mexico City, in order that a demonstration might be organized in Mexico City, but that the families of the deceased decided otherwise. Also, from the same sources, we have been advised that persons in Mexico City of Michoacan origin requested the assent of the President to hold a demonstration in Mexico City without the remains of the deceased and that the President gave his permission with the understanding that they would guarantee that no statements would be made attacking either the Government of Mexico or the United States.

CLARK

411.12 Gomez and Rubio/33

The Consul at Nuevo Laredo (Wormuth) to the Secretary of State

No. 12

NUEVO LAREDO, June 13, 1931.

[Received June 18.]

SIR: I have the honor to report that the remains of Manuel Gómez and Emilio Cortés Rubio who allegedly were shot and killed by one

Deputy Sheriff Guess at Ardmore, Oklahoma, were taken across the border from Laredo, Texas, to Nuevo Laredo, Mexico, on June 11, 1931, having arrived at Laredo at 2:00 P. M., accompanied by Colonel Charles E. Clowe as personal representative of the Governor of Oklahoma and also by the son of the Governor, Messena Murray, and by Salvador Cortés Rubio, brother [*cousin*] of Emilio Cortés Rubio. At the request of our Ambassador at Mexico City and of the Governor of Oklahoma, and accompanied by Vice Consul Williams, I met the train upon its arrival at Laredo, Texas, and communicated the contents of the telegrams received from our Embassy and from the Governor of Oklahoma to Colonel Clowe and the Governor's son, who thereupon, without crossing the border to Nuevo Laredo, returned one to Oklahoma City and the other to Houston.

There was no demonstration either at Laredo, Texas, or Nuevo Laredo, Mexico, and the number of persons meeting the train at Laredo, Texas, did not exceed twenty five. Most of these were Mexican officials including the Consul of Mexico in Laredo, Alejandro V. Martinez and members of his staff. The transfer of the necessary documents accompanying the bodies of the two deceased boys was made with the assistance of Consul Martinez and it is believed that he deserves the commendation of his government for the tact and diplomacy exercised by him throughout this incident. The courtesies and consideration of the Governor of Oklahoma in sending a personal representative and his own son to accompany the bodies of the deceased made a deep impression upon the public both of Laredo, Texas, and Nuevo Laredo and undoubtedly exercised an influence in preventing any exhibition of anti-American feeling on the part of the Mexican population of the two cities.

It may be of interest to the Department that Salvador Cortés Rubio, brother [*cousin*] of Emilio Cortés Rubio, expressed the most friendly feeling toward the United States and stated that he did not hold the people of the United States to blame for the regrettable fate of his brother [*cousin*] and that he expected to return to school in the United States.

It is deemed necessary to correct two newspaper notices that have come to the attention of this office. One of these appeared in the *San Antonio Express* of July 12 stating that Colonel Clowe and Messena Murray, the son of Governor Murray, visited Nuevo Laredo before returning as heretofore stated. This statement is, to the personal knowledge of myself and Mr. Williams, absolutely incorrect, inasmuch as we were personally present with Colonel Clowe and Mr. Murray from the time of their arrival at 2:00 P. M., until their departure at 3:30 P. M., on the same day, in the meantime making an official call upon the Mayor of the city of Laredo. It is deemed necessary also

to correct a statement appearing in *La Prensa*, the leading newspaper in Mexican vernacular published in San Antonio, Texas, of issue of June 12, 1931, in which it is stated that the American Consul was not present on the arrival of the train although requested to meet the train by the Governor of Oklahoma. This statement is of course incorrect, even according to the report in the same column of the same newspaper given by the local correspondent appearing directly above the statement in question which was a United Press statement. The correspondent of *La Prensa* by special telegram gave correctly the names of those receiving the funeral cortege, and among such names appears that of myself and Vice Consul Williams.

Newspaper clippings of the local newspaper relative to the reception of the funeral cortege are herewith transmitted.¹⁴

Respectfully yours,

ROMEYN WORMUTH

411.12 Gomez and Rubio/31

The Secretary of State to the Governor of Oklahoma (Murray)

WASHINGTON, June 15, 1931.

SIR: Your letter of June 8, 1931, is acknowledged with much appreciation, together with its enclosure, a copy of a letter addressed by you to the Consul of Mexico at Oklahoma City, relative to the recent shooting of two Mexican students at Ardmore, Oklahoma.

I take the occasion to express also my deep appreciation for the prompt action which you have initiated with a view to investigating the deplorable incident and to establishing the responsibility for its occurrence.

I have [etc.]

HENRY L. STIMSON

411.12 Gomez and Rubio/36

*The Mexican Chargé (Herrera de Huerta) to the Secretary of State*¹⁵

[Translation]

No. 02502

WASHINGTON, June 18, 1931.

MR. SECRETARY: I have been especially charged by my Government, and I now have the honor, to express to Your Excellency the sincere gratitude of the kindred of the young students, Cortés Rubio and García Gómez, for the courtesies and attentions which President Hoover, the Governor of the State of Oklahoma, and the Department of State rendered on the occasion of their death and the taking of the bodies to Mexico.

¹⁴ Not reprinted.

¹⁵ Note acknowledged on June 22.

In requesting Your Excellency to be good enough to transmit to President Hoover and to Governor Murray, and also to accept for yourself, the expression of the gratitude of the families of the two young men, I take pleasure in renewing to you the expression of my highest consideration.

P. HERRERA DE HUERTA

411.12 Gomez and Rubio/45: Telegram

The Ambassador in Mexico (Clark) to the Secretary of State

MEXICO, June 23, 1931—1 p. m.

[Received 9:11 p. m.]

213. Saturday Salvador Cortés Rubio and his son Salvador, who is the survivor of the Ardmore tragedy, came to see me about son's returning to Oklahoma to testify at the trial of the deputy sheriffs. Apparently the prosecution made no effort to secure the return of the boy though the Mexican Consul urged it. The father stated he felt he should not bear the financial burden of the trip and I understand him to feel unable to do so. I explained that usually the state paid the cost of transporting witnesses, living outside the jurisdiction, to and from the place of trial and also gave them a small per diem for expenses, but added that I did not know whether Oklahoma would do so. I said I would bring the matter to the attention of the Department and would express the hope that the Department would call it to the attention of the Governor of Oklahoma. The boy told me he was within 5 feet of the place where the boys were shot at the time of the shooting, so he apparently was the only eye witness of the tragedy except the accused. The boy left Mexico City Sunday morning for Ardmore.

CLARK

411.12 Gomez and Rubio/49

The Secretary of State to the Mexican Chargé (Herrera de Huerta)

WASHINGTON, June 24, 1931.

SIR: The receipt is acknowledged of your note of June 16, 1931,¹⁸ with further reference to the unfortunate shooting at Ardmore, Oklahoma, of the young Mexican students, Emilio Cortés Rubio and Manuel García Gómez. You inform the Department that the Ministry of Foreign Relations of Mexico considers it desirable that the necessary investigations be continued by the Governor of the State of Oklahoma.

¹⁸ Not printed.

According to the Department's information, the authorities of the State of Oklahoma are pursuing the investigation of this case with all due despatch required by law.

Accept. [etc.]

For the Secretary of State:
JAMES GRAFTON ROGERS

411.12 Gomez and Rubio/51: Telegram

The Secretary of State to the Ambassador in Mexico (Clark)

WASHINGTON, June 25, 1931—2 p. m.

183. Your 213, June 23, 1 p. m. The Department was informed this morning by telephone from the Governor of Oklahoma that the expenses of Salvador Cortés Rubio would be fully taken care of.

STIMSON

411.12 Gomez and Rubio/54: Telegram

The Ambassador in Mexico (Clark) to the Acting Secretary of State

MEXICO, June 30, 1931—10 a. m.

[Received 7:30 p. m.]

219. According to this morning's press, Minister of Foreign Affairs last night issued following statement to the press with respect to Ardmore trial:

"I am sure that any verdict whereby the murderer of the Mexican students in Oklahoma should remain unpunished will provoke righteous indignation in the hearts of the Mexican people and that, in view of the many expressions received from the United States itself condemning this crime, public opinion in that country also supports this view.

Since the Government of Mexico has been assured that the American Government has ordered that a thorough investigation be made of the circumstances of this very distressing occurrence, we are awaiting the result of this investigation by the Federal authorities.

Naturally, the Government of Mexico could not say that this incident is closed by the verdict of the jury in Ardmore."¹⁷

Presumably Mr. Estrada's reference to an "investigation by the Federal authorities" pertains to the President's message to President Ortiz Rubio that he had ordered "a minute investigation of the circumstances" (Department's telegram 164, of June 8, 6 p. m.).

An editorial yesterday in *Excelsior* and today in *El Universal* deplore in bitter terms the jury's verdict. Their criticism is vented rather against the jury and against the people of Ardmore than against

¹⁷ The defendants had been granted a severance in the cases and Mr. Guess was acquitted, June 27, 1931, on the charge of murdering Emilio Cortés Rubio (411.12 Gomez and Rubio/138).

the United States in general. The editorial in *Excelsior* in fact points out that the Governor of Oklahoma has publicly deplored the verdict. Press states that various student bodies are sending protests to Washington. Thus far there have been no demonstrations outside the Embassy or Consulate General.

CLARK

411.12 Gomez and Rubio/79

The Acting Secretary of State to the Mexican Chargé (Téllez)

WASHINGTON, August 8, 1931.

EXCELLENCY: I have the honor to refer to your note of July 14, 1931,¹⁸ and to earlier correspondence in relation to the deplorable affair of June 7, 1931, at Ardmore, Oklahoma, which resulted in the death of two Mexican students, Mr. Emilio Cortés Rubio and Mr. Manuel Gómez.

The complete stenographic report of the trial of Deputy Sheriff William E. Guess, who admittedly fired the shots which resulted in the death of the two young men, has been given most careful study by this Government, together with all other available documentation in the case. The facts as indicated in the record appear to be substantially as follows:

Early in the morning of June 7, 1931, following the termination of the school year, Mr. Salvador Cortés Rubio and his cousin, Mr. Emilio Cortés Rubio, who had been in attendance at a school in Atchison, Kansas, together with Mr. Manuel Gómez, who had been a student at the Rolla School of Mines in the State of Missouri,¹⁹ all being Mexican citizens, left Atchison, Kansas in an automobile belonging to Mr. Gómez, for their homes in Mexico. There were in their possession in the car, the following arms and ammunition:

- 2 .38 colt automatic pistols,
- 1 .41 calibre double barrel derringer pistol,
- 1 .16 gauge shot gun,
- 300 rounds of automatic pistol cartridges,
- 60 rounds .303 savage rifle cartridges,
- 50 rounds .12 gauge shot gun shells,
- 25 rounds .16 gauge shot gun shells,
- 50 rounds .41 calibre derringer cartridges,
- 2 extra magazine clips for a .38 automatic.

At about eleven o'clock in the evening of June 7, their car arrived at a rootbeer stand on Twelfth Avenue, Northwest, in the outskirts

¹⁸ Not printed.

¹⁹ Actually, Manuel Gómez and Salvador Cortés Rubio were students at the school at Atchison, and Emilio Cortés Rubio attended the Rolla School of Mines (411.12 Gomez and Rubio/138).

of the town of Ardmore, Oklahoma. The two Cortés Rubio boys alighted from the car and partook of rootbeer and sandwiches. Mr. Gómez was suffering from malaria and remained in the car at this time. Shortly after the arrival at the rootbeer stand of the car with the three Mexican lads, another car drew up to the stand containing Messrs. William E. Guess and Cecil Crosby, both Deputy Sheriffs of Carter County, Oklahoma, in which the town of Ardmore is situated. These officers of the law had devoted the day since noon, under orders of the Sheriff of the County, to a search for persons guilty of a recent robbery. This search had taken them over a considerable distance and they had stopped at a number of places.

The Deputy Sheriffs did not get out of their car at the rootbeer stand, but drank rootbeer which was brought to them by an attendant. They were at this time about ten feet distant from the Cortés Rubio boys, whom they observed with the conclusion that they were not the persons for whom they were searching. Mr. Emilio Cortés Rubio and Mr. Salvador Cortés Rubio conducted themselves at the rootbeer stand in a manner beyond criticism. The only comment which it appears the Deputy Sheriffs made to each other concerning the Mexican boys, was that they might be Italians or Spaniards.

The Deputy Sheriffs left the rootbeer stand before the car with the three students departed, and continued in their car for about four blocks east until they came to a filling station at the corner of Twelfth Avenue and E Street, Northwest. They stopped at the filling station and conversed for a few minutes with the man in charge, during which time the car containing the three Mexican students turned from Twelfth Avenue and E Street, and passed the filling station. Very shortly thereafter the officers left the filling station in their car, going over E Street.

A little more than a block beyond the filling station, the car containing the three Mexican boys stopped on the west side of E Street about three feet from the curb. Mr. Salvador Cortés Rubio alighted from the east side of the car, went around to the front of the car, the lights of which continued to function, and a few feet in front of the car, began to urinate, either on the pavement or three or four steps off the pavement, to the west, where there was no sidewalk, but in any event, in full view of passing cars, of which there was a considerable number even at that time of night. This street, which forms a part of highway No. 77 is one of the most traveled roads in the State of Oklahoma.

The Deputy Sheriffs observed the action of Mr. Salvador Cortés Rubio and stopped their car so that the front wheels were approximately in alignment with the rear wheels of the Mexican boys' car, and a few feet distant therefrom. Deputy Sheriff Crosby alighted, went around the front of the students' car and reprimanded Mr. Salva-

dor Cortés Rubio for his actions. It appears that both Mr. Salvador Cortés Rubio and Deputy Sheriff Crosby were entirely courteous in their conversation with each other. Mr. Crosby states that he explained his assumed authority in the matter, by stating to Mr. Salvador Cortés Rubio that he was a Deputy Sheriff, and exhibited his badge. In this statement, Deputy Sheriff Crosby is supported by Deputy Sheriff Guess, who says that he heard the former announce himself to Mr. Salvador Cortés Rubio as a Deputy Sheriff. Mr. Salvador Cortés Rubio, however, denies that Mr. Crosby so announced himself or that he exhibited his badge.

After reprimanding Mr. Salvador Cortés Rubio, Mr. Crosby stepped back to the east door of the car and asked the other two boys where they were from. He states that on this occasion also he announced himself as a Deputy Sheriff, and exhibited his badge, but there is no other evidence either for or against this statement. In any event the occupants of the car told Mr. Crosby that they were students returning from their schools to their homes in Mexico. In the course of the conversation Deputy Sheriff Crosby observed that Mr. Emilio Cortés Rubio, who was seated nearest to him, held an automatic pistol in his hand. It does not appear that this pistol was pointed at Mr. Crosby or that either of the occupants of the car made any threatening movements. However, Mr. Crosby drew his own pistol with his right hand and with his left grasped the pistol which was in Mr. Emilio Cortés Rubio's hand. After some resistance on the part of the latter, Mr. Crosby succeeded in wresting the pistol from his possession.

While Mr. Crosby was talking with the two Mexican boys, Deputy Sheriff Guess backed his car in the rear of the car belonging to the boys and near the curb for the purpose, he states, of removing it from the path of traffic. In this position Mr. Guess could see the left hand or east side of the other car and, of course, observed the movements of Mr. Crosby. It seems too that he heard fragments of the conversation between Mr. Crosby and the two Mexican boys in the car, sufficient to know that the latter had declared themselves as students bound for their homes in Mexico. Mr. Guess states, and naturally there is no other available evidence on this point, that he observed the tussle between Deputy Sheriff Crosby and Mr. Emilio Cortés Rubio for the possession of the pistol and saw Mr. Crosby take the pistol out of the car while holding his own pistol in his other hand. Thereupon Mr. Guess alighted from his car and walked over the ten or twelve feet which separated him from the car of the Mexican boys, coming to the west or right hand side of the latter car to find himself confronted at the door of that car by Mr. Manuel Gómez, who had just alighted therefrom and who was wrapped in a blanket. Mr. Guess, as the only witness on this point, states that Mr. Gómez held in his hand a pistol which was pointed at him and that he thereupon, either

after calling upon Mr. Gómez to put up his hands or without saying anything, he did not remember which, but at any rate without anything being said by Mr. Gómez, shot Mr. Gómez twice, as the result of which the latter fell and appears to have died in a very short time.

Mr. Guess further states, as the only witness upon this matter, that when he heard a noise in the car, which up to that time he had believed, from seeing only two occupants thereof who had alighted at the rootbeer stand, to have been occupied by only two persons, he turned to the west or right hand side of the door which was opened, and saw a man turned toward that door extracting from his pocket a pistol. Without addressing this man or being addressed by him, Mr. Guess immediately shot him once, the shot proving fatal within a few minutes.

On the other side of the car Deputy Sheriff Crosby observed Mr. Gómez to alight during or just after the tussle which he, Mr. Crosby, had with Mr. Emilio Cortés Rubio over the possession of the pistol, and of course heard the shots fired but did not see what occurred on the west side of the car. Upon hearing the shots Mr. Crosby, thinking he had disarmed the man in the car of the only weapon in his possession, naturally turned his thoughts to Mr. Salvador Cortés Rubio, who was standing in front of the car and who Mr. Crosby thought might also be armed. Mr. Crosby stepped towards Mr. Salvador Cortés Rubio with the idea of ordering him to put up his hands and it appears that at almost the same time Mr. Guess turned to Mr. Salvador Cortés Rubio and ordered him to put up his hands, which he did.

Mr. Salvador Cortés Rubio stated that he was standing in the glare of the headlights at the time and therefore was unable to see the occurrences at the time of the shooting other than to note the flashes through the windshield. However, he entertains no doubt that Mr. Guess did all the shooting.

Within two minutes after the shooting, two police officers of Ardmore, Messrs. Matthew Alexander and Ott Holden, who had passed the two cars before mentioned just prior to the shooting, and had noticed Crosby standing by the east door in front, parked their car when they heard the shots and went to the scene of the shooting. At the request of Deputy Sheriff Guess, Mr. Holden took charge of Mr. Salvador Cortés Rubio, whom Mr. Guess had just searched, but on whom he had found no weapon, while both police officers noted the body of Mr. Manuel Gómez lying between his car and the curb and that Mr. Emilio Cortés Rubio was slumped in his seat with his head leaning against the door of the car in a dying condition.

Deputy Sheriff Guess told Mr. Alexander to look for a pistol about the body of Mr. Gómez, and after making a search Mr. Alexander found a loaded pistol lying by the right side of Mr. Gómez, the safety

clutch of which was in a position for the gun to shoot. The position of the body of Mr. Gómez on the pavement between the curb and the automobile immediately following the shooting was also testified to by several other apparently disinterested witnesses who were in the vicinity of the shooting when it occurred and arrived at the actual scene thereof within a very few minutes. These witnesses also testified to seeing the body of Mr. Emilio Cortés Rubio slumped in the car. It further appears that a very few minutes after the shooting but subsequent to the arrival of eight or ten persons upon the scene, Mr. Guess reached into the car and took therefrom either from the seat or from a pocket of Mr. Emilio Cortés Rubio's clothing, a Derringer pistol. Again reaching into the car, Mr. Guess extracted from a pocket of the clothing of the deceased boy, a magazine containing ammunition.

Following the shooting Mr. Salvador Cortés Rubio was detained in the police station in Ardmore for the remainder of the night but was released from custody the next day and subsequently remained as a guest in the home of a citizen of Ardmore.

On June 24, 1931, Deputy Sheriff Guess was placed on trial in the District Court of Carter County, State of Oklahoma, for the killing of Mr. Emilio Cortés Rubio, and there appeared for the State of Oklahoma, as the prosecutor on the trial, Mr. Marvin Shilling, County Attorney for Carter County, Mr. John McCain, Assistant County Attorney, Mr. F. M. Dudley, Assistant Attorney General of Oklahoma, Messrs. W. E. [H?] Brown, and J. W. Sprainer [*J. M. Springer*] of Oklahoma City, Oklahoma, the two latter as special representatives of the Governor of Oklahoma, and Mr. M. C. Gonzales of San Antonio, Texas, representing the relatives of the deceased, Mr. Emilio Cortés Rubio and Mr. Manuel Gómez. After hearing sixteen witnesses for the prosecution, including Mr. Salvador Cortés Rubio, and eight witnesses for the defense, including Deputy Sheriffs Guess and Crosby, the jury acquitted Mr. Guess.

The Department is informed that the trial of Mr. Guess on the charge of murdering Mr. Manuel Gómez and the trials of Mr. Crosby on the charges of murdering both Mr. Gómez and Mr. Emilio Cortés Rubio will take place in the early fall of this year.

I do not feel that any statement of this deplorable incident should be made without inviting the attention of Your Excellency to the attitude of Governor Murray of Oklahoma throughout the entire course of the affair. Governor Murray took every opportunity to express both publicly and privately his profound grief for the unfortunate occurrence, and he showed by his actions his sincere desire to do everything possible, within the limit of his authority, to further the ends of justice and to show the sincerity of his feeling. He instructed

the Attorney General of the State to participate in the prosecution, this being the limit to which he legally could go. As an indication of his respect for the deceased and of his high consideration for their nation and for their bereaved relatives, he ordered that the entire funeral expenses and the cost of transportation of the bodies of the two boys to Mexico should be at the expense of the State.

As bearing upon the haste with which Deputy Sheriff Guess acted and also upon the verdict of the jury at his trial, it should be stated that the Department is informed that in the recent past several police officers in that part of Oklahoma in which the town of Ardmore is situated, have been killed by criminals firing from motor cars which those officers have approached. The carrying of arms by private individuals in Oklahoma is unusual and it is not unreasonable to believe that the tragedy occurred from the fact that the Mexican boys were in possession of arms, however adequate the explanation for having those arms might be from the viewpoint of the boys. There can be no question that the fact of the foreign nationality of the boys had no bearing upon the event. That they were Mexican was unknown to the officers at the time of the shooting. Exactly the same unfortunate result would have taken place if the boys had been Americans under similar circumstances. The press of the entire country has commented extensively upon the tragedy and has been unanimous in its expression of sympathy and friendship for Mexico and for the grief stricken relatives of the two boys.

The profound regret of my Government for this tragic occurrence has already been conveyed to Your Excellency, and I take this occasion to add again an expression of the grief and regret with which the whole affair is regarded by my Government and my countrymen.

Accept [etc.]

W. R. CASTLE, JR.

411.12 Gomez and Rubio/82

The Mexican Ambassador (Puig) to the Secretary of State

[Translation]

No. 04374

WASHINGTON, November 20, 1931.

EXCELLENCY: I have the honor to place before Your Excellency the case of the double murder of the Mexican youths Emilio Cortés Rubio and Manuel García Gómez.

I am constrained to apprise Your Excellency that, in the official judgment of my Government, as well as in Mexican public opinion, the fact that the men who killed young Cortés Rubio and García Gómez have not yet been punished can be interpreted only as a painful demonstration of lack of interest and sentiment of justice on the part of the agencies entrusted by law with administering such

punishment, this lack of interest being tacitly tolerated by Your Excellency's Government.²⁰

On my part I deem it my duty to bring to Your Excellency's attention the circumstance which I relate in the foregoing paragraph by virtue of specific instructions received to this effect and because the cultivation of the most cordial and friendly understanding between our nations is a cause of constant concern to myself.

I am convinced that no acceptable explanation can be gathered from the diplomatic correspondence exchanged between the State Department and the Mexican Embassy following the murder of the aforementioned two youths to exempt the American nation from international responsibility in this matter, although I take pleasure in acknowledging that both my Government and the relatives of the victims have received, in connection with these regrettable events, palpable demonstrations of courtesy and condolence from illustrious and prominent members of the Government and people of this country, which demonstrations have been duly appreciated in the proper spirit.

In previous cases and in its diplomatic and judicial policy Mexico has recognized the necessity between civilized nations of an international rule relating to the taking of life, which rule should be reciprocal, be respected, and guarantee the high esteem in which the existence of human beings is held.

I have instructions from my Government to say to Your Excellency that it considers the responsibility of the American nation in this case to be indisputable and that in its opinion it is in the light of international law that appropriate satisfaction should be given Mexico as a friendly nation.

My Government considers that the double murder of Emilio Cortés Rubio and Manuel García Gómez was perpetrated by North American police officers during the performance of their functions, they having made undue and careless use of their fire arms by discharging the shots that deprived the said youths of their lives, thereby evidencing their absolute disregard of human life.

The acts of these police officers place the American nation under responsibility to answer for their conduct in the terms of international law, in view of the negligence thus far shown in securing their punishment, this latter circumstance possessing a legal significance because it is a question of officers of an inferior category.

The bare mention of the time that has transpired since the date of the murders would be sufficient basis on which to establish future

²⁰ The second trial was in progress at this time, having been set for November 19. On November 22 the jury returned a verdict acquitting the defendants. (411.12 Gomez and Rubio/83)

arguments as to the leniency that has been exhibited in procuring the punishment of the guilty parties.

The Mexican Government for the present bases its formal complaint solely on the direct responsibility of the American nation, but it reserves the right to base it also on the ground of denial of justice if circumstances should become suitable for this purpose.

I will also add, perhaps therein anticipating Your Excellency's own opinion, that my Government will receive as a weak and ineffectual argument any consideration in which your Government cites the fact that the murderers are still being tried or that all the proceedings relating thereto have not been concluded, as exonerating the American nation from international responsibility.

My Government characterizes this argument as invalid in advance, for the very delay shown in the murder trials is evidence of apathy in the matter.

Neither can Mexico accept as reasonable any thesis that invokes the sovereignty of the State of Oklahoma, a political entity forming part of the American Federation, which is the entity with which Mexico is carefully cultivating cordial relations of friendship.

I will also declare in advance that Mexico declines to accept any intimation that this case should be brought, civilly or criminally, only before the American courts. The first point is one of civil liability on the part of the guilty parties, but this does not exempt the American nation from its own international responsibility, and the second course does not appear advisable in view of the fact that we already have the experience of a verdict of acquittal in the first jury.

In due time Your Excellency will be in possession of all the papers connected with this complaint, serving as evidence of the various aspects thereof and illustrating and supplementing it.

It is my personal desire to clearly impress upon Your Excellency's mind the real conviction that, as Ambassador of Mexico, I am acting in this case as the faithful interpreter of the Mexican national conscience and of the legal opinion of my Government.

I avail myself [etc.]

Puig

411.12 Gomez and Rubio/84

The Secretary of State to the Mexican Ambassador (Puig)

WASHINGTON, November 30, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of November 20, 1931, in relation to the death of the Mexican citizens Mr. Emilio Cortés Rubio and Mr. Manuel Gómez.

In reply I refer to the Department's note of August 8, 1931, detailing the result of its investigation of the deplorable affair of June 7, 1931, at Ardmore, Oklahoma, which resulted in the death of these Mexican

citizens and in which the Department reiterated the profound regret of this Government for the tragic occurrence in question.

While not admitting the correctness of the conclusions which you draw from the facts and circumstances connected with this affair, I advise you that further consideration will be given to it upon the receipt of the documents which you state will be sent to the Department at a later date.

Accept [etc.]

HENRY L. STIMSON

[Pursuant to an Act of Congress approved February 25, 1933 (47 Stat. 907) the Secretary of State on April 25, 1933, transmitted a Treasury check for \$30,000 to the Mexican Ambassador for payment to the Government of Mexico, \$15,000 for the account of the family of Emilio Cortés Rubio and \$15,000 for the account of the family of Manuel García Gómez, "as an act of grace and without reference to the legal liability of the United States". (411.12 Gomez and Rubio/134)]

**REPRESENTATIONS BY THE GOVERNMENT OF MEXICO AGAINST THE
ARREST AND SENTENCE OF MEXICAN VICE CONSUL AT CHICAGO
FOR CONTEMPT OF COURT**

702.1211/2127a : Telegram

The Acting Secretary of State to the Governor of Illinois (Emmerson)

WASHINGTON, July 7, 1931.

The Department has just been informed by the Mexican Embassy at this capital that the Mexican Consul at Chicago is under arrest by order of Judge Thomas Green of the Municipal Court South Chicago. In this relation reference is made to following provisions of Section 256 of the Judicial Code of the United States:

"The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States: ²¹

.
'Eighth, Of all suits and proceedings against Ambassadors, or other public ministers, or their domestics or domestic servants, or against consuls or vice consuls'".

It will be greatly appreciated if you will investigate this reported arrest and take the steps necessary to effect the release of the Mexican Consul and advise me regarding the result. A reply by telegraph will be appreciated.

WILLIAM R. CASTLE, JR.

²¹ The following omission indicated in the original telegram.

702.1211/2128 : Telegram

The Governor of Illinois (Emmerson) to the Acting Secretary of State

SPRINGFIELD, July 7, 1931.

[Received 8:52 p. m.]

For Castle. Your telegram relative to arrest of Mexican Consul at Chicago on charge of contempt of court of Judge Thomas Green received. We are making an immediate investigation to see what can be done and will advise you.

LOUIS L. EMMERSON

702.1211/2138

The Mexican Ambassador (Téllez) to the Acting Secretary of State

[Translation]

WASHINGTON, July 8, 1931.

MR. UNDER SECRETARY: In confirmation of what I communicated by telephone to Mr. Herschel V. Johnson, Chief of the Division of Mexican Affairs in the Department of State, I have the honor to advise Your Excellency that Mr. Adolfo G. Domínguez, Vice Consul of Mexico at Chicago, Illinois, who in the absence of the regular incumbent is in charge of the Mexican Consulate in that city, has been the victim of an outrage, to which I refrain from giving a name, on the part of the Municipal Judge, Mr. Thomas Green, in the course of a hearing which was being held in the Municipal Court of South Chicago, at which hearing Mr. Domínguez was present, in pursuance of his consular duties, as a case was being heard before the Court, on that occasion, in which various Mexican citizens were concerned.

According to the reports which have been received at the Embassy up to the present, what occurred was the following: When Judge Green learned that Vice Consul Domínguez was present, he expressed himself in terms of sharp criticism of Mexico and the work of the Mexican Consulate at Chicago; the Vice Consul, Mr. Domínguez, requested the Judge, with all courtesy, to be permitted to make some explanations in the specific case before the Court, but the Judge, far from granting the request addressed to him by the said Vice Consul, answered him, angrily and without any respect towards the Consular office which he holds: "Shut up!", adding that if he did not leave the Court room immediately he would have him arrested. And in fact that is what he did, for he gave orders that the Vice Consul should be arrested and taken to the police station, from which place he was taken to the Municipal Jail.

Judge Green, furthermore, pronounced a sentence against Vice Consul Domínguez, whereby he attempts to condemn him to six months' imprisonment.

Such is the gravity of the facts that the simple exposition of the same is more than sufficient to prove conclusively the outrage of which a Consular Agent of the Government of Mexico has been made the victim, precisely in carrying out his official duties.

My Government has been extremely surprised by the occurrence, which not only constitutes a flagrant violation of the most elementary juridical principles which protect Consular Agents and afford them assurances in the performance of their duties, but, furthermore, clearly indicates the slight guarantee on which a foreign consul can rely in carrying out the duty of protecting his nationals, since it is within the power of any irritable judge to prevent it by having him arrested.

My Government instructs me to protest energetically against the outrage of which Judge Green made the Vice Consul in charge, Mr. Domínguez, of our Consulate at Chicago, the victim, and at the same time, to request Your Excellency's Government to take the necessary steps, with the urgency which the case warrants, that orders may be issued, both for the unconditional release of Mr. Domínguez and for the expunging from the records of the Court, by way of satisfaction, of the undeserved sentence pronounced against him.

My Government is confident that in view of the delicacy of the situation created by Judge Green Your Excellency's Government will also deem it appropriate to take steps for the purpose of preventing the repetition of such incidents as the one which gives rise to the present representation, and to apply the sanctions which may be appropriate.

I avail myself [etc.]

MANUEL C. TÉLLEZ

702.1211/2136 : Telegram

The Governor of Illinois (Emmerson) to the Acting Secretary of State

SPRINGFIELD, July 9, 1931.

[Received 5:25 p. m.]

Upon receipt of yours of the 7th relative to the arrest of the Mexican Consul of Chicago by order of Judge Thomas Green of the Municipal Court of that city, I asked Chief Justice John J. Sonstebly to at once get in touch with Judge Thomas Green in an effort to bring about a satisfactory conclusion of the matter. The following statement has just been given out by Judge Green :

"To remove any possible belief that my act was any indication of any feeling toward Mexico or to the Mexican people or to create any unfriendly relations between the two countries and to promote the general good feeling between the two countries, the order being directed only as to the individual, at the request of John J. Sonstebly, Chief Justice of the Municipal Court of Chicago, I entered an order expung-

ing the order of July seven, nineteen hundred thirty-one, which held Adolfo G. Domínguez in contempt of court in the case of the people of the State of Illinois versus Adolfo G. Domínguez, case number one naught seven four three six six in the Municipal Court of Chicago thereby closing the matter".

I am under great obligations to Judge Sonstebly for his prompt and friendly interest in this matter.

LOUIS L. EMMERSON

702.1211/2138

The Acting Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, July 10, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of July 8, 1931, with reference to the action of Judge Thomas Green during the course of a hearing in the Municipal Court of South Chicago, when he sentenced the Mexican Vice Consul in Chicago, Mr. Adolfo G. Domínguez, to imprisonment for six months on a charge of contempt of court.

Upon being advised by Your Excellency of this incident, which the Department profoundly regrets, an immediate communication was made with the Governor of Illinois, with the request that an investigation be made and that steps be taken for the release of Mr. Domínguez. As Your Excellency is aware, the release of Mr. Domínguez was effected the evening of the same day on which he was confined to prison.

I have today received a telegram from the Honorable Louis L. Emmerson, Governor of Illinois, reading as follows:

[Here follows text printed *supra*.]

From the foregoing Your Excellency will observe that the action against Mr. Domínguez is definitely terminated.

Accept [etc.]

W. R. CASTLE, JR.

SUIT IN THE SUPREME COURT OF THE STATE OF NEW YORK INVOLVING THE INTERESTS OF THE MEXICAN GOVERNMENT

812.51/1715

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

WASHINGTON, April 16, 1931.

MR. SECRETARY: The Supreme Court of Justice of New York has ordered to be delivered to the Consulate General of Mexico in that city two documents, on several sheets, relative to a certain suit brought in that court by *Gustavo Gallopin vs. Thomas W. Lamont, and others*,

and the United Mexican States; which documents have been forwarded to me here.

As my Government is that of a sovereign country and therefore does not recognize the jurisdiction or competence of any foreign court in affairs concerning the Nation, I take the liberty of enclosing herewith to Your Excellency the two documents above mentioned,²² with the request that, if you see fit, you will have the kindness to order their return to the competent authority, in order that it [i. e. the foregoing]²³ may thus be made a matter of record.

I have the honor to thank Your Excellency in advance for the favor and to renew to you the assurances, etc., etc.

MANUEL C. TÉLLEZ

812.51/1715

The Secretary of State to the Governor of New York (Roosevelt)

WASHINGTON, April 27, 1931.

SIR: I have the honor to enclose for your information a copy in translation of a note dated April 16, 1931, together with its original enclosures, from the Ambassador of Mexico in this city concerning the action brought in the Supreme Court in and for the County of New York against Thomas W. Lamont and others, and the United Mexican States.

It hardly seems necessary to point out that a foreign government may not be sued in the United States in the absence of an applicable treaty without the expressed consent of that government. It is assumed from the Ambassador's note of April 16, 1931, that the Mexican Government does not consent to be sued in the present case. Moreover, it seems to be well established that neither the Ambassador nor the Consular Officer of the country concerned has any authority to accept service on behalf of their Government.

In the circumstances I shall be pleased if you will take such action as you may deem appropriate with a view to the dismissal of the suit against the Mexican Government and the prevention of any further annoyance of the Ambassador in the matter.

I have [etc.]

HENRY L. STIMSON

812.51/1715

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, April 27, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your note dated April 16, 1931, and its enclosures, concerning an action

²² Not printed.

²³ Brackets appear in the file translation.

brought in the Supreme Court of the State of New York in and for the County of New York against Thomas W. Lamont and others, and the United Mexican States.

I have returned the documents enclosed with your note to the Governor of New York with a statement that your Government does not consent to be sued and that neither you nor the Consul General of Mexico have any right to accept service on behalf of your Government.

Accept [etc.]

HENRY L. STIMSON

812.51/1721

*The Acting Governor of New York (Lehman) to the Secretary
of State*

ALBANY, May 15, 1931.

SIR: With reference to your letter of April 27, 1931, with the above file number, I am enclosing a photostatic copy of a communication from the Attorney General of the State of New York, relative to the contents of your letter, which is self-explanatory.

I also have the honor of returning to you the enclosures forwarded by you to this office.

I have [etc.]

HERBERT L. LEHMAN

[Enclosure]

*The First Assistant Attorney General of the State of New York
(Epstein) to the Counsel to the Governor of the State of New York
(Rosenman)*

ALBANY, May 12, 1931.

MY DEAR MR. ROSENMAN: In response to your communication of April 29th to the Attorney General, with the enclosures from the Secretary of State at Washington, which are being returned to you herewith, it would appear that as to property within the jurisdiction of the court the said court may adjudicate as to the parties before it, all however without being binding upon the Government of Mexico, but with results as to the fund or property within the jurisdiction which the Mexican Government may never be able to overcome unless it becomes a party of its own volition.

The fact that the Mexican Government is a foreign sovereign would not prevent this court from adjudicating as to those parties within its jurisdiction the rights with regard to property within its jurisdiction. If the Mexican Government intervenes it may assert its own rights, if any. The Mexican Government of course is not in the case unless it consents to be brought in and it would seem that the court and the attorneys recognize this by virtue of the order which provides: "Plaintiff be and he hereby is directed to obtain the appearance of

said government in this action." It would therefore not seem to be necessary for any proceedings to be taken to dismiss as to the Mexican Government since said Government cannot be compelled to be brought in without its own consent.

Very truly yours,

HENRY EPSTEIN

812.51/1734

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation]

No. 02628

WASHINGTON, June 26, 1931.

MR. SECRETARY: With reference to the action which Gustavo Gallopin brought in the courts of the State of New York against Thomas Lamont and others, into which action the Government of Mexico was improperly brought, and in which an attempt was made to cause the said Government to appear before the court as a party to the suit, I had the honor to address a note to Your Excellency for the purpose of returning, through you, the summons which the court concerned with this case addressed to the Consul General of Mexico in New York.

In the said note I requested Your Excellency to advise the appropriate authorities that my Government, affirming its sovereign rights, could not submit to the jurisdiction of any foreign court, for which reason it declined to appear in the suit. The Embassy is informed to the effect that the contents of my note referred to did not come in due time to the knowledge of the court in charge of this case; and this circumstance had an influence, without doubt, on the result, that on the motion of the plaintiff a depositary was appointed for part of the funds which are in the custody of the Lamont firm, and which belong to the Government of Mexico. It also appears that the plaintiff based his motion on the allegation that he was attorney of a group of holders of Mexican bonds which has not empowered the International Committee of Bankers to represent it before the Mexican Government.

My Government has always been willing to take into consideration the just demands which may be made upon it because of the obligations which it has contracted; but it can neither appear before foreign courts nor, as in the specific case before me, can it overlook the fact that a demand is made for the appointment of a judicial depositary for funds which belong to it, the deposit of which funds has been confided to a third person.

It appears that the International Committee of Bankers has appealed from the judicial decision to the effect that a depositary must be appointed for the said funds, and, as I understand, the appeal will

be heard before the Appellate division of the Supreme Court of the State of New York next Friday, July 3, at 10:30 o'clock in the morning.

I therefore am taking the liberty of requesting Your Excellency, very respectfully, that with the necessary promptness, the Supreme Court of the State of New York be informed:

First: That the Government of Mexico declines to appear in the suit instituted by Mr. Gustavo Gallopin against Thomas Lamont and others;

Second: That the funds which are in the possession of the Lamont firm and in connection with which Mr. Gallopin filed suit, are property of the Government of Mexico and therefore not subject to seizure since they belong to a foreign Government.

My Government is confident that on this information being brought before the Supreme Court of the State of New York, the decision handed down by Judge Valente will be revoked and that no action will be executed upon the funds which belong to it and which the International Committee of Bankers has in deposit.

I thank Your Excellency in advance for the attention which you may be good enough to give to this subject, and avail myself [etc.].

MANUEL C. TÉLLEZ

812.51/1734

The Acting Secretary of State to the Attorney General (Mitchell)

WASHINGTON, June 29, 1931.

SIR: It appears from information in the possession of the Department that several years ago Thomas W. Lamont and others constituted themselves a body known as the International Committee of Bankers on Mexico and thereafter entered into several agreements with the Mexican Government whereunder funds were turned over to the Committee by that Government for the purpose of refunding and liquidating obligations of that Government.

The Department is further informed that some months ago Gustavo Gallopin, owning certain bonds of the Mexican Government which he had not deposited with the Committee in question, suing on behalf of himself individually and on behalf of all other bond holders who may be similarly situated, brought suit in the Supreme Court of the State of New York, County of New York, against the members of the Committee individually and as such Committee wherein he sought to reach the balances remaining in the hands of the Committee of funds deposited with it by the Mexican Government.

It also appears that on April 6, 1931, upon motion of Davis, Polk, Wardwell, Gardiner and Reed, attorneys for the defendants, Justice John Ford of the Supreme Court of the State of New York, ordered

that the plaintiff be directed to obtain the appearance of the Mexican Government in the action, following which order the plaintiff caused a summons to be delivered to the Mexican Consul General in the city of New York, but it seems that this service was not followed by the appearance of the Mexican Government in the action.

Newspaper reports indicate that on June 22, 1931, Justice Valente of the Supreme Court of the State of New York, County of New York, appointed receivers in the indicated action for part of the fund held by the Committee mentioned, ruling that pending the trial of the action, the plaintiff is entitled to have a part of the fund set aside corresponding with the amount of bonds held by the non-depositing owners as compared with the total amount.

The Department is now informed by the Mexican Ambassador to the United States in a note dated June 26, 1931, that the Committee in question has appealed from the order of Justice Valente and that this appeal will be heard before the Appellate Division of the Supreme Court of the State of New York on Friday, July 3 at 10:30 o'clock in the morning.

Translation of that note is enclosed, from which you will observe that the Ambassador requests that the Supreme Court of the State of New York be informed:

"First: That the Government of Mexico declines to appear in the suit instituted by Mr. Gustavo Gallopin against Thomas Lamont and others;

"Second: That the funds which are in the possession of the Lamont firm and in connection with which Mr. Gallopin filed suit, are property of the Government of Mexico and therefore not subject to seizure since they belong to a foreign Government."

I should appreciate it very much if you would instruct the appropriate United States attorney as promptly as possible, to appear before the Appellate Division of the Supreme Court of the State of New York at the time mentioned for the hearing of the appeal and to present to that Court the position of the Mexican Government as above indicated.

Of course you are familiar with the fact that there are numerous precedents for compliance with the request made by me, but it is perhaps appropriate to refer to a few instances in the recent past of similar requests which this Department has made upon your Department. In this relation references may be made to a letter which Secretary Hughes wrote to the Attorney General January 17, 1923, asking that the United States Attorney for the Southern District of New York be instructed to appear before United States District Court and make a certain statement bearing upon the litigation instituted by the Oliver Trading Company, an American corporation, against the Cen-

tral Administration, then functioning in Mexico;²⁴ to a letter addressed by this Department to the Attorney General September 23, 1929, asking that steps be taken to advise the Supreme Court in connection with litigation pending therein of the status of the Swedish State Railroads and of the Swedish Government's claim to exemption;²⁵ and to a letter addressed by this Department to the Attorney General, September 11, 1899,²⁶ asking that the appropriate United States attorney be directed to take appropriate action with respect to a suit instituted in the Courts of the State of New York by one John G. Hassard against the United States of Mexico.²⁷

Very truly yours,

W. R. CASTLE, JR.

812.51/1734

The Acting Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, June 29, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your Note No. 0268 [02628] of June 26, 1931, in relation to litigation pending in the courts in the State of New York which Gustavo Gallopin instituted against Thomas W. Lamont and others constituting the so-called International Committee of Bankers on Mexico. You state that you are informed that an appeal taken by the defendants from an order issued by a Justice of the Supreme Court of the State of New York will be heard before the Appellate division of that Court on Friday, July 3, at 10:30 o'clock in the morning, and you ask that the Supreme Court of the State of New York be informed:

"First: That the government of Mexico declines to appear in the suit instituted by Mr. Gustavo Gallopin against Thomas Lamont and others:

"Second: That the funds which are in the possession of the Lamont firm and in connection with which Mr. Gallopin filed suit, are property of the Government of Mexico and therefore not subject to seizure since they belong to a foreign Government."

I have requested the Attorney General to instruct the appropriate United States attorney to appear before the Appellate division at the time mentioned and state to that Court the position of this Government as above outlined.

Accept [etc.]

W. R. CASTLE, JR.

²⁴ Letter of Secretary Hughes, January 17, 1923, not printed; for previous correspondence printed concerning the Oliver Trading Company, see *Foreign Relations*, 1923, vol. II, pp. 574 ff. See also *ibid.*, vol. III, pp. 260 ff.

²⁵ Letter to the Attorney General, September 23, 1929, not printed; for correspondence concerning the litigation of the Swedish State Railroads, see pp. 1009 ff.

²⁶ Not printed.

²⁷ 29 Misc. 511.

812.51/1738

The Attorney General (Mitchell) to the Acting Secretary of State

WASHINGTON, July 1, 1931.

MY DEAR MR. SECRETARY: I have a letter from your department, dated June 29, 1931 (your reference: SO 812.51/1734), relating to the above suit pending in the Supreme Court of New York, County of New York, and requesting that we cause steps to be taken to formally advise the Supreme Court that the Government of Mexico declines to appear in that suit and that the funds which are involved in the litigation are property of the Government of Mexico and immune from seizure.

The United States Attorney for the Southern District of New York has been directed to appear before the Appellate Division of the Supreme Court of the State of New York on Friday, July 3, at 10:30 in the morning and present the suggestions of the Mexican Government.

Respectfully,

WILLIAM D. MITCHELL

812.51/1746

The Attorney General (Mitchell) to the Acting Secretary of State

WASHINGTON, July 15, 1931.

SIR: We quote below for your information the decision of the Appellate Division, Supreme Court, First Department, New York, reversing the receivership order entered by the Lower Court in this case:

"We consider that the Government of Mexico is a necessary party in interest in the fund proposed to be impounded by this receivership order; and since it is a sovereign state and cannot be made a party without its consent, there was no jurisdiction to appoint receivers of its funds or to issue an injunction against the disposition thereof. We think the order was improvident and should be reversed with \$10 costs and disbursements to the appellants, and the motion denied with \$10. costs."

Respectfully,

For the Attorney General

J. FRANK STALEY

Acting Head Admiralty Division

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF DECREES AND TAXES TO AMERICAN CITIZENS IN THE FRENCH ZONE¹

681.11212/9

*The American Diplomatic Agent and Consul General at Tangier (Blake) to the French Resident General in Morocco (Saint)*²

TANGIER, January 17, 1930.

MR. RESIDENT-GENERAL: I have the honor to inform Your Excellency that, as the result of representations made to the American Consul in Casablanca by various importers of American Canned Foodstuffs in the Zone of the French Protectorate in Morocco, my attention has been drawn to a Vizirial Decree dated July 6th, 1929, which purports to prohibit, as from January 23rd, 1930, the importation or sale of imported canned foodstuffs into the French Protectorate unless the name of the country of origin is stamped upon the metal containers.

The Vizirial Decree above referred to is stated to be issued in consideration of the provisions of a Dahir dated October 14th, 1914, and I would recall to Your Excellency that, on August 16th, 1927, I pointed out to your Residency-General that no request for the application of this Dahir to American commerce had been made to this Diplomatic Agency, and consequently, with a view to submitting its provisions to my Government for its consideration, I suggested that I be supplied with several copies of the text thereof. To this suggestion, the Residency-General, by Note No. 281-D of September 12th, 1927, replied that no copies of the Dahir were available, and that this text was in any case but of relative value in view of the numerous subsequent modifications thereof. However, a new pamphlet on the subject of the legislation in the French Protectorate regarding the repression of commercial frauds, then in preparation, was expected to be published by the end of the year 1927, and it was stated that the Residency-General would forward copies of this pamphlet to this Diplomatic Agency

¹ For previous correspondence on the subject of taxes in the French Zone, see *Foreign Relations*, 1929, vol. III, pp. 482 ff.

² Copy transmitted to the Department by the Diplomatic Agent and Consul General in his despatch No. 467, January 17, 1930; received February 10.

for communication to my Government, looking to its endorsement thereof. This exchange of correspondence appears to have been overlooked by the Residency-General, and I would avail myself of this opportunity to suggest that I now be supplied with the available compendium of legislation edicted in the French Zone of Morocco on the subject in question, and, should the Protectorate Government desire the adhesion of the United States to these measures, that a formal request be made to this effect.

With respect to the Vizirial Decree referred to in the opening paragraph of the present communication, no official notification, through a request for the necessary consent of my Government to the contemplated legislation, has been made by the Residency-General to this Diplomatic Agency, and Your Excellency is aware that under the provisions of the treaties in the premises, the absence of the acquiescence of the Government of the United States in the application of such measures debars them from legal enforcement upon American nationals and *ressortissants* in the French Zone.

Finally, without attempting to discuss any valid objections from the point of view of the American tinned food industry, which might possibly be preferred against the measures after a technical examination of their purport, and assuming that my Government might be disposed, upon request being duly made to it, to acquiesce in the application of the provisions of the Decree to the American interests concerned, it will be obvious that the failure of the Residency-General to make, at the proper time, the notification above referred to, has deprived American packers of the opportunity to adjust their containers to meet the requirements of the regulation in question, so as to be in a position to continue, without suspension, their normal current of shipments, as from the date upon which it is proposed to make the Decree operative.

I feel assured that Your Excellency would not desire to see, and indeed will take measures to prevent, any unwarranted prejudice to the interests of the American tinned food industry, which would have arisen through the oversight of the Residency-General itself to give due and proper notification of the introduction of these measures through normal official channels.

In so far, therefore, as the Decree may affect the legitimate interests in Morocco of the canners and shippers of tinned foodstuffs from the United States, I am constrained to formulate all reservations, and I anticipate, with confidence, that the Protectorate Government will be disposed to give due consideration to this as well as to the other aspects of the question raised by the present Note.

Please accept [etc.]

MAXWELL BLAKE

681.11212/10 : Telegram

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

TANGIER, February 21, 1930—2 p. m.

[Received February 21—10:50 a. m.]

4. Referring to my telegram No. 1 of January 20, noon.³ French Resident General, by note dated February 20, 1930, informs me that enforcement of Vizirial Decree of July 6, 1929, concerning stamping of metal containers of imported foodstuffs is postponed for 6 months as from original date of application.

BLAKE

681.11212/11

*The American Diplomatic Agent and Consul General at Tangier (Blake) to the French Resident General in Morocco (Saint)*⁴

TANGIER, March 5, 1930.

MR. RESIDENT-GENERAL: I have the honor to acknowledge the receipt of Your Excellency's two Notes, Nos. 33-D and 45-D [46-D?] dated respectively February 11, and 20, 1930,⁵ on the subject of the Vizirial Decree of July 6, 1929, concerning the importation of canned foodstuffs.

Your Excellency's first mentioned communication encloses 20 copies of a pamphlet containing the texts relative to the repression of frauds in the matter of foodstuffs, and includes the text of the general Dahir of October 14, 1914, relating to the repression of commercial frauds, in execution of which the Vizirial Decree designated in the preceding paragraph has been issued. Your Excellency's Note No. 45-D [46-D?] of February 20, 1930, informs me that a further delay of six months has been granted in respect of the application of the measure in question, not only for the liquidation of existing stocks, but also insofar as concerns the importation of preserved foodstuffs.

In transmitting to Your Excellency my thanks for these communications, I would recall, as I pointed out in my letter of January 17, last, that the measures contemplated by the Vizirial Decree of July 6, 1929, or indeed the provisions of any other legislative enactments cannot be legally enforced upon American nationals and protégés in the French Zone of Morocco, unless and until consent to them has been given by my Government, in response to a formal appli-

³ Not printed; it reported the note printed *supra*.

⁴ Copy transmitted to the Department by the Diplomatic Agent and Consul General in his despatch No. 481, March 13, 1930; received March 31.

⁵ Neither printed.

cation therefor on the part of the Protectorate Government. May I point out to Your Excellency that no formal solicitation for the American Government's sanction of the application to American *ressortissants* in the French Zone of Morocco of the provisions of the Vizirial Decree of July 6, 1929, is made in either of the above mentioned communications from the Residency General, and since the absence of this formality tends to delay any useful submission of the matter to the Department of State, I would be grateful if Your Excellency would be good enough to expedite the transmission to this Diplomatic Agency of the requisite application in the premises.

I would venture to suggest however, with a view to facilitating matters, both for the Protectorate Government and for this Diplomatic Agency, since many of the Dahirs and Vizirial Decrees, including the Decree in question, which are contained in the "*Recueil de la Reglementation Marocaine en matiere de Repression des Fraudes sur les Denrees Alimentaires*" enclosed in Your Excellency's Note No. 33-D of February 11, 1930, have not yet been submitted for the approval of the United States Government, that a formal request be now made by the Residency General for the American Government's assent to all and each of the legislative measures set forth in the pamphlet referred to.

Upon the receipt of this request, the Dahirs and Vizirial Decrees in question will be submitted to the Secretary of State as promptly as the necessary translation, analysis, and commentary by this Diplomatic Agency will permit, and Your Excellency will be advised of such action as may be taken by the American Government in each case, as and when the corresponding instructions of the Department of State are received by this Diplomatic Agency.

Please accept [etc.]

MAXWELL BLAKE

681.11212/11

The Acting Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 594

WASHINGTON, April 29, 1930.

SIR: The Department has received and studied your despatch of March 13, 1930,⁶ concerning the Vizirial Decree requiring that metal containers of imported canned foodstuffs be stamped with indications of the country of origin. For the present and until the Decree in question and the General Decree of October 14, 1914, have been submitted to this Government and have received its sanction, the Department feels that you should maintain your position that these Decrees shall not be made to apply to American *ressortissants*.

⁶ See footnote 4, p. 739.

Although the Department does not at this time wish to express any opinion as to the attitude which it may take with regard to giving sanction to the Decrees in question, you should perhaps know of the action which the Department took in 1928 relative to the French requirement that certain canned products being imported into France must have embossed or embedded on the cans an indication in the French language of the country of origin. There is enclosed, for your information, a copy of a portion of a note presented to the French Foreign Office in January 1929,⁷ in which this question is discussed. The French Government has taken no action on this request. The Department realizes that the situation in Morocco is quite different from that existing in France but it is not impossible that the French authorities in the French Zone may offer to change the Decree in question in such a way as to meet the Department's request as contained in the portion of the note presented in January 1929.

I am [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

881.512/81

*The Secretary of State to the Diplomatic Agent and Consul General
at Tangier (Blake)*

No. 596

WASHINGTON, May 8, 1930.

SIR: The Department has received your despatch No. 484 of March 24, 1930,⁸ concerning the application of the French Residency General for the Department's assent to the revised Dahir on "Patente" tax. After having studied the Dahir in question, the Department finds no objectionable elements therein except the one to which you have drawn attention, that is, the provision that a portion of the tax is assessed for the benefit of the Superior Council of Commerce and Industry from which Americans are excluded. You may inform the French Resident General that this Government consents to the application of the Dahir, dated December 12, 1929, to American citizens and *ressortissants* in the French Zone except for the provision in the Dahir mentioned above. You will, of course, add the usual reservations with respect to the jurisdiction of the American Consular Courts over infractions of this law committed by American nationals or *ressortissants*, and that the law will be effective only from the date upon

⁷ Not printed; the note was delivered on February 11, 1929, to the French Foreign Office following the Department's instruction No. 3005, December 20, 1928, to the Chargé in France.

⁸ Not printed.

which the notice of this Government's consent is given to the French Resident General.

I am [etc.]

For the Secretary of State:
J. P. COTTON

881.512/94

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 569

TANGIER, December 10, 1930.
[Received January 3, 1931.]

SIR: In my previous despatches on the above subject I had the honor to signalize to the Department the following circumstances which would appear to debar the acquiescence of the American Government's assent to the application to American *ressortissants* in Morocco of the new and increased consumption taxes decreed for the French Zone by a Shereefian Dahir of June 20th, 1930:—

1. The privileged exemption from taxation on Petroleum carburants and lubricating oils of certain groups in the community, namely the "Carburant Cooperative Societies of the Colonial Farmers".
2. The character of a tariff barrier attributable to the consumption taxes on imported refrigerated meats, since this consumption tax is not applicable to Domestic meats.
3. The discrimination resulting from the consumption tax on Edible Soya Bean Oil in favor of ground nut oil originating in the French Colonies.

1. The grounds of the objection referred to in regard to the consumption tax on Petroleum products were fully set forth, in my No. 535 of August 20th, 1930,⁹ and are, in my submission [*opinion*], still entirely warranted.

The policy in the French Zone of Morocco, with regard to the Petroleum products distributing trade was the subject of my No. 533 of August 14th, 1930,⁹ and a later report in this connection from the American Consulate at Casablanca tends to confirm the apprehension which I expressed that this privileged exemption of the Colonist Farmers Cooperative Societies from the duty and consumption taxes on carburants, may be used as an element, in the movement afoot in the French Protectorate to concentrate the petroleum products distributing trade into French hands, to the exclusion of American or other non French interests.

I therefore venture to reiterate my suggestion that in the reply to the French Resident General on the subject of the Dahir of June

⁹ Not printed.

20th, 1930, that the Protectorate Government be specifically notified that the consumption taxes on petroleum products will not be made applicable to American nationals and *ressortissants* until after the exemptions in question shall have ceased to subsist [*exist?*].

2. The American Consulate at Casablanca reports some recent developments in regard to the taxation on frozen meats. A project of a Dahir has been prepared by the "Direction des Douanes" for submission to the Residency General, reducing the consumption tax on frozen meat from Francs 2.00 to Francs 0.50 per kilogram, and providing for a refund to importers of the difference between the two taxes levied on all imports since the publication of the Dahir of June 20th, 1930.

It may be noted that no question is being raised as to placing the consumption tax on fresh meat brought over from France in chilled chambers of importing steamers, whereas frozen meat will pay the consumption tax.

The French press in the Protectorate reveals the fact that the reduction of the tax on frozen meat is being adopted for the purpose of frustrating the importation of cattle from South America, which was found to be a practicable venture under the regime of the higher tax. The so called consumption tax on imported frozen meat, despite its reduced amount, is designed in effect therefore, as a protective tariff measure, rather than as revenue resource.

I am emphatically of the opinion that the Department should refuse assent to any consumption taxes which are made applicable exclusively to imported goods, since such consumption taxes would merely constitute a disguised modification of the customs regime of Morocco, as laid down by the treaties.

3. In this connection it is interesting to note from the report of the American Vice-Consul at Casablanca that he has been unofficially informed by his British Colleague that the tax of Francs 0.50 on Soya Bean Oil is to be cancelled and replaced by a lesser duty on all edible oils.

The British Consul General states that in the opinion of the British Officials, the measure above referred to will remove the objectionable elements of the Dahir of June 20th, 1930, which has not been accepted by the British Foreign Office, but that a King's Regulation will probably be issued applying the provisions of the Dahir as modified in the sense above indicated, to subjects and *ressortissants* of Great Britain.

The British Foreign Office appears to have overlooked the objections to the taxes on Petroleum and on frozen meat which I have set forth herein, and which, I believe, should not escape the Department's consideration.

In conclusion I would recall the attention of the Department to the advisability of incorporating into the representations to be made

to the Resident General of France on the subject of the Dahir of June 20th, 1930, the paragraph suggested on page 7 of my No. 519 of July 2nd, 1930,¹¹ in regard to the liability of the Protectorate Government for the refund of all consumption taxes levied on American concerns under the Dahir in the absence of the Department's prior assent thereto.

Respectfully yours,

MAXWELL BLAKE

681.00212/3

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 574

TANGIER, December 12, 1930.

[Received January 3, 1931.]

SIR: I have the honor to acknowledge the receipt of Instruction No. 613 of November 10th, 1930, (File No. 681.00212/2),¹¹ enclosing a communication addressed to the Department by the Department of Commerce on the subject of a Decree dated June 24th, 1930 (issued in abrogation of the Decree of July 6th, 1929) relative to the regulations governing the importation of tinned foods into the Zone of the French Protectorate.

While it is true that the regulations above referred to appear to eliminate the objectionable requirement as to the impressing or embossing of indications of the country of origin on the metal containers, which was the subject of correspondence between this Diplomatic Agency and the French Protectorate Authorities, the fact remains that the latter have made no communication of the provisions of the new Decree to this Diplomatic Agency.

I therefore entirely agree with the suggestion of the Department of Commerce that it would be preferable, in the circumstances, to publish no announcement in this connection, which might be construed as a recognition of and acceptance by the American Government of a legislative innovation in the absence of the previous application for the Department's assent to and the latter's acquiescence in the application of such measure to American nationals and *ressortissants*.

It would seem important to maintain a strict observance of this principle which the French Residency General, I am given to understand, is deliberately attempting to evade, on the contention that the Protectorate Government is entirely free to legislate for the general public interest, without reference to any of the treaty Powers and that the treaties are sufficiently respected if infractions of the laws com-

¹¹ Not printed.

mitted by American nationals or protégés are brought before the American Consular Courts.

This contention is not only untenable in itself, but evidence is not lacking, as the Department is aware, that the Protectorate Government's legislation which purports to be of a general order, is not infrequently framed to the detriment or embarrassment of the trade of some particular nation or nations, if not manifestly discriminating in the favor of French interests.

Replying to the inquiry contained in the last paragraph of the letter of the Department of Commerce, I would state that while there would appear to be no legal obligation on American shippers to comply with any implied specification of the Decree to the effect that the indications referred to should be couched in the French language, it should be remembered that the large majority of the consumers of tinned food products are found among the French speaking population of the Protectorate. It would seem therefore that the interests of American shippers would be better served if all descriptions and indications of goods destined to French Morocco, were, so far as possible, to be made in the French language.

The metric system should, in any case, be used for the indication of weights, since the Protectorate Government's Decree adopting metric weights and measures as the legal system in French Morocco has received the approval of the Department.

The third paragraph of Article 1 of the Decree of June 24th, 1930, is taken to mean that cans and jars made up in weights to be retailed unopened to the consumer need not necessarily bear indications of the net weight of the contents.

Respectfully yours,

MAXWELL BLAKE

881.512/98

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 587

TANGIER, January 28, 1931.

[Received February 16.]

SIR: In further reference to my Despatch No. 579 of December 20th, 1930,¹² on the above subject, I have the honor to inform the Department that a Dahir, embodying the provisions indicated on pages 3 and 4 of my above mentioned Despatch, has been issued and published under date of December 28th, 1930, in the Official Bulletin of the French Protectorate.

¹² Not printed.

No notification of the issuance of this Dahir has, up to the present time, been made to this Diplomatic Agency by the French Residency-General at Rabat.

I perceive no reasons to modify the objections, signalized in my Despatch No. 579 to the modified provisions relative to the taxation on frozen meats and on edible oils.

In connection with the observations which were presented in my Despatch No. 569 of December 10th, 1930, and in previous despatches pointing to discrimination, in the matter of taxation on petroleum products, in favor of the Agricultural Co-operative Association, there is transcribed below, for the information of the Department, a confidential note just received from the American Consul at Casablanca:—

"A Dahir dated December 6th, 1930, provides for the granting of a subsidy to the 'Co-operative Agricole des Carburants' equivalent to the total amount paid for Customs duties and for consumption taxes.

Theoretically, there appears to be no discrimination, (as between persons engaged in the agricultural industry in French Morocco) inasmuch as any national may become a member of the Agricultural Co-operative Association, and, as such, participate in the loans through the 'Caisse de Crédit' and in purchases through a co-operative association such as the 'Co-operative Agricole des Carburants'.

However, as the Consulate has previously pointed out, while in theory any national might become a member of the Agricultural Association, in practice it has been the general policy to exclude all nationals except French from participating in the distribution of land.

More recently a local American farmer applied for membership of the Agricultural Co-operative Association, and was informed that he might become a member. However, on presenting his final petition, various objections were made to his membership, one being that he was a national of the country which still maintains its treaty rights in Morocco, and that his presence in the Co-operative might complicate their work.

He has not since pressed for membership. Consequently it is impracticable to state at the present time, whether he would have been definitely excluded from membership."

Respectfully yours,

MAXWELL BLAKE

881.512/98

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 625

WASHINGTON, March 5, 1931.

SIR: The Department refers to your despatch No. 587 of January 28, 1931, and previous despatches, concerning the Dahir of June 20, 1930, providing for new and increased consumption taxes in the French Zone of Morocco.

Objection to the Dahir of June 20 rested on the fact that the tax on soya bean oil was discriminatory and that the tax on frozen meats operated as a protective measure. The modified Dahir of December 28, 1930, removes the oil discrimination in that other oils, except olive oil, are taxed in the same amount and reduces the tax on frozen meats. The reduction of this latter tax does not, of course, remove the objection that it is protective. The Department cannot therefore give its assent to the Dahir and should the authorities submit the Dahir to you you should so inform the Resident-General. It is felt that objection should rest on the protective feature of the tax on frozen meat, leaving out of consideration the possible element of discrimination in the tax on oils. An objection based on this latter question might lead to the raising of the question of just what oils are similar to each other and competitive with each other.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

881.20/2

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 656

TANGIER, October 26, 1931.
[Received November 18.]

SIR: I have the honor to inform the Department that the Resident General of France in Morocco has communicated to me, under cover of a note dated September 21, 1931, copies of two Dahirs and two Residential Instructions, in force since January 1930, relative to the requisition for military purposes, of motor vehicles, animals and animal-drawn vehicles. The note contains a request that this legislation be made applicable to American nationals and *ressortissants* in the Zone of the French Protectorate in Morocco.

The French text and English translation of the French Resident General's note above mentioned, and of the Shereefian Dahirs and Residential Instructions in question, are annexed hereto.¹³

In connection with the information concerning the military preparations of France in North Africa, reported in my No. 547 of September 30, 1930,¹³ the desire now expressed by the French Authorities, that the application of the requisition laws be extended to American citizens and protégés, may perhaps not be without significance.

It is unnecessary to point out that the requisition of American property by the Military Authorities in Morocco impinges upon the immunities enjoyed by American *ressortissants* and European resi-

¹³ Not printed.

dents in Morocco under the provisions of the treaties, since the object of the Resident General's note above referred to is to request the assent of the American Government to a partial waiver of these immunities. However, whether or not such assent should be given is a matter which appears to require exceptionally careful consideration.

Inasmuch as the legislation under discussion deals with military action, it carries with it, perhaps unavoidably, provisions of an inherently arbitrary character, but it is also impossible to eschew the apprehension that the general application of the regulations will in practice be equally arbitrary.

These legislative and administrative measures would therefore constitute a weapon, in the hands of the Franco-Shereefian Authorities, susceptible of abuse to the prejudice of American commercial interests in Morocco.

Aside from the inequity of the arbitrary fixation of indemnities, it would be extremely difficult to obtain assurances of any practical validity for instance that the recruitment of requisitioned property, or that the provisions as to relief from these military servitudes, or that the eventual release of the property, would be carried out with impartiality and without discrimination.

Official acquiescence in the application of the measures to American *ressortissants* would impart an aspect of legality to means which the Protectorate Authorities might be only too prone to utilize for the purpose of crippling beyond recovery the activities, among others, of certain important American concerns in Morocco such as distributing companies of petroleum products, or of the sales organizations of American automobiles and agricultural tractors, while their competitors of another nationality might be enjoying relatively complete or partial freedom.

The interjection of military jurisdiction and the pretexts of military exigencies would, it is greatly feared, render any redress of eventual complaints an illusory speculation.

It will be seen moreover that the measures referred to are not confined to periods of menacing disturbances, but that the annual census and classification, and particularly the material assemblage and inspection of vehicles and animals which may be ordered at any time, at the whim of the military authorities, are susceptible of occasioning vexatious inconveniences to traders even while normally peaceful conditions are prevailing in the country.

From the point of view of the protection of American economic and trading rights and interests, I am therefore of the opinion that it would be distinctly inadvisable to permit American nationals and *ressortissants* in the French Zone of Morocco to be subjected to the interferences with their legitimate activities, which are implied in the application to them of the Dahirs and Decrees in question.

It is only remotely conceivable that requisitioned material would ever be actually required in connection with military operations conducted purely for the pacification of Shereefian territories, and it cannot be doubted that the Dahirs and Residential Instructions, now issued for the enforcement of requisitions of private property, contemplate military needs arising from a conflict which will primarily concern France and some other European Power. In such an eventuality it may be asked to what extent the Government of the United States might deem that its voluntary relinquishment of the pertinent treaty immunities of its *ressortissants* from military contribution of any kind in Morocco would constitute a derogation from the obligations of impartial neutrality.

The foregoing observation is obviously suggestive of a wide field of implications connected with the political aspects of the question of the American Government's assent to the legislation under discussion, and the Department might be reluctant upon considerations of this order, as well as upon the grounds of the economic objections above signalized, to grant such assent.

At the same time the Department, while entirely reserving its position, may desire for reasons of general political expediency, to attenuate the effect of an unqualified rejection of the proposition of the Protectorate Government, and in this direction I venture respectfully to suggest that the reply to the Note of the French Resident General might appropriately state that although the Department regretted its inability to assent to such recurrent interferences in the normal commercial activities of American nationals and *ressortissants* in Morocco, as would appear to result from the application to them of the provisions of the Dahirs and residential instructions referred to, nevertheless, in the event that a situation of exceptional difficulty or disturbance might arise, and upon a specific request made in such circumstances by the Protectorate Government, the Department would not be unwilling to examine with every attention, such action in the premises as the American Government might then deem it possible and proper to take.

I shall await with interest the Department's instructions in the above matter.

Respectfully yours,

MAXWELL BLAKE

881.20/2

*The Secretary of State to the Diplomatic Agent and Consul General
at Tangier (Blake)*

No. 668

WASHINGTON, December 8, 1931.

SIR: The Department has received and considered your despatch No. 656 of October 26, 1931, with regard to the Dahirs and regulations

governing military requisitions of automobiles, animals and animal drawn vehicles. The Department concurs with the conclusions reached by you as reported in your despatch. While the Department is always glad to give sympathetic consideration to reasonable decrees and regulations for which consent is requested it cannot agree to the subjection of American *ressortissants* to the broad powers conferred by the Dahirs and regulations in question upon the appropriate protectorate authorities. The powers appear to be too easily subjected to abuse and, so far as the Department can see, the Dahirs and regulations would subject American *ressortissants* to unnecessary interference. In informing the Resident General at Rabat of the Department's regret at being unable to agree to the application of these Dahirs and regulations to American *ressortissants*, you should incorporate in your note, in accordance with the suggestion made in your despatch, a statement to the effect that in the event an exceptional situation should arise the Department will be glad to give consideration to measures necessary for the period of disturbance.

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION
BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO¹⁴

452.11/275

The Ambassador in Spain (Laughlin) to the Secretary of State

No. 268

MADRID, January 21, 1931.

[Received February 7.]

SIR: With reference to the matter of the Moroccan claims now pending with the Spanish Government, I have the honor to report that after some preliminary conversations I was able to discuss it yesterday at length with Señor de las Barcnas, Acting Head of the Foreign Office, in the absence of the Duke of Alba.

I left with Señor Barcnas an *Aide-Mémoire*, of which the copy will be found attached, that will give you the substance of my conversation with him, and I attach also a pertinent extract from notes from the Embassy's files which I made after this interview.

I send on this preliminary report of what I have done pursuant to the consultations I had at the Department last November, for your present information. I now await the result of the Spanish Government's consideration of the proposals I made to report to you further.

¹⁴ Continued from *Foreign Relations*, 1930, vol. III, pp. 605-621.

I beg leave to add that the way in which Señor Barcenas received my representations gives me good reason to expect that a satisfactory settlement may soon be reached.

Respectfully yours,

IRWIN LAUGHLIN

[Enclosure 1]

The American Embassy to the Spanish Ministry for Foreign Affairs

AIDE-MÉMOIRE

In the question of the claims of Protégés of the United States in Morocco which form the subject of the note of the 22 January, 1930 from His Catholic Majesty's Foreign Office¹⁵ it appears that His Majesty's Government is willing to settle the first and third group of claims in the sum of 197,039.85 pesetas.

The claims contested by His Majesty's Government are those in the so-called second group, which reduce themselves effectively to two:

- a) The Singer Sewing Machine Company, 6,412. 50 Pesetas
- b) Dris-El-Quettani (Kittani), 400,000. 00 “

As to the claim (a) of the Singer Sewing Machine Company, which is a very small one, it appears that Mr. Maxwell Blake, the Diplomatic Agent of the United States at Tangier, agreed with his Spanish colleague, Señor Pla, in their negotiations during 1929 that it should be submitted for the consideration of the two Governments following the American recognition of the Spanish Protectorate. This claim is, however, so small that it might perhaps be covered by the present negotiations.

As to the claim (b) of Dris-El-Quettani (Kittani), His Catholic Majesty's Government is of the opinion that the claimant should resort to the Spanish Courts at Law in that part of Morocco claimed as a Spanish zone for the purpose of determining his title to the property, and His Majesty's Government refers, in justification of its position, to provisions of the Madrid Convention of 1880¹⁶ and to the Act of Algeciras of 1906.¹⁷ The pertinent articles in these two instruments are No. 11 in the former, and No. 60 in the latter.

Now the tribunals contemplated by the Madrid Convention and the Act of Algeciras were the native Courts of Morocco, whereas the Courts

¹⁵ *Ibid.*, p. 608.

¹⁶ International Convention with Morocco, signed July 3, 1880, Malloy, *Treaties, Conventions, etc.*, 1776-1909, vol. I, p. 1220. For article 11, see *Foreign Relations*, 1930, vol. III, p. 611, footnote 39.

¹⁷ *Ibid.*, 1906, pt. 2, p. 1495.

suggested by His Catholic Majesty's Government are Spanish Courts which seem in effect to have supplanted the former native Courts. But it appears that these native Courts have not in fact altogether ceased to exist, and they are the only Courts which the Government of the United States is able to recognize unless and until it finds itself in a position to recognize the claim of His Catholic Majesty's Government to a protectorate in Morocco, which it holds itself willing to do upon the conclusion of a mutually satisfactory agreement for the settlement of these pending claims.

The Government of the United States is willing to assent to the claim of that of His Catholic Majesty for the submission of this claim of Dris-El-Quettani (Kittani) to legal determination in a competent Court of Law, but such a Court must obviously be one which the American Government can legally recognize.

MADRID, January 20, 1931.

[Enclosure 2]

Memorandum by the Ambassador in Spain (Laughlin)

In an interview with Señor de las Barcenas at the Spanish Foreign Office on January 20, 1931, I discussed the Moroccan claims and left an *Aide-Mémoire*. On this subject he was very encouraging, assuring me that he was confident we should reach a satisfactory agreement, and that I might depend on him to further it conscientiously. He said he wished to have it dealt with not by the people at present in charge of the Moroccan Division at the Foreign Office, but by a man now in Brussels who is under orders of transfer to Madrid and who should be here by the middle of February; he would hold the *Aide-Mémoire* until this man's arrival, studying it himself meanwhile, and would ask me to come to see him as soon as their answer could be formulated.

I emphasized my wish to exchange no further notes until we had arrived at a point where I could present to Washington a solution of which my Government might approve.

MADRID, January 21, 1931.

881.512/101

The Spanish Chargé (Martinez de Irujo) to the Secretary of State

[Translation]

No. 89/14.

WASHINGTON, October 22, 1931.

MR. SECRETARY: I have the honor to inform Your Excellency, that by the proper authorities, there will be promulgated soon in the Zone of the Spanish Protectorate in Morocco, the new Urban Tax Levy

Regulations, inasmuch as those which now are in force covering the matter are not adapted to present conditions in the said Zone.

While having the honor to remit to Your Excellency a copy of the draft of the Regulations in question,¹⁸ in compliance with instructions from my Government I take the liberty of requesting of the Government of the United States of America that it see fit to take the proper measures in order that the new Regulations may be applicable to American citizens and persons under American protection.

I avail myself [etc.]

LUIS MARTINEZ DE IRUJO

881.512/101

The Secretary of State to the Spanish Chargé (Martínez de Irujo)

WASHINGTON, November 28, 1931.

SIR: I desire to refer to your note of October 22, 1931, in which you inform me that your Government seeks agreement by the Government of the United States to the application to American citizens and protégés in the Spanish Zone of Morocco of certain new urban tax levy regulations.

Since the application of the regulations in question would be in derogation of the rights of the United States in the Spanish Zone, the Government of the United States cannot give its assent to such application. Should the Spanish Protectorate in Morocco be recognized by the Government of the United States the Department of State will be glad to give consideration to your Government's request. May I express the hope that your Government may see its way clear to an early equitable settlement of American claims in the Spanish Zone¹⁹ upon which recognition by the Government of the United States of the Spanish Protectorate is contingent.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

**REPRESENTATIONS REGARDING AMERICAN RIGHTS WITH RESPECT
TO CONCESSION BY THE TANGIER ADMINISTRATION IN MO-
ROCCO²⁰**

881.6463/21

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 628

WASHINGTON, January 7, 1931.

SIR: Reference is made to the Embassy's despatch No. 1406, of November 19, 1930,²¹ concerning the electric light concession in Tangier.

¹⁸ Not printed.

¹⁹ There were no further developments regarding the American claims until 1934.

²⁰ Continued from *Foreign Relations*, 1930, vol. III, pp. 587-602.

²¹ *Ibid.*, p. 601.

The granting of this concession without an opportunity being afforded American interests to submit bids with a view to obtaining the concession is in violation of this Government's rights under the Act of Algeciras.²² Those rights are in no way hampered or compromised by reason of the Franco-German Agreement of 1911²³ since this Government has not adhered to that convention. Although it is unlikely that any American company is or would be interested in obtaining the concession in question, it could not be said without reservation that such is actually the case since no opportunity has been afforded such company to express itself. The position of the United States is, as Mr. Smith²⁴ surmises in his letter²⁵ to Mr. Atherton,²⁶ one of principle—that of maintaining its treaty rights.

The British Foreign Office apparently feels that the present concessionaires have the upper hand and that unless they receive the new concession the Tangier Zone will suffer from lack of proper execution of the present concession. The Foreign Office also apparently feels that should the interested powers refuse to sanction the grant of the new concession the French and Spanish Governments will ignore them and grant the concession regardless, thus establishing "a precedent for granting all such concessions in the future without adjudication". The British suggest that the concession be granted to the Franco-Spanish merger on the understanding that such grant is made in view of special circumstance (i. e., the old concession has five years to run) and that the grant be without prejudice to the question of principle.

The Department realizes that if the French and Spanish Governments wish to proceed with the granting of this concession in violation of American treaty rights little can be done by this Government other than to present a further formal note of protest. However, this Government's position differs from that of the British Government in that this Government has no representative on the Committee of Control and could not, in the same manner as could the British, admit the granting of the concession as an exception.

Mr. Blake has already presented a note of protest to the Shereefian Government. Should the concession in question be granted without there being compliance with American treaty rights further protests, including protests to the Spanish and French Governments, will have to be made.

The foregoing represents the Department's position in this matter, a position which can hardly be altered merely because events and

²² *Foreign Relations*, 1906, pt. 2, p. 1495.

²³ Signed November 4, 1911, *British and Foreign State Papers*, vol. civ, p. 948.

²⁴ O. Howard Smith, Head of the League of Nations and Western Department, British Foreign Office.

²⁵ Not printed.

²⁶ Ray Atherton, Counselor of Embassy in Great Britain.

circumstances have so arranged themselves as to make it necessary for the controlling powers to grant the concession to the present concessionaires or be faced with five years of unsatisfactory service.

Nevertheless, the Department clearly understands that the French and Spanish Governments will in all probability proceed without regard to American rights. Such being the actual fact to face it is hoped that the British can in some measure save the situation by having adopted, at the time the grant of the concession is made, a resolution to the effect that the grant is made as an exception and "without prejudice to the question of principle".

You are at liberty to communicate such of the foregoing as you may deem appropriate to the British Foreign Office, requesting, however, that it be considered as informal and confidential.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

881.6463/24

The Ambassador in Great Britain (Dawes) to the Secretary of State

No. 1635

LONDON, February 5, 1931.

[Received February 19.]

SIR: I have the honor to refer to the Department's confidential instruction No. 628, January 7, 1931 (File No. 881.6463/21), concerning the electric light concession in Tangier, and to state that the information contained therein was duly conveyed to the Foreign Office on January 19. After a study of the attitude of the Department of State by the Foreign Office, the Embassy is now in receipt of an informal note which, after expressing appreciation of the informal and confidential opinion on the American position, goes on to say:

"Your Government may rest assured that we shall only authorize our representative on the Committee of Control to agree to the grant of this concession without adjudication if there is a clear statement to the effect that its grant is made without prejudice to the question of principle. I ought however to warn you that it is possible that we may be out-voted in the Committee of Control and that the majority may decide to approve the grant of this concession without making any reference to the principle at stake. For this reason we should have been very glad to get the support of your Government in safeguarding the principle and we were wondering whether this could not be done by a notification to the Shereefian Government through your agent in Tangier that you agree to this concession as an exception, instead of a protest against its grant without adjudication. This is of course a matter for your Government to decide.

"In any case we do not propose to go even this far towards meeting the French unless and until we receive either the questionnaire which

the Committee of Control agreed that they should submit to the governments enquiring their views on the question of principle, viz. on the applicability of the Franco-German Convention of 1911 in the Tangier Zone, or a definite undertaking to circulate that questionnaire. Our views are that that Convention is not applicable in the Tangier Zone and that, in consequence, the stipulation in Article 6 to the effect that concessions for the exploitation of public works may be freely granted, does not apply in the case of the electric light concession. This view is, I take it, the same as the view held by the United States Government and, as at present advised, we think that if the other governments do not accept it we shall have to submit the question to arbitration."

I venture to invite the Department's attention to the suggestion in the latter part of paragraph (1), and to request that I may be duly informed of any decision reached in the matter.

Respectfully yours,

For the Ambassador:
RAY ATHERTON
Counselor of Embassy

881.6463/24

The Secretary of State to the Ambassador in Great Britain (Dawes)

No. 708

WASHINGTON, March 12, 1931.

SIR: Reference is made to the Embassy's despatch No. 1635, of February 5, 1931, concerning the electric light concession in Tangier.

In principle the Department is, of course, opposed to the granting of this concession without proper public adjudication. The Department is, however, not unmindful of the practical considerations involved. It is suggested that you inform the Foreign Office, quite informally, that the Department will be willing to accept the grant of this concession as an exception. The difficulty is to be found in the fact that it is illogical for the Diplomatic Agent at Tangier to follow up an unanswered protest by a note which extends approval to the grant on the basis that it is an exception and without prejudice to principle. Were the Shereefian Government, that is the French, to address a note to the Diplomatic Agent and request this Government's approval of the grant on the basis that such a grant would be exceptional, the Department would be glad to authorize Mr. Blake to extend this Government's approval. It is suggested that you inquire of the Foreign Office whether it could not suggest this procedure to the French.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

881.6463/25

The Head of the League of Nations and Western Department of the British Foreign Office (Smith) to the American First Secretary of Embassy in Great Britain (Cox) ²⁷

No. W3334/24/28

[LONDON,] 30 March, 1931.

MY DEAR COX: I was on the point of writing to Atherton again on the subject of the electric light concession at Tangier when I received your private and confidential letter of March 21st, for which very many thanks.

The majority of the Committee of Control have, our Consul-General at Tangier has reported, proved to be in favour of insistence upon public tender. The French member, however, at an animated meeting of the Committee on February 23rd, refused to accept a proposal put forward by his Italian colleague. The latter suggested that the Committee should declare themselves ready to maintain their conciliatory attitude regarding this particular concession subject to the prior adoption of a motion that "In conformity with treaty stipulations, concessions cannot be accorded to [*in*] Tangier except as a result of adjudication". Monsieur de Witasse would give no reasons for his refusal to accept this suggestion; but, somewhat unexpectedly, proposed an alternative motion which, after some discussion, was ultimately adopted by all present, in the following terms:—

"Le Comité de Contrôle, dont la majorité a exprimé l'avis que, aux termes des Traités, les concessions à Tanger doivent nécessairement faire l'objet d'une adjudication publique, accepte néanmoins d'examiner la concession d'électricité sans que sa décision puisse être invoquée à un titre quelconque comme constituant un précédent." ²⁸

We have examined this formula and have come to the conclusion that it is satisfactory to His Majesty's Government in so far as the concession at issue is concerned. The Secretary of State still thinks, however, that it is most important that the United States Government should if possible be associated with the acceptance of the formula. Mr. Gurney is, accordingly, being instructed to endeavour to secure that effect is given to your suggestion.

Yours sincerely,

C. HOWARD SMITH

²⁷ Copy transmitted to the Department by the Ambassador in Great Britain in his despatch No. 1794, March 31; received April 9.

²⁸ Translation: "The Committee of Control, the majority of which has expressed the opinion that, in conformity with treaty stipulations, concessions cannot be accorded in Tangier except as a result of public adjudication, nevertheless agrees to examine the electricity concession without letting its decision be invoked through any claim whatsoever as constituting a precedent."

881.6463/26

*The Diplomatic Agent and Consul General at Tangier (Blake) to the
Secretary of State*

No. 599

TANGIER, April 2, 1931.

[Received April 20.]

SIR: I have the honor to acknowledge the receipt of Instruction No. 626 of March 12th, 1931, (File No. 881.6463/24), and Enclosures²⁹ with reference to previous correspondence concerning the electric light concession in Tangier.

In this connection I transmit to the Department herewith copy in the French text, and English translation of a letter recently addressed by the Committee of Control to the Administrator of the Zone of Tangier,³⁰ which has been confidentially communicated to me.

I understand that the Protectorate Government at Rabat is being approached by the Committee of Control in an attempt to induce the French Resident-General, as the Sultan's Minister for Foreign Affairs, to address to me a request that the American Government assent to an exceptional derogation of the principle of public adjudication, in respect of the concession in question.

If this eventuality should materialize, I presume that the Instruction hereby acknowledged is to be taken as sufficient authority for me to act in the direction indicated in the Department's Instruction No. 708 of March 12th, 1931, addressed to the American Ambassador in London.

Respectfully yours,

MAXWELL BLAKE

881.6463/26

*The Secretary of State to the Diplomatic Agent and Consul General
at Tangier (Blake)*

No. 635

WASHINGTON, April 30, 1931.

SIR: The Department has received your confidential despatch No. 599 of April 2, 1931, regarding the electrical concession in Tangier. Should the appropriate Protectorate authorities address a communication to you requesting that the American Government assent to an exceptional derogation of the principle of public adjudication in respect of this concession, you are authorized to inform the Protectorate Government that this Government is prepared to take that action.

Very truly yours,

For the Secretary of State:

W. R. CASTLE, JR.

²⁹ Instruction No. 626 not printed; for the enclosures, see despatch No. 1635, February 5, from the Ambassador in Great Britain, p. 755, and instruction No. 708, March 12, to the Ambassador, p. 756.

³⁰ Not printed.

881.6463/27

*The American Diplomatic Agent and Consul General at Tangier (Blake) to the French Resident General in Morocco (Saint)*³¹

TANGIER, July 13, 1931.

MR. RESIDENT-GENERAL: I have the honor to acknowledge the receipt of Your Excellency's Notes, No. 224-D of July 3rd, 1931 and No. 231-D of July 8th, 1931,³² setting forth the conditions which have led the Tangier Administration to consider, as an exceptional derogation from the principle involved, the expediency of permitting the grant of an Electric Light and Power Concession in Tangier, without appeal to international competition or observance of the procedure of public adjudication.

Your Excellency informs me that the Tangier Administration is desirous to have its views and action in the matter brought to my attention and expresses the hope that, in the special circumstances, the Government of the United States will consent to withdraw the opposition which it had formulated in the premises.

If Your Excellency will be good enough to address to me in the customary form, on behalf of the Shereefian Government, a request in the above sense, I shall immediately telegraph the proposal to my Government with my recommendation for favorable action.³³

Please accept [etc.]

MAXWELL BLAKE

ATTEMPT BY THE TANGIER MIXED TRIBUNAL TO ASSUME JURISDICTION OVER ALIEN EMPLOYEES OF THE AMERICAN DIPLOMATIC AGENCY

781.003/8

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 551

TANGIER, October 8, 1930.

[Received October 27.]

SIR: I have the honor to inform the Department that two employees of the American Diplomatic Agency in Tangier, Mr. Joseph G. Abrines, Dragoman, and Mr. Gregory T. Abrines, Interpreter, both British subjects, were cited to appear before the Tangier Mixed Tribunal, on charges of hunting in the Tangier Zone unprovided with a licence issued by the Tangier Authorities.

³¹ Quoted in despatch No. 631, July 15, from the Diplomatic Agent and Consul General to the Acting Secretary of State; received August 4.

³² Neither printed.

³³ On July 29, 1931, the Diplomatic Agent and Consul General duly notified the French Resident General, in accordance with instruction No. 635, April 30, *supra*, of American assent. (881.6463/28)

In view of the position taken by the Department in the Scott case,³⁴ (see "International Law Digest," John Bassett Moore, Volume II, page 751, Mr. Fish Secretary of State to Sir Edward Thornton, British Minister, April 5th, 1872,³⁵ M. S. Notes to Great Britain XV 466 in reply to a Note of Sir Edward Thornton of April 3, 1872 [1872]³⁶), I informed the Representative of the Sultan in Tangier that the persons in question, as a result of their employment in the Service of the American Government in Morocco, were under the jurisdiction of the United States Consular Court. Any complaints against them would therefore be dealt with by that Court, if the local authorities desired to adopt the appropriate procedure for their prosecution.

I might inform the Department that the employees of the Diplomatic Agency were provided with permits to carry sporting arms, issued by me and countersigned by the Sultan's Representative, as provided by the regulations under the Act of Algeciras.³⁷ They were not, however, provided with a shooting licence required by new regulations voted by the Tangier Legislative Assembly. The latter regulations, which involve a fiscal charge, have never been communicated to the American Diplomatic Agency for the approval of the Department, and they therefore cannot be legally enforced upon American citizens or upon persons under American jurisdiction. I have also informed the Authorities that if these regulations were to be properly submitted together with a formal request for the assent thereto of the American Government, I had reason to anticipate that they would be made applicable to American *ressortissants*.

The foregoing explanation, however, is of an incidental character, the object of the present Despatch being to bring to the Department's attention the fact that there appears to be a disposition on the part of the Tangier Administration to question the position taken by the American Government, as set forth in the Note of Mr. Fish to Sir Edward Thornton above referred to.

Subsequently to my statement to Sid Tazzi, the Sultan's Representative in Tangier, Mr. Hugh Gurney, the British Consul-General, came to see me in the same connection. He stated that the matter had been brought to his attention and that he had been pressed to state definitely to the local authorities whether he repudiated the position taken by the American Diplomatic Agency, and if so to declare that the British nationals employed by the American Government were subject to the local jurisdiction of the Mixed Courts, or in the alternative, to remove their names from the Registers of British subjects in Tangier. He therefore came to hear my views on the question.

³⁴ Peter W. Scott, British subject and American Vice Consul at Tangier.

³⁵ *Post*, p. 768.

³⁶ Latter not printed.

³⁷ General Act of the International Conference at Algeciras, signed April 7, 1906, *Foreign Relations*, 1906, pt. 2, p. 1495.

I laid before him the position which had been taken by the Department in the Scott case, and I confirmed my statements to him by letter, copy of which is annexed hereto as Enclosure No. 1.

Mr. Gurney in private conversation has signalized to me the existence of a Memorandum, drawn up by the British Crown lawyers in reply to Secretary Fish's Note, which appears to dissent from the principle therein stated. I understand, however, that the British Government at that time, expressed a willingness to pursue the consideration of the matter if it were deemed necessary to do so. I was unaware of these circumstances, but reference may here be usefully made to a more recent instance, that of the Stalker case in connection with which, the acquiescence of the British Government in the position taken by Secretary Fish appears clearly to be implied. (Copy of Lord Salisbury's Note to Sir J. Pauncefote, annexed hereto, Enclosure No. 2).³⁸

This case, it will be recalled arose over a question of easements, between two British subjects, the plaintiff a Mrs. Leared and the defendant a Mr. Stalker, the latter being in the employment of the United States Government as Vice-Consul at Tangier. The British Government took the position that under Article XI of the Madrid Convention,³⁹ all questions connected with real estate in Morocco including easements were of the exclusive competency of the Shraa. There was not unanimous agreement on this point between the European Powers signatories of the Madrid Convention, and the United States, among other Powers, contended that the Shraa was competent to deal only with disputes as to right of title to hold land, but that all other questions relative to real property were of the competency of the Consular Courts of the capitulatory Powers.

On the assumption that the position taken by Secretary Fish were to be discarded, the British Consular Court should have taken cognizance of the matter under the first hypothesis, and under the second the British Consul would have been empowered to compel the British defendant to appear before the Shraa. However, neither of these alternatives appears to have been contemplated by the British Authorities. Indeed, the Note on the subject addressed by the British Foreign Secretary under date of August 14th, 1891 to the British Minister at Washington, appears to take for granted that, if the Moorish jurisdiction is to be ruled out, it is the American Consular Court which is competent to deal with the matter, notwithstanding the fact that the defendant is a British subject. The Marquis of Salisbury after reciting the fact that the case is between two British subjects, states

³⁸ Not printed.

³⁹ International Convention with Morocco, signed July 3, 1880, Malloy, *Treaties, Conventions, etc.*, 1776-1909, vol. I, p. 1220.

textually that: "The point at issue is whether the case in question should be referred for decision to the Moorish tribunals or to the United States Consular Court." (See Enclosure to the Department's Instruction No. 33 of December 12th, 1891 to Consul-General F. A. Mathews).⁴⁰

My British Colleague desires to refer to his Government for its decision as to the position which he is to take in the circumstances, and I have therefore deemed it necessary to transmit the foregoing account of the exchange of views which has passed between us, particularly since it is not improbable that the Department may be approached on the subject by the British Embassy in Washington.

In this connection, I transmit, Enclosure No. 3, copy of a letter dated October 6th, 1930, from my British Colleague⁴⁰ in reply to mine of October 3rd, 1930. (Enclosure No. 1).

It is gratifying to note, according to Mr. Gurney's statement, that the local authorities entertain no desire to call into question the exercise of American extraterritorial jurisdiction in Tangier, and that they have undertaken to refrain from precipitating incidents, pending the ruling of the American and British Governments in the present matter.

However, my British Colleague has revealed that the representations in the premises were made to him by the French Consulate-General, and this fact is perhaps not without political significance. There are indications which appear to warrant the inference that the present manoeuvre is connected with the action of the French Authorities in Morocco, signalized in the concluding paragraph of my Despatch No. 544 of September 25th, 1930,⁴⁰ now afoot against the extraterritorial privileges which remain in existence in the Shereefian Empire. I may also say that I am not without serious apprehension that conditions in Morocco are still such that any invalidation of the position taken in the premises by Secretary Fish, is susceptible of involving the service of the Diplomatic Agency and particularly of the American Consulate in the French Zone and also eventually in the Spanish Zone in embarrassments. It would seem superfluous to signalize to the Department the confusions and complications which might arise for the Foreign Service, if employees of the American Government in extraterritorial states, such as Morocco, were exposed to molestation by the local authorities even when they might be engaged in the accomplishment of their official duties. They might not only be prevented from carrying out their duties by such interference, but they might also, while not engaged in the actual performance of official duties, be liable to arrest when properly in possession of documents or property belonging to the American Government. Furthermore, it is

⁴⁰ Not printed.

conceivable that they might be subject to prosecution, as individuals, for the carrying out of their multiple duties, judicial or otherwise, which had been imposed upon them by the direction of the American Government itself or by its authorized Agents.

It might be asked how it is that such conflicts in jurisdiction appear not to have presented themselves, as between the other Governments represented in Morocco. The explanation is to be found in the fact that the other capitulatory Powers have provided convenient legislation or procedure permitting the bestowal of citizenship upon foreign subjects in the service of their Governments in Morocco.

Thus Italy extended Italian nationality to a native Moroccan, Mr. Abraham Laredo, Dragoman to the Italian Legation. Similar action was taken by Portugal with regard to Mr. Solomon Marrache. The same facilities are available to the British Government, and instances are to be found where British nationality has been conferred upon non British employees of the British Post Office in Morocco. Other instances could be quoted if required with respect to the action of other Governments in the same direction.

If it is pointed out to the British Government that such facilities are not available to the Department of State under the citizenship laws as enacted by Congress, there should be little doubt that the logical and reasonable contention of the American Government in the premises will receive recognition, particularly in view of the assurance of reciprocity given to the British Government in 1872 by Secretary Fish.

This position obviously involves no desire on the part of the American Government to abstract a British citizen from British extraterritorial jurisdiction for the individual benefit of the party concerned, but is put forward as a necessary element in the protection of the interest of the American Government itself and essential to the prestige of its service in the conduct of its foreign relations in an extraterritorial state.

The Department's instructions in the above connection will be awaited with the greatest interest.

Respectfully yours,

MAXWELL BLAKE

[Enclosure]

*The American Diplomatic Agent and Consul General at Tangier
(Blake) to the British Consul General at Tangier (Gurney)*

TANGIER, October 3, 1930.

MY DEAR GURNEY: In the course of our conversation this morning regarding the jurisdiction covering British subjects who are in the employ of the American Diplomatic Agency and Consulate-General, I referred to a precedent which appeared to have defined the position.

In this connection I make the following quotation from John Bassett Moore's "International Law Digest," Volume II, page 751, under the Section "Consular Jurisdiction":—

"The British Minister at Washington having expressed the opinion that British Consular Officers were entitled, under the treaty between Great Britain and Morocco of December 9th, 1856,⁴³ to exercise jurisdiction, both civil and criminal, over Mr. Scott, the Interpreter of the American Consulate at Tangier, who was admitted to be a British subject, the Department of State replied that it failed to find in that treaty any foundation for the claim of such jurisdiction. The treaty, it was true, said the Department of State, gave to British Consular Officers 'ample jurisdiction over British subjects in Morocco generally, but certainly no treaty to which the United States are not a party can rightfully extend such jurisdiction over any foreigner whom they may think proper to employ in their Consulate. Furthermore Mr. Scott cannot properly be said to be within British jurisdiction, because he is in the service of an Officer of the United States accredited to the Emperor of Morocco, and who as such, according to the usage of that country, is entitled to the privilege of extraterritoriality, one of which is the exemption of his servants, including his Interpreter, from any other jurisdiction than his own.' With the statement that it was likely that the United States, if the case were reversed, would never claim jurisdiction over an American citizen in British Service, the Department of State expressed the hope that Her Majesty's Government would, upon further consideration, 'acknowledge the reasonableness of our objections to their claim to jurisdiction over Mr. Scott'."

(Mr. Fish, Sec. of State, to Sir Edward Thornton, British Min., April 5, 1872 MS. Notes to Great Britain XV, 496 [466], in reply to a Note of Sir Edward Thornton of April 3, 1872).

It is clear that in the above connection the only question involved was as to the incidence of jurisdiction. There was not the remotest suggestion, which I understood to be implied in the representations made to you by the local authorities, of the forfeiture by British subjects of their British citizenship, as a result of their employment at the American Diplomatic Agency or Consulate-General, nor can I conceive that such contingency could arise.

Reverting to Mr. Fish's Note to Sir Edward Thornton, the position taken by the American Government was based upon usage in Morocco, and I might add that the provisions of the treaties with Morocco appear to give implicit confirmation to the usage.

They provide (British Treaty of 1856, Article 3, Spanish Treaty of 1861,⁴⁴ Article 3) that the Chargé d'Affaires or Consul-General may choose his Interpreters and servants freely from amongst the Mussulman subjects or amongst those of any other country, and the latter

⁴³ *British and Foreign State Papers*, vol. XLVI, p. 188.

⁴⁴ Treaty between Spain and Morocco, signed at Madrid, November 20, 1861, *ibid.*, vol. LIII, p. 1089.

are assimilated to their principals in privileges of immunity. Article XV of the Spanish Treaty provides that Spanish subjects, or persons under Spanish Protection whether Christians, Mohammedans or Hebrews, shall likewise enjoy all rights and privileges conceded by this treaty, that is to say, including the right of appeal to the Spanish jurisdiction, which is the subject of the immediately preceding Articles of the treaty.

I do not know whether any reply was made by the British Government to Mr. Fish's Note, but so far as I am aware the claim of the British Government to exercise jurisdiction over Scott, was not further pursued subsequently to the submission of that Note, and I am therefore inclined to infer that the British Government acquiesced in the position taken on that occasion by the Department of State.

There is not, however, entire analogy in the circumstances attending the question referred to by Mr. Fish in 1872 and that which is being raised by the Tangier Judicial Authorities to-day.

In the present instance it is no longer a question under given circumstances of the validity of the jurisdictional rights of one or other of two extraterritorial Powers in Morocco, but what is sought is the surrender by the United States of its jurisdiction over its employees to the "Mixed Courts," that is to a form of Shereefian jurisdiction in the Tangier Zone, instituted under a Convention to which the United States is neither a party, nor to which it has given its adhesion. Such surrender would, incidentally expose the employees of this Diplomatic Agency or of this Consulate-General to interference by the local authorities, even while they might be actually engaged in the performance of services for the United States Government.

The mere signalization of these contingencies appears to me to afford sufficient indication of the impossibility to contemplate acquiescence in such a situation.

I take this opportunity to recall, as I mentioned to you, that there is no desire on the part of the American Diplomatic Agency to render nugatory any reasonable municipal regulations, and if these are submitted to me through the proper channels, there is every likelihood that my Government will approve their application to persons under American jurisdiction.

In conclusion, I cannot forbear reiterating my apprehension that the nature of the action taken, in the premises, by the local authorities, on the occasion of what may be described as petty incidents, points to the fact that the Administration is actuated by a disposition to call into question the principles of American extraterritorial rights, rather than by a desire to bring about the co-operation of the American Diplomatic Agency in the maintenance of public order in the Tangier Zone.

Very sincerely yours,

MAXWELL BLAKE

781.003/8

*The Secretary of State to the Diplomatic Agent and Consul General
at Tangier (Blake)*

No. 641

WASHINGTON, June 6, 1931.

SIR: The Department refers to your despatch No. 551 of October 8, 1930, and subsequent communication concerning the attempt of the Tangier Mixed Tribunal to assume jurisdiction over Messrs. Joseph G. Abrines, Dragoman, and Gregory T. Abrines, Interpreter, of the American Diplomatic Agency at Tangier, both of whom you state are British subjects.

The Department approves your refusal to accept the jurisdiction of the Tribunal over these men and should any further attempt be made by it to assume jurisdiction over them or over other personnel of the Diplomatic Agency you should refuse to submit them to such jurisdiction and report to the Department.

The Department also approves of the position taken by you in your communication of October 2 [3], 1930, to the British Consul General at Tangier, in regard to their immunity from such jurisdiction. In addition to the provisions of the British and Spanish treaties of 1856 and 1861, respectively, with Morocco, to which you refer, your attention is called to Article 2 of the Madrid Convention of 1880, to which both the United States and Great Britain are parties, which recognizes that foreign representatives at the head of a Legation in Morocco may select their interpreters and employees from among subjects of Morocco, "or others", and that these persons are included among the protected persons of the Legation.

The position of the Department in regard to the immunity from other jurisdiction of interpreters or other employees of the Consulate General at Tangier, even when of foreign nationality, is set forth in its note of April 5, 1872, in the Peter W. Scott case, addressed to Sir Edward Thornton, British Minister at Washington, to which you refer.⁴⁵ The Department's files do not disclose that any response to this note was ever received from the British Government. A copy of the note was transmitted to Consul General Mathews at Tangier with the Department's instruction No. 43 of October 1 and was acknowledged by him in despatch No. 84 in November of that year.⁴⁶ However, for your convenience a copy of this note as well as other pertinent communications are enclosed.⁴⁷

⁴⁵ *Infra.*

⁴⁶ Neither printed.

⁴⁷ Other communications not printed.

As indicative of the practice in Tangier your attention is called to the statement in Mr. Mathews' despatch No. 50 of December 7, 1871,⁴⁸ that he was "informed by the representatives of France, Italy, and Portugal, (the latter [having] been almost all his life in Tangier), that provided one of their subjects takes official employment without the consent of his Government of a position such as Vice Consul or Dragoman in Tangier, under a foreign flag, he loses the protection of his nation and enjoys the immunities and protection of the country he is serving."

Aside from any special situation that may exist at Tangier by reason of the capitulatory regime or otherwise, these men as well as other duly registered personnel of the American Diplomatic Agency at Tangier would be immune from local jurisdiction under generally recognized principles of international law.

The Department notes from your despatch No. 567 of December 4, 1930,⁴⁸ that while your British colleague has disclosed no definite information you gather from remarks made by him that he has received communications in the matter from his Government and that while that Government does not perhaps entirely acquiesce in the technical legality of the American Government's contention in the premises, it deprecates any conflict between the two Governments and is desirous of reaching a satisfactory understanding in the matter. No communication has been received by the Department regarding the matter from the British Government and it is probable that that Government does not intend to raise the question formally.

The Department, while it must maintain the immunity from local jurisdiction of the personnel employed in the Diplomatic Agency at Tangier, is also desirous of avoiding any unnecessary discussion in the matter. Accordingly, it deems it advisable for you, should the subject again be opened by your British colleague, merely to inform him orally of the Department's approval of the position taken by you in the matter in your communications to him.

It is improbable that any further attempt will be made to assert jurisdiction over these men in this case but should such an attempt be made you will, of course, as indicated earlier in this instruction, refuse to permit them to submit to such jurisdiction.

The Department desires you to inform it promptly of any developments in the matter.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

⁴⁸ Not printed.

[Enclosure]

The Secretary of State to the British Minister (Thornton)

WASHINGTON, 5 April, 1872.

SIR: I have had the honor to receive your note of the 3d instant, expressing on behalf of Her Majesty's Government the opinion that, pursuant to the treaty between Great Britain and Morocco of the 9th of December, 1856, British Consular officers in that country are entitled to exercise both civil and criminal jurisdiction over Mr. Scott, the Interpreter to the Consulate of the United States at Tangier, who is acknowledged to be a British subject. In reply I have the honor to state that the treaty adverted to has here been carefully examined, but no foundation for the claim of a right of jurisdiction by British Consular officers over the Interpreter to the Consulate of the United States, can there be discovered. The treaty, it is true, gives to Consular officers ample jurisdiction over British subjects in Morocco generally, but certainly no treaty to which the United States are not a party can rightfully extend such jurisdiction over any foreigner whom they may think proper to employ in their Consulate. Furthermore, Mr. Scott cannot properly be said to be within British jurisdiction, because he is in the service of an officer of the United States accredited to the Emperor of Morocco, and who, as such according to the usage of that country is entitled to privileges of extraterritoriality, one of which is the exemption of his servants, including his interpreter from any other jurisdiction than his own.

The difference of opinion upon this subject between Her Majesty's Government and that of the United States, is much to be regretted, but inasmuch as if the case were reversed, it is not likely that this Government would ever have put forward upon similar grounds, a claim to jurisdiction over a citizen of the United States in British service, it is hoped that Her Majesty's Government may, upon further consideration acknowledge the reasonableness of our objections to their claim to jurisdiction over Mr. Scott.

I have [etc.]

HAMILTON FISH

781.003/11

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 652

TANGIER, October 2, 1931.

[Received October 21.]

SIR: I have the honor to inform the Department that, as a result of conversations with my British Colleague, in the sense indicated by Instruction No. 641 of June 6th, 1931, (File No. 781.003/8), on the subject of the jurisdiction applicable to alien employees of the American Foreign Service in the Shereefian Empire, I have received the

following communication from Mr. A. J. Gardener, the British Consul in Charge of the British Consulate-General at Tangier:—

“British Consulate-General,
Tangier, September 3, 1931.

Dear Mr. Blake: With reference to the discussions that have taken place between you and Gurney regarding the exercise of jurisdiction over foreign nationals employed on the staff of the United States Diplomatic Agency in Tangier, I write unofficially to tell you that His Majesty's Government are unable to accept the view held by the United States Government on this point, i. e. as regards a claim to exercise jurisdiction over the persons in question, as distinct from the claim to exemption from the jurisdiction of the Mixed Tribunal, the latter being a question with which His Majesty's Government are not directly concerned.

Yours sincerely,

(Signed) A. J. Gardener”

To this communication I have replied in the following terms:—

“Tangier, September 11, 1931.

My Dear Gardener: I have received your unofficial communication of September 3rd, 1931, from which I regret to note that the British Government does not appear inclined to admit our claim to exercise jurisdiction over British subjects who are in the employ of the American Diplomatic Agency and Consulate General at Tangier, as distinct from the question of the exemption of these persons from the jurisdiction of the Mixed Tribunal.

In acknowledging the receipt of this communication, I may say that while any conflict over this issue is to be greatly deprecated, I must, in a similar informal manner, inform you that my Government considers that it must maintain the immunity from local jurisdiction of the personnel employed in the Diplomatic Agency at Tangier or elsewhere in the American Foreign Service in Morocco, and I am instructed to refuse to permit such employees to submit to any local jurisdiction in the event of an attempt being renewed to claim such jurisdiction over them.

Sincerely yours,

(Signed) Maxwell Blake”

The tacit admission, on the part of the British Government, as to the exemption from the jurisdiction of the Mixed Tribunal of British employees in the service of the American Diplomatic Agency and Consulate General at Tangier, certainly ought to render extremely remote, if not altogether rule out, any renewal of the pretensions of that Court which originated the present discussions.

While apprehensions in this regard may perhaps therefore be negligible so far as concerns the Tangier Zone, the potential position elsewhere in Morocco would not appear to be so secure.

It is consequently distinctly disappointing to find that the British Government is disinclined to accept, to its full extent, the position taken by the Government of the United States, which justly and reasonably claims full jurisdiction over its alien employees in Morocco.

My British Colleague, Mr. Hugh Gurney, has, in the meantime, returned to Tangier and the matter has again been the subject of very friendly and cordial discussions between us, and my British Colleague expresses his great anxiety that there should arise no difficulties between us on this account, and he assures me that he will do all in his power to avoid them. I drew his attention to Part III of W. E. Hall's "Foreign Jurisdiction of the British Crown," published at Oxford by the Clarendon Press, (1894), which appears to formulate a doctrine on behalf of Great Britain, corresponding exactly with the position claimed by the Government of the United States in the premises.

Mr. Gurney expressed himself as being deeply impressed by the argumentation set forth by this British Authority, and he informed me that he would bring it to the attention of the British Foreign Office.

As a matter of convenience to the Department, I append hereto the quotation of one passage from Section 67 (pages 140 and 141) ⁵⁰ of the work above referred to, which I believe will be found to be of material interest to the discussion.

While, as above suggested, no further difficulties should appear to arise in this connection in the Tangier Zone, and while in other parts of Morocco difficulties between the British and American Governments may be considered as but remote contingencies—susceptible it is hoped of amicable settlement between them—I am much more concerned as to the eventual policy of the French Authorities of the Protectorate, in regard to other alien employees of the American Consulate at Casablanca, should the French Government adopt and attempt to put into practice a theory in the premises similar to that which is at present held by the British Government.

The Department will appreciate the nature of my apprehensions in this connection when I state that I have been confidentially informed that the Sultan's Representative at Tangier, sometime ago received specific instructions from Rabat to regard as *ressortissants* of the Mixed Tribunal at Tangier, all alien employees of the American Government. No occasion has arisen however for attempting to enforce this position, and it is superfluous to add that in such eventuality the firmest resistance would be made.

The situation is nevertheless one which now deserves careful observation, and which we must be prepared to meet at any time. I am consequently, in compliance with the final paragraph of Instruction No. 641 of June 6th, 1931, (File No. 781.003/8), reporting recent developments in the matter, and I shall not fail to keep the Department promptly and fully informed of all tendencies in relation to this question.

Respectfully yours,

MAXWELL BLAKE

⁵⁰ Quotation not reprinted.

NETHERLANDS

ARRANGEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS REGARDING RECIPROCAL FREE ENTRY PRIVILEGES FOR CONSULAR OFFICERS

656.11241/5

*The Acting Secretary of State to the Minister in the Netherlands
(Diekema)*

No. 40

WASHINGTON, MARCH 25, 1930.

SIR: There is enclosed a copy of a despatch No. 369, dated January 27, 1930, from the American Consul General, Amsterdam,¹ quoting Article 19 of the tariff law of the Netherlands which provides for the extension of the free importation privilege to foreign consular officers on a reciprocal basis, and inquiring whether it would be in accordance with the policy of the Department to seek to obtain this privilege for American consular officers assigned to the Netherlands.

In view of the provisions of the above mentioned Article, the Treasury Department has consented to extend the privilege of free importation to Dutch consular officers in the United States. Therefore, in addition to the free entry of baggage and effects upon arrival and return to their posts in this country after visits abroad, which Dutch consular officers assigned to the United States already enjoy, such officers who are Dutch nationals and not engaged in any other business, on a basis of reciprocity would be accorded the privilege of importing free of duty articles for their personal or family use at any time during their official residence with the understanding that no article the importation of which is prohibited by the laws of the United States shall be imported by them.

You are requested to take the matter up with the Foreign Office with a view to arranging for the extension of similar privileges to American consular officers assigned to the Netherlands.

It may be added that it is deemed advisable to limit the free importation privilege to diplomatic and consular officers for the present. Members of the clerical staffs of the Netherland Legation and Netherland Consulates in the United States will not be accorded the privilege at this time.

I am [etc.]

For the Acting Secretary of State:
WILBUR J. CARR

¹ Not printed.

656.11241/6

The Minister in the Netherlands (Diekema) to the Secretary of State

No. 205

THE HAGUE, June 23, 1930.

[Received July 8.]

SIR: With reference to the Department's instruction No. 40 of March 25th, last, regarding the extension of the free importation privilege to foreign consular officers on a reciprocal basis, I have the honor to enclose a copy of my Note No. 52 of April 7th to the Foreign Office, and a copy and translation of the reply of the Foreign Office, dated the 17th instant.

The Government of the Netherlands agrees to grant free entry to consular officers on a reciprocal basis and as soon as it is assured that the United States Government is definitively in agreement with the arrangement as described in the above mentioned Note from the Foreign Office, will issue the necessary orders to put it into practice.

I have the honor to request, therefore, that the Department instruct me in the premises.

I have [etc.]

GERRIT J. DIEKEMA

[Enclosure 1]

The American Minister (Diekema) to the Netherlands Minister for Foreign Affairs (Beelaerts van Blokland)

No. 52

THE HAGUE, April 7, 1930.

EXCELLENCY: I have the honor to inform Your Excellency that the Treasury Department of my Government has consented to extend the privilege of free importation to Dutch Consular Officers in the United States. Therefore, in addition to the free entry of baggage and effects upon arrival and return to their posts in the United States after visits abroad, which Dutch consular officers assigned to the United States already enjoy, such officers who are Dutch nationals and not engaged in any other business, on a basis of reciprocity would be accorded the privilege of importing free of duty articles for their personal or family use at any time during their official residence with the understanding that no article the importation of which is prohibited by the laws of the United States shall be imported by them.

The Legation is informed that according to article 19 of the Tariff Law of the Netherlands (Free Entry Decree, 1925, Article 22-B) free entry may be accorded to Consular Officers of other powers on the condition of reciprocity. I should therefore like to propose on a basis of reciprocity that free entry privileges as outlined above be granted to American Consular Officers assigned to the Netherlands.

I may add that this suggestion applies only to Consular Officers as my Government deems it advisable to limit the free importation privilege to diplomatic and consular officers and not to extend it to members of clerical staffs of Legations or Consulates.

I avail myself [etc.]

GERRIT J. DIEKEMA

[Enclosure 2—Translation]

The Netherlands Minister for Foreign Affairs (Beelaerts van Blokland) to the American Minister (Diekema)

Economic Section
No. 18242

THE HAGUE, June 17, 1930.

MR. MINISTER: By Your Note of April 7th, last, No. 52, Your Excellency informed me that the "Treasury Department" at Washington has consented, on a basis of reciprocity, to extend the privilege of free importation already enjoyed partially by the Dutch Consular Officers in the United States in such a manner that the Officers of Dutch Nationality who are not engaged in any other business would be accorded the privilege of importing articles free of duty for their personal or family use at any time during their official residence.

Upon the basis of this information and referring to Article 19 of the Dutch Customs Act of 1924 (Statute No. 568), Your Excellency proposes that such a privilege, as referred to above, be granted on the condition of reciprocity by the Government of the United States and Her Majesty's Government to the respective Consular Officers residing in both countries, with the understanding that they comply with the above-mentioned stipulations.

In reply, after having consulted my colleague, the Minister of Finance, I have the honor to inform Your Excellency that Her Majesty's Government accepts the proposition made. This must be understood in such manner that, conformable to the last paragraph of Article 19 of the aforesaid Customs Act of 1924, exemption be equally accorded to excise and import duties on gold and silver articles. I add that I do not know if such taxes are collected in the United States, but, should such be the case, I am convinced that Your Government would be willing to accord exemption of these taxes to the Dutch Consular Officers above-mentioned.

I should be obliged if Your Excellency would let me know if the Government of the United States of America is in agreement with the foregoing; in that case I would ask my above-mentioned Colleague to give the necessary instructions so that this arrangement becomes in force.

I avail myself [etc.]

For the Minister:

The Secretary General,

A. M. SNOUCK HURGRONJE

656.11241/6

*The Acting Secretary of State to the Netherlands Chargé
(Van Hoorn)*

WASHINGTON, August 20, 1930.

SIR: In view of the provisions of Article 19 of the Tariff Law of the Netherlands to the effect that the privilege of importing articles for their personal use, free of duty during official residence would be extended to foreign consular officers on a reciprocal basis, the American Legation at The Hague was instructed to take the matter up with the appropriate authorities of the Netherlands Government with a view to arranging for the extension of this privilege to American consular officers assigned to the Netherlands.

The Department is now in receipt of a despatch from the American Minister at the Netherlands, enclosing a copy of a note from the Minister of Foreign Affairs in which it is stated that the Netherlands Government accepts this Government's proposition on the understanding that gold and silver articles imported by Dutch consular officers will be exempt from excise tax, as well as import duties in case such taxes are assessed in the United States.

As the Department is informed by the Treasury Department that no excise tax is assessed on gold or silver articles imported for personal or family use, the American Minister at The Hague has been instructed to inform the Netherlands Foreign Office accordingly, and I have pleasure in advising you that in addition to the free entry of baggage and effects upon arrival and return to their posts in this country after visits abroad, which Dutch consular officers assigned to the United States already enjoy, effective at once, upon the request of the Netherlands Legation in each instance, this Department will arrange for the free entry of articles imported for personal use during their official residence in the United States by Dutch consular officers who are Dutch nationals and not engaged in any other business, and their families, with the understanding that no article, the importation of which is prohibited by the laws of the United States, shall be imported by them.

Accept [etc.]

W. R. CASTLE, JR.

656.11241/6

*The Acting Secretary of State to the Minister in the Netherlands
(Diekema)*

No. 87

WASHINGTON, August 20, 1930.

SIR: The receipt is acknowledged of your despatch No. 205 dated June 23, 1930, concerning the extension of the free importation privilege on a reciprocal basis to American and Dutch consular officers in the country of the other.

The Treasury Department has advised this Department that no excise tax is assessed on gold or silver articles imported for personal or family use. The Department has, therefore, addressed a note, a copy of which is enclosed,² to the Netherland Chargé d'Affaires ad interim at Washington, informing him that, effective at once, on the conditions set forth and upon the request of the Netherland Legation in each instance, the Department will arrange for the duty free admission of articles imported for their personal use by Dutch consular officers assigned to the United States and the members of their families.

You are requested to advise the Netherland Foreign Office accordingly, with a view to arranging for the extension of similar privileges to American Consular Officers assigned to the Netherlands.

I am [etc.]

W. R. CASTLE, JR.

656.11241/9

The Chargé in the Netherlands (Johnson) to the Secretary of State

No. 325

THE HAGUE, September 23, 1930.

[Received October 4.]

SIR: With reference to the Department's Instruction No. 87, of August 20th last, concerning the extension of the free importation privilege on a reciprocal basis to American and Dutch Consular Officers, I have the honor to report that I advised the Netherland Foreign Office in the sense of the above-mentioned instruction and have received a note in reply dated September 19th, a copy and translation of which are enclosed herewith.

This note extends the free importation privilege on a reciprocal basis and adds that in so doing the Dutch Government counts on the granting of exemption from excise taxes to Dutch Consular Officers in the United States. Specific information is also requested as to the viewpoint of the United States Government concerning the question of excise duties in general.

I have the honor, therefore, to request instructions in the premises.

Respectfully yours,

HALLETT JOHNSON

[Enclosure—Translation]

The Netherlands Minister for Foreign Affairs (Beelaerts van Blokland) to the American Chargé (Johnson)

Economic Section

THE HAGUE, September 19, 1930.

No. 29588

MR. CHARGÉ D'AFFAIRES: In his note No. 105 of September 5th last, His Excellency Mr. Diekema was good enough to inform me that the

² *Supra.*

Government of the United States of America has already taken the necessary steps in order that Netherland consular officers of Dutch nationality, established in the United States of America, who have no other business in the United States, may be exempt from import duties with respect to articles imported for their own use or for the use of their family during the period of their official residence.

In thanking you for this kind communication, I take the liberty of making the following observation:

In my letter of June 17th last,* Economic Section, in which I had the honor to inform His Excellency Mr. Diekema that the Government of the Queen accepted the proposal made by Your Government, I stated that this should be interpreted in such a way that, in conformity with article 19 of the 1924 Tariff Act (Bulletin of Laws No. 568), exemption would also be accorded from excise taxes and duty on gold and silver articles. I added that I was not aware whether such duties were also levied in the United States but that, if so, I was convinced that your Government would also accord the Netherland consular officers in question exemption from these duties. In view of the fact that in the aforementioned letter of Mr. Diekema mention is only made of the fact that "no excise tax is assessed on gold or silver imported for personal and family use" (see also enclosure), it seems that I have perhaps not expressed myself with sufficient clarity. For this reason I take the liberty of observing that the third paragraph of my above-mentioned letter of June 17th referred to two different duties, to wit, excise taxes in general and, besides these, a special tax called tax on gold and silver objects, neither of which are import duties.

However, my colleague the Minister of Finance, whom I did not delay acquainting with the above-mentioned Note from Mr. Diekema, and whom I consulted with regard to the above, has notified me and I have the honor to inform you that he has advised the competent Netherland authorities that objects imported into the Netherlands, destined for consular officers of the United States of America, of American nationality, who have no other business in the Netherlands—for so far as these objects are for their own use or the use of their family—may enjoy freedom from import duties, statistical duty, excise taxes and the tax on gold and silver objects, and that consequently this franchise in the future is not restricted to the baggage (imported or forwarded afterwards) of these consular officers. In issuing these instructions, my colleague felt he should count on exemption from excise taxes in general being likewise granted to Netherland consular officers stationed in the United States of America.

* Legation's despatch No. 205 of June 23rd. [Footnote in file translation.]

In bringing the foregoing to your attention, I would be grateful if you would kindly inform me of the viewpoint of Your Government regarding the question of excise duties in general to which reference is made above.

I seize this occasion [etc.]

For the Minister:
The Secretary General,
A. M. SNOUCK HURGRONJE

656.11241/11

The Secretary of State to the Chargé in the Netherlands (Johnson)

No. 151

WASHINGTON, March 19, 1931.

SIR: The Department refers to your despatch No. 325 of September 23, 1930, concerning the extension of the free importation privilege on a reciprocal basis to American and Dutch consular officers and encloses for your information, copies of a letter of February 19, 1931, and of the enclosure thereto,^a received from the Treasury Department with regard to the granting of exemption from excise taxes to Dutch consular officers in this country.

You will observe from this communication that the Treasury Department takes the position that in the absence of appropriate treaty provisions between the United States and the Netherlands, exemption from excise taxes cannot be included in the free entry privilege for articles imported by consular officers of the Netherlands.

You are consequently instructed to convey this information to the appropriate authorities of the Netherlands and to express this Government's regret that it finds itself unable to comply with the request of the Netherland Government in the premises, adding that it is hoped that this will not affect in any way the existing reciprocal agreement with regard to the privilege of free entry accorded by both countries to consular officers of the other.

It is the Department's understanding that as a matter of practice the Treasury Department does not in fact levy excise taxes on goods which are imported free of duty by foreign consular officers in the United States. It is suggested, therefore, that you bring this fact to the informal attention of the appropriate Netherland authorities with a view to assuring the continued existence of the present free entry agreement.

Very truly yours,

For the Secretary of State:
WILBUR J. CARR

^a Neither printed.

611.56241/42

The Netherlands Legation to the Department of State

No. 1645

MEMORANDUM

During the year 1930 an arrangement has been made between the Department of Foreign Affairs at The Hague and the United States Legation, extending on a basis of reciprocity the privilege of free importation in such a manner, that consular officers, having the nationality of the country they represent, and not being engaged in any other business, will be accorded the privilege of importing articles free of duty for their personal and family use at any time during their official residence.

At that time it was understood, that the American consular officers in the Netherlands would likewise be exempted from excise duties when importing articles under above mentioned conditions.

In answer, however, to its suggestion that also this exemption from excise duties should be made reciprocal, the Netherland Government has been informed that in the absence of appropriate treaty provisions between the Netherlands and the United States exemption from excise taxes cannot be included in the free entry privileges for articles imported by consular officers of the Netherlands into the United States.

Acting under instructions of its Government, the Royal Netherland Legation has the honor to recur to the kind intermediary of the Department of State in order to be informed if and in what form eventually could be concluded between the two governments a binding provision to the effect that Netherland consular officers in the United States, as well as the United States consular officers in the Netherlands, would enjoy the privilege of exemption of excise taxes by importation of articles for their personal use.

WASHINGTON, 19 May, 1931.

611.56241/42

The Department of State to the Netherlands Legation

MEMORANDUM

Reference is made to a memorandum from the Netherland Legation, No. 1645, dated May 19, 1931, in which inquiry is made regarding the exemption of Netherland consular officers in the United States from excise taxes on articles imported for their personal use.

It is the Department's understanding that as a matter of practice excise taxes are not levied on goods which are imported free of duty

by foreign consular officers in the United States. Should it develop that consuls of the Netherlands, who are nationals of that country and not engaged in any other business, are required to pay excise taxes on the importation of articles for their personal use, this Department will be pleased to take the matter up with the Treasury Department to ascertain if such a tax exemption may be arranged informally. If such an arrangement is not feasible, this Department will be glad to give consideration to providing for the exemption in any negotiations for a treaty containing provisions relating to consular officers which may be undertaken by the two Governments.

WASHINGTON, June 30, 1931.

NICARAGUA

AMERICAN ASSISTANCE FOLLOWING THE DESTRUCTION OF MANAGUA BY THE EARTHQUAKE OF MARCH 31, 1931

817.48 Earthquake of 1931/10 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, March 31, 1931—noon.

24. Press reports announce serious earthquake.¹ Please report.

STIMSON

817.48 Earthquake of 1931/1 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA [undated].

[Received March 31, 1931—2:05 p. m.]

67. Tropical Radio reports Managua destroyed by earthquake this morning and now burning. U. S. S. *Rochester* probably sail tonight for Corinto. U. S. S. *Sacramento* standing by here. Navy plane could be despatched tomorrow from Canal to investigate.

DAVIS

817.48 Earthquake of 1931/14 : Telegram

President Hoover to the President of Nicaragua (Moncada)

WASHINGTON, March 31, 1931.

I am appalled at the catastrophe which has overwhelmed Managua and in my own name and that of the American Government and people I extend heartfelt sympathy to Your Excellency and the people of Nicaragua.

HERBERT HOOVER

¹ The earthquake occurred a few minutes after 10 o'clock on the morning of March 31. See The American National Red Cross, *Managua Earthquake: Official Report of the Relief Work in Nicaragua after the Earthquake of March 31, 1931* (Washington, 1931), p. 5.

817.48 Earthquake of 1931/15: Telegram

The Secretary of State to the President of Nicaragua (Moncada)

WASHINGTON, March 31, 1931.

I am profoundly distressed by the reports of the overwhelming disaster which has befallen Nicaragua. Please be assured of my heartfelt sympathy.

HENRY L. STIMSON

817.48 Earthquake of 1931/13: Telegram

The Secretary of State to the Nicaraguan Minister for Foreign Affairs (Irias)

WASHINGTON, March 31, 1931.

Please accept the assurances of the deep sympathy of the Government and people of the United States with the Government and people of Nicaragua in the disaster which has befallen them.

HENRY L. STIMSON

817.48 Earthquake of 1931/4: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA [undated].

[Received March 31, 1931—5:31 p. m.]

Managua nearly totally destroyed by earthquake this morning with considerable loss in life. Minister and Mrs. Hanna believed to be in Guatemala.² Remainder of Legation personnel safe. Legation badly damaged. No attempt yet made to remove archives on account continued severe tremors. Request assistance American Red Cross. Do not know yet whether damage is general throughout Nicaragua. Martial law established. Hope to reestablish rail communication to Corinto tomorrow.

BEAULAC

817.48 Earthquake of 1931/11: Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, March 31, 1931.

25. For the Minister. At a meeting in the office of the American Red Cross today attended by representatives of the State, War and

²The American Minister and his wife were in Guatemala City on March 31, the day the earthquake occurred. They reached Managua early the following morning. See *Managua Earthquake*, p. 11.

Navy Departments it was agreed that you should assume charge of coordinating American relief measures pending arrival of Ernest J. Swift, Acting Director of Insular and Foreign Operations of the American Red Cross, who is proceeding at once to Managua by airplane. War and Navy Departments have advised their representatives of this arrangement. Preliminary grant of \$10,000 by Red Cross already has been placed at disposal of the Department and you may draw against it as required. These funds are to be used for emergency relief pending arrival Swift. Navy sending Hospital Ship *Relief* to Corinto, also vessels of Special Service Squadron including USS *Rochester* with medical unit and stores of all kinds. These vessels will arrive April 3d. Naval planes will leave Panama Canal Zone tomorrow with doctors, nurses and medical supplies. Army cooperating fully and standing by ready to send whatever is necessary from the Canal Zone.

STIMSON

817.48 Earthquake of 1931/9 : Telegram

The President of Nicaragua (Moncada) to the Secretary of State

[Translation]

MANAGUA, March 31, 1931—10:41 p. m.

[Received April 1—2:52 a. m.]

Earthquake centered at Managua, which has been almost destroyed. Rest of the country undamaged. Am profoundly grateful for your expressions of condolence.

J. M. MONCADA

817.48 Earthquake of 1931/5 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA [undated].

[Received March 31, 1931—10:30 p. m.]

Brigade Commander has devoted all resources under his charge to relief of sufferers of all nationalities. President Moncada has just returned and expressed his gratitude for splendid relief work. No reported casualties among American civilian population. There were a few tremors of minor intensity this afternoon. Flames still menace city but the Legation archives are still believed to be safe in the absence of a strong shock which the Legation could not withstand. Hanna due tomorrow.

BEAULAC

817.48 Earthquake of 1931/6: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA [undated].

[Received April 1, 1931—1:40 a. m.]

Reference telegram from Red Cross.³ Practically all inhabitants of Managua are homeless. Ten thousand dollars will not begin to give adequate relief.

BEAULAC

817.48 Earthquake of 1931/7: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA [undated].

[Received April 1, 1931—2:42 a. m.]

Legation in flames. All archives etc. lost. Tremors of considerable intensity continue.

BEAULAC

817.48 Earthquake of 1931/8: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA [undated].

[Received April 1, 1931—2:47 a. m.]

Department's 26.⁴ Warner and Mitchell reported safe.⁵ There are still no known American civilian dead. Brigade Commander reports deaths of Lieutenant Commander Hugo F. A. Baske, Medical Corps USN, and wife of Major Joseph D. Murray, USMC. Chief Quartermaster Clerk James F. Dickey, USMC reported missing.

BEAULAC

817.48 Earthquake of 1931/21: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA [undated].

[Received April 2, 1931—9:30 a. m.]

Guardia searching ruins for dead. Two hundred have been buried already. Due to extent of ruins it probably will be some time before all are found. Every precaution will be taken to avoid danger from this source. Utmost energy will be directed toward restoring regular water supply which probably will be taken from Lake Managua instead of volcanic lagoon where pumps are buried and work is dangerous on account of continued landslides. In the meantime every

³ See telegram No. 25, March 31, p. 781.

⁴ Not printed.

⁵ O. H. Warner and H. C. Mitchell of Associated Telegraph and Telephone Company.

available source of water is being utilized and every effort being made to maintain purity of water. Water problem considered the most serious at present. Regular water source not probable for 10 days. The Guardia medical department cooperating with other Government agencies will take charge of sanitary work in city at large with particular reference to the disposal of refuse. Brigade fed 4,000 people this noon on La Loma Field and it is expected that this number will increase steadily until refugees can be evacuated to nearby towns. In the present emergency it is recommended that measures for evacuation of Marines from Managua be postponed temporarily. Situation may improve so as to permit of evacuation on schedule. It is recommended that six Red Cross nurses be rushed to Managua to care for women patients. In so far as is possible wounded Nicaraguans are being evacuated to hospitals in other cities.

Your 25, 31st., Mr. Swift will arrive here tomorrow. In the absence of instructions to the contrary I will continue to coordinate American relief measures and to cooperate in such measures with the Nicaraguan Government.

HANNA

817.48 Earthquake of 1931/17: Telegram

The Acting Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 1, 1931—11 a. m.

27. The American Red Cross requests you to express its deepest sympathy to President Moncada.

With reference to Beaulac's comment ^e regarding insufficiency of the \$10,000 already advanced by the Red Cross you are informed that Mr. Swift will make recommendations with respect to further requirements. In utilizing this sum draw separate drafts and render separate account.

The Department extends its deepest sympathy to the members of the Legation.

CARR

817.48 Earthquake of 1931/16: Telegram

The Minister in Honduras (Lay) to the Secretary of State

TEGUCIGALPA, April 1, 1931—11 a. m.

[Received 1:55 p. m.]

56. Have sent Naval Attaché Geyer to Managua this morning to assist relief work by Tela Railroad Company plane which is carrying repairs for radio station there.

LAY

^e See telegram received April 1, 1:40 a. m., from the Chargé in Nicaragua; p. 783.

817.48 Earthquake of 1931/18: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA [undated].

[Received April 1, 1931—3:25 p. m.]

I am coordinating relief activities pending arrival Red Cross representative. With rations on hand and those en route on naval vessels Brigade Commander is prepared to feed entire population of Managua for 10 to 12 days. City water supply destroyed but water from various other sources being collected and rationed by Marines and Guardia. Several Navy planes and ships on way with medical supplies, etc. Virtually all civilian population of Managua homeless. Estimated several hundred killed and much larger number injured. Guardia and civilians engaged in excavating and burying bodies. Work hazardous on account of continued tremors. No additional American dead reported. Army engineers under Colonel Sultan are fighting fire which has diminished in intensity. Legation totally destroyed with everything it contained. Brigade Commander has recommended that all families of Marines and American Guardia officers totalling about 175 be evacuated to United States. There are few habitable houses in Managua. Neediest portion of population is being concentrated in La Loma Field just south of the city. I have conferred with President Moncada and the American relief efforts are being coordinated with Government's efforts. I have proposed that refugees be evacuated as rapidly as practicable to León, Granada and other nearby towns and this is now under consideration.

HANNA

817.48 Earthquake of 1931/19: Telegram

The President of the Pan American Airways, Inc. (J. T. Trippe), to the Secretary of State

NEW YORK, April 1, 1931.

[Received 3:15 p. m.]

Radio dispatches received last night from our representative Managua confirm extent catastrophe and indicate epidemic threatening account failure water supply. As the American Air Transport Company operating in foreign field, in view seriousness disaster, I feel it is duty and obligation Pan American Airways rush all its available aircraft to Managua to assist relief work. These aircraft are being placed without cost at disposal Minister Hanna and Director Swift, American Red Cross, on his arrival. American citizens and other urgent cases designated by Hanna and Swift will be carried without charge to Costa Rica, Honduras and Salvador. On return flights

full capacity this equipment will be available to transport relief personnel and supplies to Managua made available by Governor Canal Zone, Presidents Mexico, Cuba and Central American countries. Special plane left Miami this morning direct for Managua carrying supplies. Other proceeding from Brownsville and Canal Zone. Plane carrying Red Cross Director Ernest Swift will leave tomorrow morning immediately following arrival his train Miami. I expect to have at least six Pan American special transport planes at Managua before tomorrow afternoon. We are anxious cooperate with all Government agencies in relief work. Have taken liberty of advising Minister Hanna direct in order that he may make his plans regarding evacuation needy cases before arrival our first relief plane this morning. Our second and third ships should arrive Managua this afternoon. You may wish to advise Red Cross and Federal departments interested.

J. T. TRIPPE

817.48 Earthquake of 1931/29: Telegram

The Acting Secretary of State to the President of the Pan American Airways, Inc. (J. T. Trippe)

WASHINGTON, April 1, 1931.

Your telegram, April 1. The Department greatly appreciates the fine cooperation which the Pan American Airways is giving in connection with the disaster at Managua. Your message has been brought to the attention of the Red Cross and the Navy Department.

WILLIAM J. CARR

817.48 Earthquake of 1931/31

Memorandum by the Chief of the Division of Latin American Affairs (Thurston)

[WASHINGTON,] April 1, 1931.

I attended meetings yesterday and today at the Red Cross for the purpose of discussing relief measures to meet the situation caused by the earthquake and fire at Managua. At the first meeting the Red Cross was represented by Mr. James K. McClintock and Mr. Ernest J. Swift, the Army by Major General MacArthur and Brig. General Whitehead, the Navy by Assistant Secretary Jahnce, Admiral Halligan and Captain Furlong, and the State Department by myself. The meeting this morning was attended only by Mr. McClintock, Captain Furlong, Brig. General Whitehead and myself, although Judge John Barton Payne¹ joined us for a while upon his return from conference with the President.

¹ Chairman of the American Red Cross.

At the meeting of March 31 it was agreed that Minister Hanna should assume charge at Managua of coordinating American relief measures pending the arrival of Mr. Ernest J. Swift, Acting Director of Insular and Foreign Operations of the American Red Cross, who will arrive by air Friday, April 3. A preliminary grant of \$10,000 was made by the Red Cross and deposited with the Department of State to be drawn against as required by Mr. Hanna for immediate needs. The Navy reported that it was dispatching the hospital ship *Relief* to Corinto, also vessels of the Special Service Squadron as well as Navy planes from Panama with doctors, nurses and medical supplies, and the airplane carrier *Lexington* from Cuba to the east coast of Nicaragua. The Army reported that it held available in Panama from its extensive stores such tents, blankets and other supplies, including biological equipment, as might be needed.

At the meeting of April 1 it was decided that the Brigade Commander at Managua, after consultation with Minister Hanna, should report what supplies in addition to those which it was announced at the meeting of March 31 were en route to Nicaragua would be needed, to the end that they might be obtained and dispatched immediately by the Red Cross. It was further reported that the *Lexington* has seven doctors aboard, as well as other medical personnel, and that these will be launched from the *Lexington* today in three amphibian planes which will reach Managua today, landing on Lake Managua. It was likewise announced that Army antitoxin supplies to be used in checking any tendency toward epidemics are en route by air. There is appended to this report a statement by the Navy Department showing the concentration in connection with this emergency of its various elements as of April 1.

No further action is called for by the Department at the moment, in as much as all that can be done is now provided for pending the arrival of Mr. Swift, whose extensive experience makes it advisable to await his opinion on further steps.

WALTER C. THURSTON

817.48 Earthquake of 1931/40

The President of Nicaragua (Moncada) to President Hoover

[Translation]

MANAGUA, April 1, 1931.^s

I am profoundly thankful for the marks of the sympathy and the regret which Your Excellency feels because of the Managua catastrophe, and in the name of the Nicaraguan public and in that of my

^s Received in the Department from the White House on April 2.

Government I send to the people of the United States and to Your Excellency my expressions of gratitude.

J. M. MONCADA

817.48 Earthquake of 1931/41 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 2, 1931—8 a. m.

[Received 4:20 p. m.]

City still burning. Lack of water combined with continual high wind and highly inflammable character of demolished houses renders control exceedingly difficult. Colonel Sultan with Army engineers is in charge of this problem and is doing everything possible under the circumstances. He is concentrating on saving the National Bank building. Arrangements are being made to transfer bank's archives and funds to Granada. Shifting winds of high velocity carried smoldering embers to National Palace yesterday afternoon and it was totally destroyed by fire including archives of nearly all Nicaraguan executive departments and archives of the Customs Service and Claims Commission. The condition of the Palace due to the earthquake combined with subsequent minor shocks made it unsafe to enter the Palace. Shocks of minor intensity continue.

The recovery and burial of dead continues. Seventy-five more Nicaraguan injured will be evacuated to Granada today. A temporary hospital under canvas is being established on the Loma Field to which all Nicaraguan sick and injured will be removed thus relieving the congestion in Campo de Marte. Arrangements are being perfected for vaccination against infectious diseases. Facilities for feeding refugees well organized on Loma Field.

I cannot praise too highly the initial measures taken by Colonels Bradman and Matthews with great promptitude to meet the first crisis. The services of the Marines and Guardia under their respective commands are receiving universal commendation. The relief organization initiated by them is being expanded and perfected to meet the disaster. I am in close communication with President Moncada and there is the closest cooperation between the American and Nicaraguan agencies. Mr. Swift probably will not arrive before tomorrow morning.

HANNA

817.48 Earthquake of 1931/46 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 2, 1931.

36. Your telegram filed April 1, 7 a. m. Marine Corps has ordered that Marines due to leave Managua on the *Chaumont* tomorrow be re-

tained in Nicaragua for the present. This will not interfere with the program of reducing the Marines as specified by June 1.

CARR

817.48 Earthquake of 1931/47: Telegram

The Acting Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 2, 1931.

42. Department informed by International General Electric Company that it has today instructed F. J. Gianotti, company's representative at Panama, to proceed to Managua and tender his expert services to the municipal authorities, the American Minister, and the Marine officers in assisting relief and rehabilitation activities. Company states he is an electrical engineer of standing and should be able to render useful service in rehabilitation of light and power facilities in Managua.

CARR

817.48 Earthquake of 1931/50: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 3, 1931—9 a. m.

[Received 1:10 p. m.]

Your 27, 1st, 11 a. m. President Moncada has requested me to thank the Red Cross in his name and in the name of the Nicaraguan people for its expression of sympathy and to add that its message relieves in a measure the suffering of the Nicaraguan people and gives them confidence in the future.

HANNA

817.48 Earthquake of 1931/53: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 3, 1931—8 p. m.

[Received 11:50 p. m.]

Swift arrived noon today. At a conference of all committees this afternoon a central relief committee was appointed as follows:

Honorary Chairman, President Moncada; Chairman, American Minister; members, Colonel Fred. L. Bradman, U.S.M.C., Brigade Commander, Colonel Dan I. Sultan, Commanding U. S. Army Engineers, and the following representing the Nicaraguan Government: Anastasio Somoza, Acting Minister for Foreign Affairs, and General Calvin Matthews, Commanding Nicaraguan National Guard. Mr. Swift left off committee at his request.

President Moncada has appointed local relief committees in nearby cities and towns who have instructions to cooperate with the Central Committee.

About half the population of Managua has been evacuated to other places. Steps are being taken to follow these persons up with necessary relief measures. In addition to the food shortage caused by earthquake and fire there is a general food shortage in the country following a severe drought of several months' duration. It is possible that eventually measures must be taken to relieve this general food shortage.

It is hoped that water will be placed in Managua mains within 10 days. In the meantime an adequate supply of drinking water is available.

General health conditions are good. Fire is still raging but is being kept within bounds by U. S. Army engineers.

Eight thousand refugees were fed by Marines on La Loma Field yesterday and seven thousand today.

Government is making arrangements to move capital to some other city yet undetermined.

Please repeat to Red Cross.

HANNA

817.48 Earthquake of 1931/36: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 4, 1931—2 p. m.

[Received 7:20 p. m.]

It has come to my notice that alarming reports regarding unusual activities in connection with the recent catastrophe have been sent out from Managua. Such reports are absolutely unfounded. Not only has there been no bandit activity connected with the catastrophe, but the situation in the usual bandit areas is and has been quiet since the catastrophe.

The earthquake has not in any way affected Guardia operations against the bandits. Recruiting continues normally and is conducted mostly in the bandit areas. There are now over 1,200 Guardia operating there and this number will be increased as recruiting progresses.

The amount of detail thrown upon Guardia headquarters and particularly upon General Matthews has increased tremendously since the catastrophe and General Matthews has ably expanded his headquarters' organization in such manner as to handle the relief work without affecting the normal operation of Guardia headquarters with respect to the control of the forces operating against bandits.

HANNA

817.48 Earthquake of 1931/62: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 4, 1931—noon.

[Received 6:45 p. m.]

The city of Granada has requested me to express to the Government and people of the United States its profound gratitude for the opportune and generous assistance being rendered to Nicaragua by the American forces in this hour of great distress. The city has also tendered a residence in Granada for the Legation and its staff.

HANNA

817.48 Earthquake of 1931/63: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 4, 1931—8 p. m.

[Received 10:55 p. m.]

Airplanes of the Pan American Airways rushed to Managua by Mr. Trippe to assist in relief have rendered great service in transporting the wives and families of American officials from Managua to Corinto for embarkation. Due to break in the railway there would have been great delay in evacuating these individuals without the assistance of the planes. The Department may desire to express appreciation and thanks for the service thus rendered.

HANNA

817.48 Earthquake of 1931/64: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 4, 1931—9 p. m.

[Received April 5—10:20 a. m.]

Exodus from city continues. People now moving to León and other points to the westward by rail. Hundreds leaving on foot with effects on bull carts. The indications are that the city will be practically deserted at least temporarily. The thousands of refugees who have fled to the eastward are creating a new relief problem. This was anticipated. Relief has been requested by Granada and Masaya. Food supplies were shipped to Granada today. Mr. Swift visited Masaya and Granada today and will report on conditions tomorrow. These are but the first of many outlying cities and towns that will require relief for considerable time. President Moncada has appointed local relief committees in many such places with which the Central Committee will cooperate. Every effort will be made to

prevent abuse of relief measures. We are feeding about [eight] thousand people here but the number probably will gradually grow less as it increases elsewhere. Supplies here and on the way are sufficient for present needs.

There is no change for the worse in the health conditions here. All but a small number of the sick and injured have been evacuated. Efforts to repair the water system are progressing favorably and it probably will be operating in another week. The interruption in the railway to the westward of the city will be eliminated in 3 or 4 days. The fire is being held within limits and probably will burn its way through the city on a narrow front to the westward.

The problem of restoring normal conditions in such measure that the relief will not be prolonged indefinitely is now engaging our attention. We will eventually need the advice and assistance of the Government of the United States in this connection. I hope the Department will now begin to give consideration to this phase of the problem. Nicaragua must receive material assistance from somewhere if it is to recover from this disaster in any reasonable time.

HANNA

817.48 Earthquake of 1931/73 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 5, 1931—2 p. m.

[Received April 6—11:10 a. m.]

The relief organization at present is as follows as noted in my telegram [of the] 3d, 8 p. m.

The Central Committee of which President Moncada is Honorary Chairman and the American Minister is Chairman has direct supervision of all relief including the expenditure of Red Cross funds. President Moncada has appointed local committees of distinguished citizens in the following places: Managua, León, Chinandega, Masaya, Carazo, Granada, to supervise local relief and cooperate with the Central Committee.

The local committee in Managua consists of Colonel Sultan as Chairman and Ramon Sevilla, Minister of Education, and Francisco Frixione, Commissioner of the National District, as members. This committee is now dividing the city into districts and appointing a subcommittee for each district. It is proposed that these committees will organize the distribution of relief in Managua so as to terminate mass feeding as speedily as practicable and substitute therefor the distribution of uncooked rations in return for which able-bodied males

without occupation will be required to give a reasonable amount of labor. This labor probably will be employed at the outset in cleaning up the city and other useful work in connection with the relief.

The maintenance of order within the city is under the dual charge of the United States Marine forces under Colonel Fred L. Bradman and the Nicaraguan National Guard commanded by Brigadier General Calvin Matthews (Lieutenant Colonel United States Marine Corps).

The United States Army engineers under Lieutenant Colonel Dan I. Sultan are engaged in keeping the fire within bounds. They are also assisting in the rehabilitating [of] the water system.

Mr. R. E. Ludwig, local manager of the Central America Power Corporation, is directing efforts to place water in the city mains and to reestablish electric lighting.

The National Guard is in charge of the distribution of water to the inhabitants still remaining and Mr. George Hepburn, an American engineer, has been designated to supervise this work. Containers of chlorinated water have been placed in convenient places throughout the town for the relief of inhabitants.

Mass feeding of refugees is being conducted by the Marine forces and with Marine Corps supplies augmented by local donations and gifts from other Central American countries. An average of 8,000 persons are being fed daily from kitchens erected in Loma Field. Captain C. A. Phillips, United States Marine Corps, is directing the mass feeding.

The removal and burial of the dead is under the supervision of the National Guard. Approximately 600 bodies have been buried already.

The railroad to Corinto is blocked at Asososca, a point about 6 miles west of Managua, where a landslide occurred in a large cut. Mr. Townsend, manager of the railroad, has a large crew engaged in removing the slide. He hopes to reestablish through communication to Corinto by April 8. Supplies are now being brought from Corinto to Asososca and from there by motor truck to Managua. All refugees are being carried free by railroad.

The Central Committee is coordinating all the above activities as well as the purely Nicaraguan activities. It is being guided by the technical advice and assistance of Mr. Swift, the American Red Cross representative, who is now engaged in a survey of the situation in neighboring cities where refugees have been concentrated and need relief. Panama, Costa Rica, El Salvador, Guatemala and Honduras have sent medical, nursing and sanitary commissions which are rendering assistance.

Please repeat to Red Cross.

HANNA

817.48 Earthquake of 1931/74: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 5, 1931—3 p. m.

[Received April 6—11:20 a. m.]

The Commanding General Canal Zone has issued Army subsistence stores to Navy transport for Nicaraguan relief without charge. I understand that the Chief of the Army General Staff subsequently approved this action. The supplies were urgently needed to supplement available Navy supplies and avoid delay in the sailing of the transport. The initiative of the Commanding General is greatly appreciated here.

We hope the Army will continue to furnish supplies when necessary to meet emergencies without reimbursement. All Red Cross funds allotted for this relief will be needed for purchase of local supplies not included in military issues. Mr. Swift estimates that emergency food is necessary for approximately 20,000 absolutely dependent people during April and part of May. The articles of food most necessary are rice, corn, beans, preferably red kidney, lard, salt and either flour or hard bread, preferably the latter. Other components of the military ration are not necessary or desirable.

We will appreciate the Department's interest in obtaining the cooperation of the Army and continued cooperation of the Navy as indicated herein. Please repeat to Red Cross.

HANNA

817.48 Earthquake of 1931/80: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA [undated].

[Received April 6, 1931—1:30 p. m.]

Supplementing my [April] 4th, 8 p. m. Major R. J. Mitchell commanding aircraft forces of the Marine Brigade here commends highly the cooperation given by planes of the Pan American Airways in the evacuation of wives and families of American officers from Managua and urges that appropriate acknowledgment of this cooperation be made to Mr. Trippe. Major Mitchell specially mentions the splendid work of Messrs. E. Balluder, D. D. Richardson, H. B. Lewis, W. L. Morrison, H. Rammer, R. E. Frizell, Archie Paschal, and J. Dymond.

HANNA

817.48 Earthquake of 1931/85 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA [undated].

[Received April 6, 1931—5:19 p. m.]

Supplementing my [April] 5th, 2 p. m. Sanitation of Managua is under control of a committee composed of two Nicaraguan doctors and the medical director of the Guardia Nacional, Commander Gordon Hale, Medical Corps, United States Navy. They have divided the city into four districts each under one or more Nicaraguan doctors. Red Cross units from the other Central American countries are giving the committee active aid. All persons are being inoculated against typhoid. General health conditions remain good. All hospital patients are under tentage on La Loma Field. No serious illness here among Americans. More than 650 dead have been buried to date. The work of recovering the dead continues but it is probable that hundreds will never be recovered.

HANNA

817.48 Earthquake of 1931/87 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 6, 1931—6 p. m.

[Received April 7—2:22 a. m.]

Highly chlorinated water from the former system is in the mains today under low pressure. Breaks in the mains and connections are being repaired. One of the pumps at the new source will be uncovered by the end of the week.

Colonel Sultan's local committee is making satisfactory progress in organizing food distribution in Managua. His committee is perfecting arrangements to establish three or four market places where those who have money can purchase fruits and other food supplies from producers near Managua. This will be the first step in reestablishing normal commercial transactions. Practically all merchandise was destroyed by the earthquake and subsequent fire. I do not know of a single general supply store with merchandise.

We have taken up the question of providing shelter before the rainy season begins in about 6 weeks and expect to have a matured plan by tomorrow.

The fire is under control and appears to be definitely checked.

The relief from other Central American Republics and Panama continues to render valuable assistance.

HANNA

817.48 Earthquake of 1931/106

The Nicaraguan Minister (Sacasa) to the Secretary of State

[Translation]

WASHINGTON, April 6, 1931.

EXCELLENCY: I must express through the worthy channel of Your Excellency, and in the name of the People and Government of my country, to the United States of America, and especially to His Excellency President Hoover and to the Departments of State, War and Navy and to the American Red Cross, the most sincere and profound gratitude for the opportune and earnest assistance which they brought to the relief of the unhappy situation and the deep grief which to-day afflict the capital of Nicaragua.

The genuine spirit of Pan American fraternity so clearly and expressively displayed in the innumerable proofs of sympathy continually offered to us, finds in the hearts of all Nicaraguans an echo of gratitude never to be extinguished and of eternal friendship for this generous Nation.

I avail myself [etc.]

JUAN B. SACASA

817.48 Earthquake of 1931/94

The Secretary of State to the President of the Pan American Airways, Inc. (J. T. Trippe)

WASHINGTON, April 7, 1931.

SIR: In telegrams dated April 4 and April 6, 1931, received from Mr. Matthew E. Hanna, American Minister at Managua, the Department has been informed of the great assistance rendered by the Pan American Airways. Mr. Hanna stated that:

[Here follow texts of telegrams dated April 4, 8 p. m., and April 6, 1:30 p. m., from the Minister in Nicaragua, printed on pages 791 and 794.]

The Department takes pleasure in bringing the foregoing to your attention and wishes to express its appreciation of this humanitarian work freely and willingly rendered by the Company, its officials and employees.

Very truly yours,

For the Secretary of State:

FRANCIS WHITE

817.48 Earthquake of 1931/95: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA [undated].

[Received April 7, 1931—11:20 p. m.]

Relief measures continue satisfactorily. Other Central American countries doing valuable work. Health conditions are good. Four

thousand persons inoculated against typhoid today and a like number will be inoculated tomorrow.

Through rail communication to Corinto will probably be reestablished Thursday. Families are slowly returning to their homes and are repairing them. The efforts of the Central Relief Committee are being concentrated on the problems of shelter and of restoring normal living and commercial conditions in the community.

HANNA

817.48 Earthquake of 1931/111: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 10, 1931—noon.

[Received 4:23 p. m.]

1. President Moncada and the more important Federal Government offices including the Supreme Court will remain in Managua and the remaining offices will be established temporarily in Masaya. The Nicaraguan Congress will also assemble in Masaya next Tuesday to renew its ordinary session. The foregoing has been announced in the official bulletin.

President Moncada has told me that this does not necessarily mean that the capital will remain permanently in Managua and that definite decision of this question is being postponed until sentiment can be weighed under more normal conditions. I believe he has partly in mind the encouragement of the reconstruction of this city.

I now have under consideration the arrangements we should make for sheltering the Legation and its personnel and will make my recommendations in the near future.

HANNA

817.48 Earthquake of 1931/112: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 10, 1931— 1 p. m.

[Received 6:33 p. m.]

2. Will Rogers left here this noon by special airplane for San José, Costa Rica. His visit brought cheer to this saddened community and has given new hope to the despondent. He has snapped us out of our morbidness and has given us a saner spirit to carry on our work of reconstruction. We all owe him a profound debt of gratitude.

HANNA

817.48 Earthquake of 1931/113: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 10, 1931—1 p. m.

[Received 9:15 p. m.]

3. For American Red Cross from Swift:

"Situation here presents abnormal difficulties. The Government is impoverished, its capital destroyed. Ten percent of the population of the country has been affected and practically ruined. There is no employment of labor because householders are without funds to repair property and merchants are financially unable to replace stocks burned in the fire. We have opened market places where people can purchase food from the countryside and everything is being done to encourage reestablishment of business and normal life. Until this is accomplished more than 30,000 people must be assisted and employment furnished approximately 5,000. The most urgent and serious problem confronting us is the repair of houses to shelter refugees and the committee plans to spend a large part of its cash resources to furnish labor for the purpose, of course under the direct control and supervision of the committee. This will have double benefit of providing employment as well as shelter. Foodstuffs must also be purchased in United States and locally. For all purposes a large sum is necessary and I believe \$100,000 is a reasonable contribution for the Red Cross. Unless absolutely necessary we would prefer that public announcement be not made now as it may have unfavorable influence on projects which local authorities are trying to organize. The Minister concurs. Suggest response be sent through State Department in code. Swift."

HANNA

817.48 Earthquake of 1931/114: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 10, 1931—6 p. m.

[Received 11:30 p. m.]

4. My No. 3, April 10, 2 [1] p. m. Work for the unemployed here is vitally necessary. It probably will be months before normal activities will furnish employment for all. Financial assistance for this purpose in the meantime is urgently needed. Funds donated for this purpose can be expended in highly useful work under the control and supervision of the Central Relief Committee. The period during which food and other such relief measures must be continued depends largely on unemployment. Such relief can be terminated

when employment is again normal. Reconstruction and restoration of business will be stimulated and the labor situation will thus be improved.

This problem is also closely related with the preservation of order not only in Managua but throughout the Republic. There has been no noteworthy disorder yet as a consequence of the disaster but the germs are present and are spreading and may easily become dangerous if not stamped out. I hope we may carry out about on schedule the arrangements recently decided upon for withdrawal of the Marines but if disorder develops it might cause delay. Employment for those out of work here and elsewhere as a consequence of the disaster will help to prevent such disorder.

For the foregoing reasons I hope the Department may support and stimulate efforts to obtain financial assistance for the Central Relief Committee as well as for the Government of Nicaragua.

HANNA

817.48 Earthquake of 1931/117: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 11, 1931—4 p. m.

69. Your 3, April 10, 1 p. m. and 4, April 10, 6 p. m.

Please deliver the following message to Swift from McClintock of the American Red Cross:

"You [are] authorized expend one hundred thousand as requested. No announcement of this amount will be made here. Supplies for chlorinators will reach Managua air mail Wednesday. Your letters 7th [and] 8th make excellent report for convention. Have you idea when you able to return? Congratulations on fine job. We deeply appreciate cooperation Nicaraguan Government, Navy, Marines, Army as detailed your reports. Give Minister our special thanks."

STIMSON

817.48 Earthquake of 1931/122: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 14, 1931—8 a. m.

[Received 4:37 p. m.]

10. In reply to messages received from several of our legations in Central America I have sent the following telegram to our legations in Central America and Panama:

"13th, 9 p. m. It has come to my attention that reports have been broadly circulated to the effect that many persons have been killed here for looting after the recent earthquake. Such reports are grossly

exaggerated. I informed the Department on April 6th⁹ that one looter had been killed and one wounded by the Guardia Nacional, that investigations showed that action in both instances was justified and that no persons had been killed or injured by Marines. Subsequent investigations have confirmed the foregoing and there have been no additional casualties of this nature.

It should be pointed out to the everlasting credit of the inhabitants of Managua that there was nothing approaching wholesale looting but that on the contrary the entire population of the city cooperated in so far as it could in the work of relief. Stringent measures naturally were taken by those in authority to prevent looting but it was necessary to enforce them only in the two instances mentioned.

The absence of looting considering the exceptional opportunity which the circumstances afforded is a tribute in the first place to the residents of Managua and in the second place to the wise measures adopted by the military authorities and the temperate manner in which they were enforced.

I will be pleased if you will make such use of the foregoing as you may deem appropriate."

HANNA

817.48 Earthquake of 1931/127: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 15, 1931—3 p. m.

[Received April 16—1:45 p. m.]

16. Please deliver the following to McClintock of American Red Cross.

"I deeply appreciate your message of thanks delivered to me by Mr. Swift on April 11.¹⁰ I wish at this time to express my great admiration and appreciation of the work Mr. Swift has done and is doing in connection with relief here. His calm and timely counsel and very active cooperation have made the coordination and administration of relief much less difficult and much more effective than they otherwise could have been. We are all grateful for his presence here."

HANNA

817.48 Earthquake of 1931/128: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 15, 1931—8 p. m.

[Received April 16—2:05 p. m.]

21. I desire to place on record my admiration of the truly wonderful work in the reestablishment and maintenance of order and in the work of administering relief following the earthquake of March 31, performed by the American military organizations in Nicaragua and

⁹ Telegram not printed.

¹⁰ See telegram No. 69, April 11, 4 p. m. to the Minister in Nicaragua, p. 799.

by the Guardia Nacional officered mainly by officers and noncommissioned officers of the United States Marine Corps.

I specially wish to record the splendid work done by the Commander of the Marine Brigade, Colonel F. L. Bradman; his second in command, Lieutenant Colonel F. B. Garrett, and his Chief of Staff, Lieutenant Colonel William W. [C.?] Wise; the Commander of the Guardia Nacional, General Calvin Matthews (Lieutenant Colonel United States Marine Corps); his Chief of Staff, Colonel Walter Sheard, (Major United States Marine Corps); the engineer in charge of the Nicaraguan canal survey, Lieutenant Colonel Dan I. Sultan, United States Army, and his principal assistant, First Lieutenant L. R. Groves.

The Medical Corps of all three organizations assumed the task of caring for the injured, in many cases working 48 hours and more without rest. Deserving of special mention are Colonel Gordon Hale, Medical Corps, Guardia Nacional (Commander Medical Corps, United States Navy); Colonel [Major?] Horace Boone, Medical Corps, Guardia Nacional (Lieutenant Commander, Medical Corps, United States Navy); Lieutenant Commander Warwick T. Brown, Medical Corps, United States Navy, and Major Ralph [Paul R.?] Hawley, Medical Corps, United States Army. It was due largely to the efforts of these doctors that greater suffering did not follow the disaster and that preventive measures have been taken against epidemics.

Great credit is due Captain Claude Phillips, United States Marine Corps, for organizing and directing the feeding of refugees.

I cannot speak too highly of the work of these gentlemen and of the officers and men under their command. Their presence here vastly minimized the possible tragic consequences of the disaster and has been and continues to be the greatest assistance to the community. It should be added that the Nicaraguan Government recognizes this fact and has lost no opportunity to demonstrate its gratitude.

HANNA

817.48 Earthquake of 1931/152

The British Ambassador (Lindsay) to the Secretary of State

No. 160

WASHINGTON, May 13, 1931.

SIR: I have the honour to inform you that His Majesty's Principal Secretary of State for Foreign Affairs has instructed me to request you to convey to the United States authorities concerned the deep appreciation of His Majesty's Government for the valuable assistance rendered by United States marines in protecting the lives and property of British subjects in Managua on the occasion of the recent earthquake there.

In particular, Mr. Henderson desires that the appreciation of His Majesty's Government should be conveyed to Colonel F. Bradman, Lieutenant Colonel F. R. [B.] Garrett and Lieutenant Colonel W. C. Wise who supervised the United States Marine Camp into which British subjects were taken, for their kindly and helpful action.

I have [etc.]

R. C. LINDSAY

817.48 Earthquake of 1931/178

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 404

MANAGUA, June 18, 1931.

[Received June 25.]

SIR: It has been my policy, in directing the relief work of the American Red Cross in Managua, to keep President Moncada closely informed concerning the activities of the Central Relief Committee of the American Red Cross of which he is the Honorary President. In carrying out that policy, I addressed a communication to him on June 11, 1931, copy enclosed, in which I brought him up to date in this connection and outlined the plans of the Committee for the immediate future. I closed my communication with the customary statement that the Committee would be pleased to modify the program in an endeavor to be in full accord with the President's wishes should he care to make any suggestions. President Moncada replied in a communication dated June 18, 1931, a copy and translation of which are also transmitted herewith.

I have the honor to invite the Department's special attention to President Moncada's reply in view of his having warmly set forth therein his appreciation and gratitude for the relief work being done in Managua by the American Red Cross, as well as a message of appreciation to the Government of the United States, both of which he has requested me to transmit.

I have transmitted the documents in this matter to Mr. Ernest J. Swift of the American Red Cross, and I enclose herewith a copy of my letter of transmittal to him.¹¹

Respectfully yours,

MATTHEW E. HANNA

[Enclosure 1]

*The American Minister (Hanna) to the President of Nicaragua
(Moncada)*

MANAGUA, June 11, 1931.

MY DEAR MR. PRESIDENT: I desire to give you up-to-date information concerning the activities of the Central Relief Committee of the American Red Cross and its plans for the immediate future.

¹¹ Not printed.

The distribution of food was stopped on May 15, excepting small donations which are still being made to the general hospital and occasional donations to exceptionally needy cases. The distribution of milk for infants was terminated on June 10.

The relief through furnishing labor to unemployed continues but on a somewhat reduced scale. Approximately 1,500 laborers were being employed when this work was at its maximum but the number has now been reduced to approximately 1,000. The number will be further reduced to meet changing conditions. It is the hope of the Central Relief Committee that increasing industrial activity in and about the city, and especially the project for the construction of the proposed railway along the lake, will absorb a portion if not all the labor as rapidly as it is set free by the Central Committee.

The projects on which labor is now being employed by the Central Committee are the following:

1. Completing the removal of debris from the city. There remain to be cleaned of debris only a few streets in the southeast section of the city and this work should be terminated in another two weeks.

2. The completion of the prolongation of Second Street to the Pan American Airways station. This will be completed within about ten days.

3. The repair of Central Street from the eastern limits of the city to the paved portion of the city to relieve the serious congestion on Second Street. It is planned to construct concrete crossings where the north and south streets intersect Central Street. This is deemed necessary for protection against large quantities of water flowing through these streets during the rainy season. The surface of the street will be finished with volcanic ash heavily oiled. All material, of course, for this construction will be furnished by funds of the American Red Cross. This street probably will be finished in a month or six weeks.

4. The prolongation of Second Avenue west to the south of Calle Colon. This street will be built with debris from the city and will be surfaced with volcanic ash heavily oiled. It is now being graded and should be finished in about three or four weeks.

5. The repair of streets within the city limits where most needed.

6. The repair of the highway from the city to Villa Stimson. This repair work will consist of reshaping the highway and giving it a surface finish of heavily oiled volcanic ash. The railway administration is hauling the volcanic ash from the Asoscosca pit to the neighborhood of the highway, and it is being paid for this service from Red Cross funds. The repair of this highway may be continued until the relief funds of the American Red Cross are exhausted.

7. The restoration of the northern portion of the general hospital. This work is being supervised by the hospital authorities. The Central Relief Committee made an allotment of \$3,500 for this purpose, that being the estimate of probable cost presented to the Committee by the hospital authorities.

8. The repair and renovation of the hospital for the Guardia Nacional. The Central Committee allotted \$1,000 for this purpose.

9. The Central Committee has turned over to the Executive Committee of the National District the labor and material for daily clean-

ing the streets, daily removal of garbage and the administration of the two market places. The Central Committee will pay for these services temporarily.

The funds still available are sufficient to continue work on the foregoing projects until the end of July and possibly until the middle of August. The number of laborers and the cost of transportation will be decreased gradually throughout that period, partly to insure economical operation and partly to avoid the sudden turning loose of large numbers of laborers. This latter point is one to which the Central Relief Committee is giving much careful consideration.

I hope the foregoing meets with the complete approval of Your Excellency but if not, the Central Relief Committee will be pleased to modify the program in an endeavor to be in full accord with your wishes.

I am [etc.]

MATTHEW E. HANNA
*Chairman, Central Relief Committee,
The American Red Cross*

[Enclosure 2—Translation]

*The President of Nicaragua (Moncada) to the American Minister
(Hanna)*

MANAGUA, June 18, 1931.

DEAR MR. HANNA: With satisfaction I have read your courteous letter of June 11 relative to the important works initiated and carried to conclusion by the Central Relief Committee of the American Red Cross.

The noble labor of the American Red Cross—its devotion to the relief of the sufferers and to the health and sanitation of the Capital—has been of great importance for Managua, recognized by the Nicaraguan people. As the representative of the Nation, I am pleased to extend my homage and the best impressions of gratitude, and through you I wish to make them known to the Institution in the United States as a weak manifestation of the gratitude of the Nicaraguan people.

It gives me satisfaction also to extend to you in the most cordial manner and in the same form the homage of my appreciation for your sincere and beneficial devotion to the work of saving Managua, as well as to the worthy Government which you represent.

All you have told me in your appreciated letter mentioned above merits my approbation and applause.

With distinguished consideration, I am, etc.

J. M. MONCADA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION
OF BANDIT ACTIVITIES IN NICARAGUA ¹²

817.00 Bandit Activities, 1931/4 : Telegram

The Vice Consul at Bluefields (Rowe) to the Secretary of State

BLUEFIELDS, April 13, 1931—3 p. m.

[Received 10:50 p. m.]

Armed bandits under Blandon with 75 men well armed and equipped with machine guns suddenly appeared at Logtown about 60 miles from Puerto Cabezas at the end of the railroad early in the morning of April 11th. Captain Pefley, Marine Corps, Department commander of the Guardia, left Puerto Cabezas with small patrol upon hearing rumors of trouble. They were ambushed near Logtown at about 11 a. m., Captain Pefley was killed and one Guardia wounded. Additional officers of the Guardia have been sent to Puerto Cabezas from Bluefields. Today all available Guardia have interposed themselves between the bandits and Puerto Cabezas planning to attack them today assisted by two Marine bombing planes from Managua. U. S. S. *Asheville* due at Puerto Cabezas midnight 13th and U.S.S. *Memphis* due at 6 a. m., 14th. Bandits have killed several civilians some of whom are reported to be Americans on Bragmans Bluff Lumber Company farms. Bandits control company's property north of Snaki on Wawa River about 110 kilometers from Puerto Cabezas. *Civicos* policing Puerto Cabezas in absence of Guardia who are all in the field awaiting arrival naval vessels. Puerto Cabezas alarmed but no disorders yet reported. Barely enough Guardia left in Bluefields to police the town. Number of Guardia in eastern Nicaragua considered far from sufficient to combat bandits should they concentrate on this area. Rumors persist that more bandits under the command of Altamirano are proceeding toward Puerto Cabezas from the interior.

ROWE

817.00 Bandit Activities, 1931/9 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 14, 1931—3 p. m.

[Received April 15—12:40 a. m.]

14. Dr. Irias, the Minister for Foreign Affairs, returned from his special mission to El Salvador and Guatemala the day of the earth-

¹² Continued from *Foreign Relations*, 1929, vol. III, pp. 549-580. Correspondence relating to bandit activities in 1930 is not printed, as the period was one of relative inactivity.

quake¹³ and consequently it was not until today that he made his report to President Moncada. His report set forth the following:

When Dr. Irias called upon the President of El Salvador the latter spontaneously and without the slightest inducement by Dr. Irias tendered his good offices to cooperate in the restoration of order in Nicaragua provided the tender would be agreeable to the Government of Nicaragua and to the Government of the United States. Later on when Dr. Irias called upon the President of Guatemala the latter made a similar tender of good offices also spontaneously and without inducement on the part of Dr. Irias and also with the understanding that the tender would be agreeable to the Government of Nicaragua and the Government of the United States. Dr. Irias then informed the President of Guatemala that the President of El Salvador had made a similar offer and had expressed his willingness to cooperate in this matter with any efforts which the President of Guatemala might take and also to use his good offices with the President of Honduras. The President of Guatemala also indicated his willingness to cooperate with the President of El Salvador.

Dr. Irias informed each of them that he considered the idea sound provided it met with the approval of the Government of the United States.

The President of El Salvador intimated that his efforts would consist in an endeavor to induce Sandino to lay down his arms through informal negotiations which could not constitute a recognition of his belligerency.¹⁴ The President of Guatemala did not give any indication of the form his assistance would take. Dr. Irias is not informed concerning the details of the plan which would be followed by those Governments but considers that this could be satisfactorily arranged if the Government of the United States is in accord with the general idea.

Dr. Irias called upon me this morning by President Moncada's direction to give me the foregoing information and to say that President Moncada will accept the tender of good offices provided the Government of the United States is in complete accord.

Repeated to Guatemala and San Salvador.

HANNA

817.00 Bandit Activities, 1931/17: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 14, 1931—8 p. m.

76. In view of reports of Commander *Asheville* now at Puerto Cabezas that all the Guardia except one officer [*sic*] were last reported 78 kilometers away and that bandits were reported 13 kilometers away, that 4 Americans were killed in the last 48 hours and 3

¹³ See pp. 780 ff.

¹⁴ For previous correspondence regarding Sandino, see *Foreign Relations*, 1929, vol. III, pp. 580 ff.

missing and that the only guard left of Puerto Cabezas are unreliable civilian outposts which do not cover all approaches, the Commander of the *Asheville* was instructed to land forces to protect the lives of Americans until a Guardia detachment, which is due to arrive in about 24 hours, can take over the situation. The Department has announced that when the Guardia arrives the situation will be turned over to it and the landing forces from the *Asheville* will immediately be reembarked and that the Americans at Puerto Cabezas who do not then wish to remain will be taken off on the *Asheville* and on the steamship *Cefalu*, of the Standard Fruit and Steamship Company, now in the port.

STIMSON

817.00 Bandit Activities, 1931/33 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 16, 1931—6 p. m.

80. Confidential for Hanna from the Secretary. The naval, Guardia and Consulate cables during the past 3 days seem to make it clear that certainly three and probably four bodies of bandits are making their way eastward towards the Atlantic coast of Nicaragua on an apparently concerted campaign against American persons and property. Altamirano and Blandon, lieutenants of Sandino, have been apparently identified as leaders of some of these bodies. One force has successfully attacked Gracias a Dios; another one has attacked Logtown, and has threatened Puerto Cabezas. Another is approaching San Pedro del Norte and El Gallo, and a fourth is at Muelle de los Bueyes, near Rama. While estimates of their numbers are undoubtedly grossly exaggerated and have been discounted by me, they have sufficient force and leadership to have successfully threatened the detachments of Guardia on the east coast and to have inflicted serious loss of life and property among civilians. The fact that these separate bodies should have successfully eluded the main forces of the Guardia in the bandit provinces and have made these long marches towards the east coast without earlier warning would seem to indicate serious lack in the leadership of the Guardia. I am informed that during the more than 3 years in which the Guardia has been trained no efficient Intelligence Service has yet been developed and the command has no organized espionage service in the bandit provinces. History shows that such a service in guerilla warfare is imperative and its lack in this case would seem to be indicated by the facility with which Guardia and Marine detachments have been frequently ambushed. I wish you would send me promptly your views and recommendations upon this situation.

In the face of the present situation it would seem self-evident that some means of promptly transporting reenforcements from Managua to the east coast should be found and on my suggestion naval planes have been placed at the disposal of the Guardia for that purpose by the Navy Department. I have, however, yet heard of no such reenforcements being made. While I wish to avoid any intrusion into the function of the Guardia command I should like you to inform me whether any such reenforcement is in contemplation. Contrary to its announced policy the Administration has been forced to send warships to Puerto Cabezas and Bluefields and to land forces temporarily to meet the emergency. But it will not send any of these naval forces into the interior. The problem of defense must therefore be worked out by the Guardia itself and I wish to be kept informed of what they are doing and, so far as you can obtain them, their intentions and plans.

STIMSON

817.00 Bandit Activities, 1931/31: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 16, 1931—7 p. m.

81. In view of outbreak of banditry in portions of Nicaragua hitherto free from such violence you will advise American citizens that this Government cannot undertake general protection of Americans throughout that country with American forces. To do so would lead to difficulties and commitments which this Government does not propose to undertake. Therefore, the Department recommends to all Americans who do not feel secure under the protection afforded them by the Nicaraguan Government through the Nicaraguan National Guard to withdraw from the country, or at least to the coast towns whence they can be protected or evacuated in case of necessity. Those who remain do so at their own risk and must not expect American forces to be sent inland to their aid. A similar message has been sent to the Consulate at Bluefields.

STIMSON

817.00 Bandit Activities, 1931/36: Telegram

The Vice Consul at Bluefields (Rowe) to the Secretary of State

BLUEFIELDS, April 17, 1931—6 p. m.

[Received 11:55 p. m.]

I have complied with instructions in your telegram April 16, 6 p. m.¹⁵ In reply to my telegram Bragman, an officer, telegraphed as follows:

¹⁵ See last sentence of the telegram *supra*.

"Your message April 17th received. Accordingly all Americans evacuating their homes and business Puerto Cabezas first available transportation."

Guardia Commander at Puerto Cabezas telegraphs that in his opinion if naval vessel is permitted to remain there normal conditions will return but in case of evacuation of Americans a concerted uprising of unemployed and natives would occur which would be entirely beyond control of the Guardia. He adds that the British Consul at Puerto Cabezas has applied to the British Minister at Managua for protection. With the exception of Puerto Cabezas quiet prevails along the coast and no disturbances have been reported since yesterday. Bluefields Guardia officers have returned from Puerto Cabezas. U. S. S. *Sacramento* arrived at Bluefields this morning. . . .

ROWE

817.00 Bandit Activities, 1931/40: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 17, 1931—8 p. m.

[Received April 18—11:40 a. m.]

26. Your 81, April 16, 7 p. m. Captain Schwerin Guardia Nacional reports the following from Puerto Cabezas:

"Company manager has received despatch from American Consul Bluefields containing advice from State Department that American citizens cannot expect protection of United States forces, that they remain in Nicaragua at own risk. In view of fact that *Memphis* now here may leave at any time manager believes all Americans will evacuate on steamer *Sumay* closing plant. Commanding officer *Memphis* orders permit his landing case of trouble in or attack on the town. He has stated that he will stay here at least until evacuation of Americans is completed. British Consul here has applied to British Minister Managua for protection of British citizens. Until receipt of despatch by company manager conditions were starting to get back to normal. I believe with naval forces assured in harbor ready to land that normal conditions would return but with evacuation of Americans and closing of plant putting many out of work concerted uprisings will take place with attack on town for looting immediately upon departure of *Memphis*. In such case Guardia force entirely inadequate to guard lives or property. Radio communication will stop. Request instructions as to action in case evacuation of Americans and departure of naval force."

Captain Marston Guardia Nacional Commander forwarding the above report, states "Captain Wood reports conditions in fair way to improve when he left Puerto Cabezas this morning and he and I concur in Schwerin's estimate of situation."

The British Chargé d'Affaires here has just received a telegram from the British Consulate at Bluefields [*Puerto Cabezas?*] stating that it

has been informed of Department telegram number 81 and stating that 1,500 British subjects including women and children were in immediate danger of bandit attack on April 15th and that the *Asheville* had arrived. The telegram adds the following:

"As the situation has not changed and I have received no reply from Rees (British Consul at Bluefields) British subjects have requested me to apply direct to you for protection lives and property. Several British subjects have already been murdered and others are still unaccounted for. Bandits are directing their animosity against Americans and Jamaicans principally. Please advise what protection our Government will afford us."

HANNA

817.00 Bandit Activities, 1931/35 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 17, 1931—10 p. m.

[Received April 18—10:10 p. m.]

27. Confidential for the Secretary. Your 80, April 16, 6 p. m. The most general conclusion here based on such reports as are reliable and verified, is that there was a movement to the east of the forces operating under some of the bandit leaders who heretofore have confined their operations mainly to the Matagalpa, Jinotega, Ocotal areas. The numbers as usual have been greatly exaggerated. Their purpose may have been a mere marauding expedition but there are reasons for believing that they also hoped to capture Puerto Cabezas or some other port on the east coast and thereby give their banditry the character of a revolutionary movement. It also appears that they had decided to show no quarter to Americans and perhaps other foreigners residing in that region.

The main forces of the Guardia, about 1,350 enlisted, have been continuing their operations in the northern and central areas. Approximately 200 enlisted are in Managua and vicinity on duty growing out of the earthquake and approximately 150 enlisted have been on the east coast. About 300 enlisted are doing police duty in peaceful regions of the Republic and the remaining 150 of the authorized 2,150 are yet to be enlisted. The patrolling in the northwest and central areas had encountered little opposition during the past 2 months and the significance of this had in nowise been overlooked by the Guardia headquarters in its control of operations. Altamirano's forces attempted an incursion into Chontales about 3 weeks ago but were driven back and, as is inevitable in such operations, contact with them was lost. Guardia headquarters was not misled by the comparative lull in the bandit activities but on the contrary employed all the resources at its command to obtain information about bandit plans and intentions. The withdrawal of the Marine garrisons from

the Ocotal region had commenced and plans for the early withdrawal of Marine garrisons in the Matagalpa and Jinotega regions had been perfected. An essential prerequisite for these withdrawals was and still is the replacement of those garrisons by additional Guardia and their replacements were and are still in progress. Any incursion of large bandit forces into the eastern area embracing ports on the Atlantic Coast can only be sporadic and the main theater for bandit activity probably will continue to be the central and northern areas which have doorways to the heart of the country to the south. A bandit incursion over long and difficult jungle trails to the east coast might succeed in committing some outrages, such as those which have just been committed, but in all probability would be repelled eventually and compelled to return to the central and northern areas. This has a fundamental bearing on the distribution of the Guardia available for opposing banditry.

The Americans killed in this last bandit raid were in interior localities and far from Guardia protection. The regrettable loss of a captain of Marines serving with the Guardia was but the fate of warfare meted out to a valiant soldier in the line of duty. The heroic fighting of Guardia patrols in stopping the advance on Puerto Cabezas was but the usual task of this efficient force. The important part played by the Marine air service in cooperation with these patrols was nothing new in the warfare of the banditry. The casualties in the Guardia were two wounded. The bandits lost heavily comparatively and there seems to be little or no doubt that Blandon was among the killed. It is understandable that all of that section was alarmed and that its estimate of what has transpired may have been distorted. It is not possible to hold securely all points in that region with the maximum force of Guardia that can be stationed in that region but it is believed that the force is ample to protect the principal points and prevent a prolonged occupation of that region by the bandits. The opinions of the Guardia and the situation as it exists now constitutes a successful if not brilliant outcome for the Guardia. All serviceable planes suitable for cooperating were sent to the assistance of the Guardia as soon as the situation became known here. The advisability of sending reinforcements in the one serviceable transport plane capable of carrying 10 men was carefully weighed and decided in the negative because of the great danger involved. Moreover, but one round trip on the same day would have been possible. Reinforcements were obtained in the only speedy manner possible by ordering the Guardia commanders at Puerto Cabezas to re-enlist immediately a considerable force of trained men who had recently been discharged.

The problem of obtaining accurate information about bandit plans and movements is one which naturally has engaged the preferential

attention of the Chief of the Guardia and of his principal subordinates. There has been no laborious diligence in this connection. The best possible information service has been created within the limits of the funds available for this purpose. The volume and reliability of information has steadily increased. The sources are more numerous and friendly than a year ago. The difficulties in the way of obtaining accurate information are of great and unusual magnitude. The region involved is extensive and the population is hostile to the Guardia. The withdrawal about to be effected of the major portion of the Marines now stationed in Nicaragua may stimulate bandit activity and will surely subject the Guardia to a severe test. I believe that public confidence in the Guardia is especially important at this time.

HANNA

817.00 Bandit Activities, 1931/52: Telegram

The Secretary of State to the Vice Consul at Bluefields (Rowe)

WASHINGTON, April 18, 1931—2 p. m.

Your April 17, 6 p. m., third paragraph. The Naval vessels now on duty at Puerto Cabezas, Bluefields, and Cape Gracias a Dios will remain until the present difficulty is over.

STIMSON

817.00 Bandit Activities, 1931/48: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 18, 1931—3 p. m.

85. As stated in my telegram No. 80¹⁶ the Navy, at my request, has put at the disposal of the Guardia its airplanes to transport reenforcements to the Atlantic side. I have not yet heard that this has been done. I of course do not wish to intrude with any military suggestions as that is not within my province and function, but I am concerned lest the Commander of the Guardia feel that the presence of three Naval vessels of the United States on the East Coast relieves him of the responsibility of maintaining order there. The maintenance of order on the East Coast as well as elsewhere throughout Nicaragua is the function of the Nicaraguan Government and the duty of the Guardia. This Government desires the Guardia to take over that situation as quickly as possible so that American vessels may be withdrawn at the earliest possible moment consonant with safety. Please report.

STIMSON

¹⁶ Dated April 16, 6 p. m., p. 807.

817.00 Bandit Activities, 1931/43 : Telegram

The Vice Consul at Bluefields (Rowe) to the Secretary of State

BLUEFIELDS, April 18, 1931—4 p. m.

[Received 8 p. m.]

In view of repeated rumors of threatened bandit attack upon El Gallo, the Fruit Company Station, 3 officers and 27 enlisted Guardia are being sent there, leaving 3 officers and 13 Guardia in Bluefields. One officer and 30 enlisted Marines from U.S.S. *Sacramento* are being landed at Bluefields today to assure order in the absence of Guardia.

Rowe

817.00 Bandit Activities, 1931/49 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 19, 1931—8 p. m.

[Received April 20—12: 35 a. m.]

The Department's telegram No. 85¹⁷ apparently was sent before my telegrams number 27¹⁸ and 26¹⁹ were received. The present disturbance on the east coast, as may be deduced from my telegram number 27, constitutes but one element in the broad military and police problem continually confronting the Guardia. General Matthews who of course realizes his responsibility in this situation, tells me that he has disposed of the forces under his command in the manner he believes best suited to insure the maximum of protection throughout the entire Republic. He says he does not underestimate the urgent need for reenforcements on the east coast and lost no time in ordering the commander at Bluefields to increase his forces by enlargement. He was informed yesterday that recruits could not be found and he has decided to take the responsibility of sending reenforcements by air in spite of the hazards and the contrary advice of the commander of the air forces. The only available transportation are two transport planes to be specially conditioned for this service. They will leave here Tuesday morning carrying 18 enlisted Guardia. So far as is known here the Navy has placed no airplanes at the disposal of the Guardia other than those Marine Corps planes on regular service which need no special orders to cooperate in these operations.

I have shown your telegram No. 85 to General Matthews and he desires me to assure you that his conception of the responsibility of the Guardia in the maintenance of order in Nicaragua in general and on the east coast in particular is in full accord with your own views of the matter and that he will adopt every measure consistent with the

¹⁷ April 18, 3 p. m., p. 812.

¹⁸ April 17, 10 p. m., p. 810.

¹⁹ April 17, 8 p. m., p. 809.

maintenance of order elsewhere throughout the Republic to continue a successful opposition to the bandit hordes on the east coast. Information yet to be confirmed is now reaching Guardia headquarters of a bandit plan and initial concentration for an incursion from the Segovias to the southward probably in the general direction of Matagalpa. It appears that the situation on the east coast is complicated by labor unrest and subversive propaganda involving unusual danger for foreigners but General Matthews hopes that the situation may improve so as to permit of an early withdrawal of the moral support of American vessels now in east coast ports without unduly exposing Americans and other foreigners to danger.

HANNA

817.00 Bandit Activities, 1931/50: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 20, 1931—1 p. m.

89. Your April 17, 10 p. m., and April 19, 8 p. m. I have consulted with Admiral Pratt, Chief of Naval Operations, on these cables and I have the very definite impression that the Guardia is proposing the movement of reinforcements to the east coast on Tuesday against the advice of the air forces under a possible misapprehension of the emergency in the situation. Today's reports indicate that attacks on the east coast have quieted down and each of the ports there is covered adequately by a ship. While these ships can not be considered for an indefinite period as a part of the strategy of the Guardia in the matter, they will remain until the present crisis is over, which will permit the Commandant of the Guardia to obtain adequate plane transportation. I understand from the Navy that further planes for the purpose of transport can soon be made available for the Guardia and details will be arranged at once.

STIMSON

817.00 Bandit Activities, 1931/50: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 20, 1931.

90. Following statement issued to the press by the Secretary on April 18:

"The problem before the Government today is not a problem of the protection of its citizens in Nicaragua from a war, but from murder and assassination. In that respect it is totally different from the problem which existed in 1926.

In 1926, two armies, consisting of two or three thousand men each, were fighting in Nicaragua on the east coast. Both armies professed to be carrying out the rules of warfare and to be protecting neutrals and neutral property. So the problem of this Government was solved by establishing neutral zones in which, by agreement with both armies at that time, hostilities did not enter. These neutral zones, as I recall it, were established with the consent of both the Liberal and Conservative commanders of the contending armies. There was no organized attempt to murder private citizens of any country. The problem was only to protect them from the inevitable catastrophes of war.

Now we have a situation where small groups of confessed outlaws—treated as outlaws by the Nicaraguan Government—are making their way through the jungle to the east coast, with the avowed intention of murdering and pillaging the civilian inhabitants of the country. The terrain where this is taking place is one of the thickest jungles in the world. The rainfall on the east coast of Nicaragua is something more than double the rainfall on the west coast and as a result this is very thick jungle country, a region where it would be almost impossible for regular troops to operate effectively even if it were attempted.

Another point of difference which is vital is that in 1926 there was no Nicaraguan Constabulary. Since that time, for nearly 4 years, our officers have been helping the Nicaraguan Government train a force of Constabulary especially for fighting in this kind of terrain, the very object being to produce the most appropriate kind of force to meet tropical and jungle conditions of warfare. That force has been recently raised from 1,850 to over 2,100 and is reported by its officers as being highly efficient. Purely from the standpoint of protection the most effective way to protect the American and foreign civilians who have been suddenly exposed to this danger in the forests of eastern Nicaragua is to give them warning of the danger and an opportunity to escape to the protection of the coast towns; and then for this specially trained Constabulary to operate in the jungle against the bandits. If the number of Constabulary now on the east coast is not sufficient for that purpose, there are certainly enough elsewhere to reinforce them against these comparatively small bands of outlaws. American naval vessels are standing by at all the threatened east coast ports with orders to protect life and property at these ports. These ships will remain until the danger is over.

By assisting the Government of Nicaragua in organizing and training a competent guardia, we are not only furnishing the most practical and effective method of meeting the bandit problem and the protection of Americans and foreigners in Nicaragua from its attendant perils, but we are at the same time recognizing that it is a problem with which the sovereign Government of Nicaragua is primarily concerned and a problem which it is primarily the right and duty of that Government to solve. There has been no change in the determination of the American Government not to send American troops into the interior.

The events of this last week have pretty thoroughly torn the mask off the character of the mythical patriot Sandino. Two of his lieutenants have been recognized as leaders of these outlaw bands, and both from their work and from the evidence of captured papers they

are shown to have been engaged in a deliberate plan of assassination and pillage against helpless civilians of various nationalities, including Nicaraguans, working in mines and logging camps. The movements of these outlaws from the northwestern provinces to the eastern coast of Nicaragua came just after the terrific earthquake which prostrated the center of that country, when every humane impulse was to assist those who were suffering from the catastrophe and when all forces, including Marines and Constabulary were engaged in the alleviation of distress. It was in the hour of his country's desolation that Sandino chose to send his outlaws across the country to attack the region which he believed to be left unguarded."

STIMSON

817.00 Bandit Activities, 1931/58 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 20, 1931—6 p. m.

91. Your 26, April 17, 8 p. m., last two paragraphs. You may advise your British colleague that the United States naval vessels now on duty on the east coast of Nicaragua will remain until the present difficulty is over.

STIMSON

817.00 Bandit Activities, 1931/59 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 21, 1931—10 a. m.

93. Your 14, April 14, 3 p. m. It is the opinion of this Government that the adoption of measures designed to bring about the restoration of peace to Nicaragua is a question to be decided by the Nicaraguan Government itself. Consequently the Department while heartily desiring the restoration of peace in Nicaragua prefers not to express either approval or disapproval of the plan apparently now under discussion by the Governments of Nicaragua, El Salvador and Guatemala.

STIMSON

817.00 Bandit Activities, 1931/60 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 21, 1931—2 p. m.

[Received 8:37 p. m.]

34. Legation's telegrams 26, April 17, 8 p. m., and 28, April 18, 11 a. m.²⁰ The Jefe Director of the Guardia Nacional has sent the following telegram to the Guardia Commander at Bluefields:

²⁰ Latter not printed.

"Your 15417 was quoted verbatim to Washington with strong recommendations that naval vessels be permitted to remain in east coast harbors primarily for moral effect and prepared to land forces in case of extreme emergency only. Our Government is very desirous of avoiding having United States forces drawn into internal police duties of Nicaraguan cities. The landing of *Sacramento* Marines and relieving auxiliars and reserve police from duty will no doubt appear in Washington as a violation of the terms of my recommendation. It is not the policy to ask for actual landing of United States forces except as a last resort. Towns should be policed by auxiliars and reserve police during absence of Guardia on patrol if possible. Take steps to resume police of town at the earliest possible moment and request United States forces reembark as soon as Guardia can in your discretion control situation. Matthews."

HANNA

817.00 Bandit Activities, 1931/61 : Telegram*The Minister in Nicaragua (Hanna) to the Secretary of State*

MANAGUA, April 21, 1931—5 p. m.

[Received 8:28 p. m.]

36. The Department's April 20, 1 p. m. The Jefe Director of the National Guard has informed me that 18 enlisted Guardia were safely transported by marine airplane to Puerto Cabezas today.

HANNA

817.00 Bandit Activities, 1931/83 : Telegram*The Vice Consul at Bluefields (Rowe) to the Secretary of State*

BLUEFIELDS, April 28, 1931—2 p. m.

[Received 6:35 p. m.]

Marines which were landed at Bluefields April 18, today returned to U.S.S. *Sacramento* since a part of the Guardia patrol at El Gallo has returned to Bluefields. Commander of the eastern area Guardia reports that in his belief all bandit forces of consequence left eastern Nicaragua and that this area may now be considered quiet. Bandits can operate efficiently in eastern Nicaragua only in dry season which usually ends in the middle of May. Unless otherwise stated all reports made by this Consulate concerning bandit and military operations were based on information furnished by headquarters eastern area Guardia Nacional. Conditions on the coast are rapidly returning to normal due to the presence of naval vessels.

Repeated to Legation at Managua.

ROWE

817.00 Bandit Activities, 1931/88 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 29, 1931—11 a. m.
[Received 5:51 p. m.]

53. Reference telegram from American Consul, Bluefields, April 28, 2 p. m.²¹ Marines in northern area have been withdrawn to Managua with exception of 20 men in Ocotal to be withdrawn shortly. One hundred Marines already withdrawn to Managua from central area and remaining garrisons in that area numbering approximately 125 men will be withdrawn by middle of May. Guardia has replaced the Marine garrisons.

The Guardia in the northern and central areas now numbers approximately 1,400 enlisted and will shortly be increased to 1,500 by new enlistments under plan of February last. The situation in these areas reported to be quiet and patrols are not encountering organized bands of bandits. General Matthews considers the repulse of the bandits' incursion into the eastern area combined with the killing of Blandon as the severest blow organized banditry has suffered for a long time. He says he has more confidence than ever in the ability of the Guardia to handle the situation. His greatest fear is that the preservation of order in other portions of the Republic may become increasingly difficult because of unemployment resulting from the earthquake and that this may even become a more serious problem than banditry.

HANNA

817.00 Bandit Activities, 1931/127 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, May 15, 1931—4 p. m.

119. The Department has received from Mr. J. A. Willey a letter dated April 29, 1931, enclosing a communication dated March 30, 1931,²² signed by the Committee of the Foreign Colony of Matagalpa protesting against the withdrawal of American Marines from that region and requesting that a detachment of 150 Marines be retained there until banditry shall have been eradicated. Please obtain from Mr. Willey copies of both communications.

The views of this Government with respect to the obligation which rests upon the Government of Nicaragua to afford protection to foreign lives and property within its territory have been communicated to you, as have its opinions with respect to the competency of the Guardia Nacional de Nicaragua to perform that function. You will

²¹ See last sentence of telegram *supra*.

²² Neither printed.

so inform the Committee of the Foreign Colony of Matagalpa, and as suggested by President Moncada as reported in your No. 76, May 14, 7 p. m.,²³ suggest to the Committee that, if the foreigners resident in that region consider the plans made for their protection by Guardia Nacional forces to be inadequate, it give consideration to the wisdom of making such additional special arrangements as have been made by the Neptune Mine Company and as are now being made by the Standard Fruit and Steamship Company. Please report results.

STIMSON

817.00 Bandit Activities, 1931/160

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 378

MANAGUA, May 15, 1931.

[Received June 8.]

SIR: I have the honor to report that the Brigade Commander has informed me that on April 23, 1931, Captain Inman, G. N. (Captain, U.S.M.C.) and a guardia patrol were in contact with a group of twenty bandits on the Lacus River. Four bandits were killed and three were wounded, while the guardia suffered no casualties.

On April 27 a guardia patrol under Lieutenant Truesdale (Corporal, U.S.M.C.) pursued a group of bandits who were sacking a *finca* west of Condega, caught up with the group at Aguacate, and fired at one bandit who escaped in the brush. Eleven animals and a quantity of clothing and blankets were captured. There were no guardia casualties.

On April 28 a Guardia patrol under Lieutenant Truesdale was in contact near Las Cucillas with a group of bandits killing ten including one minor bandit jefe. One who was captured reported that another jefe had been mortally wounded in the contact of April 27 and died shortly thereafter. There were no guardia casualties.

On May 2, 1931, Lieutenant Ragsdale (Sergeant, U.S.M.C.) and the guardia garrison at La Pineda was attacked by a small bandit group believed to be local robbers. The contact lasted twelve minutes, the group being pursued and routed. One bandit is known to have been wounded and there were no guardia casualties.

On May 10 information was received that a group of bandits was about two miles northeast of Yali. The Guardia Commander with a patrol of eight enlisted and four *civicos* cleared and succeeded in making contact with the group. The contact lasted fifteen minutes, with the bandits using rifles and bombs from a hill. Then the group fled and scattered leaving two known wounded. There were no guardia casualties.

Respectfully yours,

MATTHEW E. HANNA

²³ Not printed.

817.00 Bandit Activities, 1931/164

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 391

MANAGUA, June 2, 1931.

[Received June 11.]

SIR: I have the honor to report that the Brigade Commander has informed me that on May 10, 1931, a Guardia patrol under Captain Puller (First Lieutenant, U. S. Marine Corps) was in contact one league from the junction of the Guasanera and Cua rivers with four armed bandits going up the river in canoes. Two bandits were killed, and there were two shotguns among the captured articles. Two hours later the patrol came upon a main camp occupied by about 15 bandits who deserted it upon arrival of the patrol.

On May 15, 1931, a group of 100 bandits under Orteiz attacked Palacaguina using machine guns, rifle and hand grenades, and rifles. The attack lasted for several hours, and many houses were damaged by bombs and rifle fire. Some bandits were dressed in Guardia uniforms with red and black emblems. Two stores were looted to the amount of about \$1,000. The Guardia finally succeeded in driving the bandits out, the bandit casualties being estimated at several killed and wounded while the Guardia had no casualties. Guardia patrols went out in pursuit and airplane reconnaissances were made, but without result.

On May 13 Lieutenant Bell (Corporal U. S. Marine Corps) and a Guardia patrol had a contact at Lagartillo. No further details were reported.

On the same date a Guardia patrol under Lieutenant Hutchcroft (Sergeant U. S. Marine Corps) was ambushed by Jose Leon Diaz and eight bandits near El Salto. The patrol drove the bandits from their position and pursued them, regaining contact near Jocotillo. One Guardia was slightly wounded while six bandits are known to have been killed. Captain McQueen (First Lieutenant U. S. Marine Corps) and another patrol heard the firing of Hutchcroft's contact and proceeded to Jocotillo. They entered a house to get information, and bandits opened fire accompanied by cries of "viva Sandino". The patrol was surrounded, but drove the bandits from their position. One Guardia was wounded and three bandits are known to have been killed.

On May 15 a Guardia patrol under Lieutenant Kipp (Sergeant U. S. Marine Corps) was in contact with a group under Chavarria at Rio Grande. One bandit was killed, one Krag rifle, one mule, and some ammunition captured; and \$250 worth of goods stolen from Palacaguina was recovered. The bandits scattered and it was impossible to regain contact.

On May 16 a Guardia patrol under Lieutenant Brauer (Second Lieutenant U. S. Marine Corps) was in contact with a group of 12 bandits under Orteiz. A bandit camp was destroyed, but there were no known casualties.

On the same date a Guardia patrol under Lieutenant Trosper (Corporal U. S. Marine Corps) had a contact with bandits killing five and destroying a camp. There were no Guardia casualties.

On May 25, 1931, Lieutenant Hamas (Gunnery Sergeant U. S. Marine Corps) and a Guardia patrol had a contact with bandits at La Colema. Two bandits were killed and eight wounded. There were no Guardia casualties.

Respectfully yours,

MATTHEW E. HANNA

817.00 Bandit Activities, 1931/200

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 408

MANAGUA, June 22, 1931.

[Received July 21.]

SIR: I have the honor to report that the Brigade Commander has informed me of a contact on June 9, 1931, between a patrol of Guardia Nacional from the town of Quilali in the northern area, commanded by Lieutenant Ross, Guardia Nacional, Corporal U. S. Marine Corps, and a group of 50 bandits at Las Cruces. Lieutenant Ross and two Guardias were wounded. Bandit casualties are unknown. While Lieutenant Ross' wounds were serious he is reported recovering rapidly.

Respectfully yours,

MATTHEW E. HANNA

817.00 Bandit Activities, 1931/201

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 412

MANAGUA, June 24, 1931.

[Received July 20.]

SIR: I have the honor to report that the Brigade Commander has informed me of an engagement on June 15, 1931, between a Guardia patrol under Captain Lester E. Power, Guardia Nacional, First Lieutenant U. S. Marine Corps, and a large group of bandits at a place called Embocaderos north of Jinotega in which Captain Power, Lieutenant William E. McGhee (Corporal U. S. Marine Corps) and one enlisted Guardia were killed. Three additional Guardia were wounded. Bandit casualties are unknown.

The Brigade Commander has also informed me that on June 14, 1931, a Guardia patrol under Lieutenant Livermore, Corporal U. S.

Marine Corps, encountered a group of 20 bandits killing one and wounding several others. There were no Guardia casualties. A quantity of ammunition and one pistol were captured from the bandits.

Respectfully yours,

MATTHEW E. HANNA

817.00 Bandit Activities, 1931/192 : Telegram

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

MANAGUA, July 16, 1931—10 a. m.

[Received 8:40 p. m.]

139. Supplementing my 137, July 13, 4 p. m.,²⁴ there have been persistent rumors for some days of a considerable bandit movement towards the east coast. The Guardia is endeavoring to develop the situation and the air forces are cooperating.

HANNA

817.00 Bandit Activities, 1931/198 : Telegram

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

MANAGUA, July 20, 1931—noon.

[Received 11:25 p. m.]

140. My 139, July 16, 10 a. m. Guardia patrol reconnoitering from Cape Gracias up the Coco River was attacked July 17th by bandits, estimated at 40, and 3 bandits were killed. A Nicaraguan officer of the Guardia was wounded. The reconnaissance of that region by Guardia and airplanes is continuing and more definite information concerning the situation is expected soon. One Guardia was wounded at Rama yesterday in a conflict between the Guardia and what is believed to be discontented unemployed labor. It is reported that the Guardia restored order but the small detachment at Rama is being reenforced from Bluefields.

The foregoing is to forestall possible sensational reports to the United States from the east coast.

HANNA

817.00 Bandit Activities, 1931/199 : Telegram

The Consul at Bluefields (Talbot) to the Acting Secretary of State

BLUEFIELDS [undated].

[Received July 20—9:52 p. m.]

The following telegram has been sent to the Legation at Managua:

July 20, 5 p. m. Workmen on Carretera Rama attacked Guardia that place last night killing one wounding several; three workmen killed,

²⁴ Not printed.

eight prisoners, several wounded. Understand disgruntled because discharged without pay. Appears to be no direct connection between attack and bandit activities but situation may increase bandit strength. Believe no immediate cause for apprehension as regards Bluefields.

I have just returned from Puerto Cabezas by aeroplane. Guardia officers there believe number of bandits moving across Savannah toward that port. Appears *Asheville* and Guardia force there adequate. Two hydroplanes now in Bluefields will probably return to Puerto Cabezas tomorrow for reconnaissance work. Fernald will keep you informed regarding situation there.

Might be desirable that land planes be sent Puerto Cabezas from Managua and hydroplanes be kept here.

TALBOTT

817.00 Bandit Activities, 1931/207

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

No. 431

MANAGUA, July 20, 1931.

[Received July 30.]

SIR: I have the honor to report that the Brigade Commander has informed me of an engagement on July 9, 1931, between a Guardia patrol under Lieutenant Clark, Guardia Nacional (Corporal, U. S. Marine Corps), and Lieutenant Martinez, Guardia Nacional, and a small group of bandits near Telpaneca in the Department of Nueva Segovia. One bandit was killed and three were wounded. There were no Guardia casualties. The Guardia captured one pistol and miscellaneous articles from the bandits.

Respectfully yours,

MATTHEW E. HANNA

817.00 Bandit Activities, 1931/209: Telegram

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

MANAGUA, August 3, 1931—noon.

[Received 8:40 p. m.]

146. The American Consul at Puerto Cabezas has just informed me that Mr. Scott, Manager of the Bragmans Bluff Lumber Company, at that port, desires airplanes stationed there to cooperate with the Guardia and that he has asked his New Orleans office to transmit his views to the Department.

The practicability of providing continuous airplane cooperation with the Guardia at Puerto Cabezas has been receiving our attention here for some days and the question will be decided when the commander of the air squadrons returns from the east coast tomorrow.

HANNA

817.00 Bandit Activities, 1931/263 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, October 29, 1931.

[Received October 30—1:15 a. m.]

191. I have sent the following telegram to Commander Special Service Squadron supplementing my original recommendation made yesterday that he send a warship to Puerto Cabezas:

"Your October 29. Reported bandit activities near Puerto Cabezas within the last 2 days have involved looting of company's commissary on the railroad, repulse of Guardia patrol by bandit group of 50, and a contact with Altamirano and large group on or near Coco River near Kisalaya.

This situation constitutes a threat to American lives and property, particularly along the railroad leading from Puerto Cabezas to the interior. The presence of a warship in Puerto Cabezas will reassure the population there and free number of Guardia for service along the railroad and in the interior. The atrocities of last April had a demoralizing effect upon the personnel of the large American Fruit Company at Puerto Cabezas and a repetition of these atrocities or prolonged threat of their repetition might make it impossible for the Fruit Company to continue in operation. You can be of great assistant to the company and to the Guardia by maintaining a ship near Puerto Cabezas until the brigade is able to assist by providing airplanes to cooperate continuously with the Guardia there."

BEAULAC

817.00 Bandit Activities, 1931/265 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 2, 1931—3 p. m.

[Received 9:32 p. m.]

193. My 191, October 29th. Admiral Smith is proceeding to the east coast of Nicaragua in the *Rochester* to personally investigate the real cause there. He will report the situation to the Navy Department and if necessary request further instructions.

Admiral Smith is opposed to the policy of maintaining war vessels at ports for long periods. I am heartily in accord with his attitude in general but with respect to the very special situation at Puerto Cabezas and on the basis of the information I have received from the American Consul there and from the Jefe Director of the Guardia Nacional, I believe that a war vessel should remain continuously in or

near Puerto Cabezas until the brigade places its contemplated permanent air patrol on the east coast.

General Matthews concurs.

BEAULAC

817.00 Bandit Activities, 1931/282: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 23, 1931—5 p. m.

[Received 9 p. m.]

202. My despatch No. 563, November 6.²⁵ Bandits have been unusually active in the departments of Leon and Chinandega during the present month. Following the Hutchcroft contact near El Sauce the bandits captured and burned the *cuartel* at El Jacaral after the small garrison in charge of a Nicaraguan officer had abandoned it in the face of greatly superior numbers. Last night a mounted force of bandits estimated 100 looted the town of Chichigalpa on the railroad between Leon and Chinandega and proceeded to San Antonio, the largest sugar plantation in Nicaragua, nearby with the evident intention of looting it but were met by a Guardia patrol and dispersed before any harm had been done there.

The Guardia has not less than 200 men in the threatened area engaged in intensive patrolling. President Moncada has expressed alarm and dissatisfaction over the situation and has plainly indicated to me that he would like to organize a volunteer force of Nicaraguans outside the Guardia to exterminate the bandits.

I am investigating the situation thoroughly and believe that General Matthews is doing everything possible under the circumstances to overcome the present threat. I intend to tell President Moncada this and that the Government of the United States cannot agree to the organization of such a volunteer force which would plainly violate the terms of the Guardia agreement besides being of very doubtful military value. I will tell him at the same time that General Matthews is not only willing but eager to accept the assistance of Nicaraguans who wish to cooperate under Guardia direction in the campaign against the bandits.

President Moncada is convinced that the present outbreak is being assisted and encouraged by certain officials of the Honduran Government and said that he would like the Department to again insinuate to the Honduran Government the importance of making every effort to cooperate with him in the campaign against the bandits.

BEAULAC

²⁵ Not printed.

817.00 Bandit Activities, 1931/286: Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 24, 1931—3 p. m.

[Received November 25—11:05 a. m.]

203. My telegram No. 202, November 23, 5 p. m. General Matthews accompanied President Moncada to Leon this morning to personally investigate the situation in that area. The Nicaraguan population are generally alarmed and many fear that the movement has assumed a revolutionary character. Civil authorities in Chinandega report the bandits 18 miles from that city impressing laborers on the coffee plantations. General Matthews has placed every available Guardia in the threatened area.

There is a possibility that it will be necessary to place armed guards on passenger trains between Managua and Corinto and on at least two bridges. Would the Department object to the use of Marines for this purpose in case of grave need and if practical from the military standpoint? The Guardia cannot well spare troops for this purpose and it is of course important to keep the railroad open to Corinto. If the Department has no objection from the point of view of policy to Marines being used for this purpose I suggest it so advise Navy Department and request that the latter give appropriate instructions to the commander of the Special Service Squadron since General Bradman has told me he could not take such a step without the Admiral's authority and he believes the latter will decline to grant such authority unless assured that it does not conflict with the State Department's policy with respect to the Marines in Nicaragua.

BEAULAC

817.00 Bandit Activities, 1931/292: Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, November 25, 1931—1 p.m.

202. Please deliver following message to President Moncada:

"I have received and given careful consideration to your message concerning the recent bandit attack on Chichigalpa, which Dr. Sacasa transmitted to me on November 24.²⁶ I am sincerely grieved to learn of this and express my sympathy with those who suffered at the hands of the bandits. I appreciate fully your anxiety and the concern of those living in the large centers near the scene of the recent bandit activities. I am confident, however, that the Guardia can and will handle the situation adequately. My view has not changed as to the inadvisability of creating any outside force, such as a civilian army.

²⁶ Not printed.

I feel that we should continue to give our full support and confidence to the single, non-partisan and non-political military force which we **have always agreed was a prime necessity for Nicaragua.** If there are extra funds and personnel available the best way to employ them in dealing with this apparent recrudescence of bandit activities would be to put them at the disposal of the chief of the Guardia so as to augment temporarily the strength of that organization. I have been relieved to note that after the attack on Chichigalpa the bandits were dispersed by the Guardia.

I appreciate your consulting me regarding these questions and I have wished to give you in reply my frank and friendly views."

Please keep the Department fully informed as to the measures taken by the Guardia to prevent a recurrence of bandit activities in parts of the country which have hitherto been free from such troubles. Should appreciate knowing General Matthews' view of the situation.

STIMSON

817.00 Bandit Activities, 1931/295 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, November 25, 1931—2 p. m.

203. Your 203, November 24, 3 p. m. The Department authorizes placing armed guards on passenger trains between Managua and Corinto and on the bridges in case of grave need if the military authorities find this practicable. The Department wishes to emphasize that it does not want this measure taken unless in your judgment and that of General Matthews and General Bradman the situation requires it. This is of course contrary to the Department's desire that the Marines should not be used for this sort of work and should be concentrated in Managua with a detachment at Corinto. However, in view of the possibility that bridges might be destroyed, which would cut communications and hence endanger the safety of the troops in Managua, the Department does authorize the measures above mentioned should that action be imperative. The Department is informing the Navy in the above sense.

STIMSON

817.00 Bandit Activities, 1931/287 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 25, 1931—5 p. m.

[Received November 26—12:31 a. m.]

204. My 203, November 24, 3 p. m. General Matthews is still in Leon with President Moncada. I have had no opportunity to see the latter since my 202, November 23, 5 p. m. Guardia has no new reports

of bandit incursions and is inclined to believe bandits have withdrawn to the north away from the railroad. General Somoza, sub-Secretary of Foreign Affairs, has gone to Esteli to investigate the situation there for the President. The Guardia is arming all responsible citizens in Leon and Chinandega who volunteer to assist and some have accompanied patrols out of these cities.

The bandit situation appears as grave as, or graver than, at any time since I have been in Nicaragua. It has been aggravated by the beginning of the dry season and increased unemployment throughout the country. It is also stimulated and given political support by widespread discontent and dissension within the Liberal Party.

It is insistently reported here that arms used in the recent Ferrera revolt in Honduras²⁷ have reached Gregorio Colindres, who apparently led bandit group that took Chichigalpa, and that Toribio Tijerino, Nicaraguan deportee now resident in Honduras, is responsible for furnishing them.

BEAULAC

817.00 Bandit Activities, 1931/293 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 27, 1931—4 p. m.

[Received 7:05 p. m.]

206. Department's 202, November 25, 1 p. m. President Moncada and General Matthews are in Leon. I have transmitted your message through the Minister of Foreign Affairs. There have been no reports of bandits near the railroad for several days and indications are that the bandits have withdrawn northward into their accustomed areas. The Minister of Foreign Affairs visited me this morning under President Moncada's instructions and later called me on the telephone, to ask my consent to the establishment of martial law throughout the republic. He said that the President had reported discovery of numerous plots in the "interior of the country" meaning probably Managua and vicinity. I told him that the matter was one for the decision of the Nicaraguan Government, that in general I did not favor declaring martial law in undisturbed places and that I thought it would be very unfortunate if the declaration should be followed by political arrests and imprisonment which might have the effect of increasing resentment against the Government. I said that President Moncada, however, apparently had information which I did not have and that I would not oppose the declaration of martial law in any way if the President thought it advisable. General Matthews later sent word to me he had advised President strongly against declaring martial law in peaceful departments. He also informed me the President had placed

²⁷ See pp. 555 ff.

\$7,200 at Guardia's order for maintenance of 200 auxiliaries from Leon and Chinandega to operate under Guardia command. Martial law has been declared in Leon and Chinandega.

BEAULAC

817.00 Bandit Activities, 1931/301 : Telegram

The Secretary of State to the Chargé in Honduras (Higgins)

WASHINGTON, November 27, 1931—4 p. m.

83. The bandit situation in Nicaragua has recently become aggravated. On November 22 a group of bandits looted the town of Chichigalpa, on the railway near Chinandega, and other groups have been reported in the departments of León and Chinandega. President Moncada has advised the Department that he is convinced that the bandits are being furnished men, ammunition and supplies from the Honduran border. The Legation at Managua states that it is insistently reported there that arms used in the recent Ferrera revolt in Honduras have reached Gregorio Colindres, who apparently led the bandit group that took Chichigalpa, and that Toribio Tijerino, Nicaraguan deportee now resident in Honduras, is responsible for furnishing them.

You will please see the President of Honduras and point out to him the seriousness of a situation like this, in which it is charged that the responsibility of Honduras is involved. Please refer to the report of Major Fassett²⁸ transmitted with your despatch No. 334 of November 6,²⁹ and point out that the Honduran Government is in possession of information on which it can and should take action to prevent these marauding expeditions from outfitting themselves on Honduran territory.

Has Major Fassett visited the frontier where these acts are alleged to have taken place? After discussing the matter with him please telegraph your recommendations as to the advisability of his making a trip at this time to the region in question for purposes of information and to stimulate Honduran interest in properly policing this area.

STIMSON

817.00 Bandit Activities, 1931/294 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, November 28, 1931—noon.

[Received November 29—1:35 p. m.]

209. Guardia reports that yesterday a patrol of 50 Guardia was attacked by a bandit group conservatively estimated at 300 at Cicera

²⁸ Major H. S. Fassett, U.S.M.C., Naval Attaché at Tegucigalpa.

²⁹ Neither printed.

near Villa Nueva, Department of Chinandega. Fight lasted one and a half hours. Bandits had machine guns and were aggressive. Five bandits were killed and one Guardia was wounded. Guardia commander at Esteli interprets above to mean that fighting in his area will be serious and has recommended that strength of his patrols be doubled. Another Guardia patrol engaged a group of bandits yesterday near Puentereal, Department of Chinandega, killing five. There were no Guardia casualties.

BEAULAC

817.00 Bandit Activities, 1931/305 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, November 28, 1931—2 p. m.

207. Your 206, November 27, 4 p. m. Department shares your view that it would be unfortunate for President Moncada to declare martial law in the departments where peaceful conditions exist.

We are gratified to note that the President has placed additional funds to the order of the Guardia for the maintenance of 200 auxiliaries to operate under Guardia command.

STIMSON

817.00 Bandit Activities, 1931/311 : Telegram

The Chargé in Honduras (Higgins) to the Secretary of State

TEGUCIGALPA, December 1, 1931—8 a. m.

[Received 4:07 p. m.]

182. Department's No. 83 of November 27, 4 p. m. As the President is in constant attendance at the hospital bedside of his son who accidentally shot himself through the stomach on the evening of November 28, it has been impracticable to discuss the Nicaraguan bandit situation with him, so I took it up with the Minister for Foreign Affairs last evening. In pointing out to the Minister the responsibility of his Government in the matter I gave him a memorandum regarding the activities of bandit agents in Honduras which is a revision in the light of the latest information of Major Fassett's report enclosed with my despatch No. 334 of November 6. The Minister manifested a sympathetic interest in the matter and promised to bring it to the attention of the President at the first opportunity and take it up immediately with the Minister of War urging him to take remedial measures. He agreed that his Government should do all in its power to prevent aid being furnished the bandits from Honduras but intimated that it could do little in its present state of impecuniousness and political uncer-

tainty. He concluded with the statement "We must not neglect this matter of Nicaragua". While the Minister of Foreign Affairs is certainly well disposed to act in this matter it is doubtful that he can secure effective cooperation from his colleagues particularly the Minister of War and Minister of Gobernacion and still less cooperation is to be expected from the Blue judiciary in the prosecution of bandit agents.

In the course of the conversation Minister of Foreign Affairs told me confidentially that his Government had kept Toribio Tijerino under close surveillance for some time but had discovered that he had been engaged in the arms traffic. Major Fassett's information confirms this.

Fassett has not visited the frontier but although we do not expect he will be able to secure important information from going, as bandit activities are well concealed, we agree that it might be helpful for him to visit the Danli region. He is planning therefore to proceed there taking Sergeant Kessler with him on December 3 unless the Department wires disapproval in the interim.

HIGGINS

817.00 Bandit Activities, 1931/310 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, December 1, 1931—2 p. m.

[Received 4:21 p. m.]

211. Patrol of 10 Guardia and 53 auxiliaries encountered 80 bandits at El Cuadro near Las Zapatas some 25 kilometres north of León on November 29. One auxiliary and one civilian guide wounded. Later information indicated that bandits had several killed and several wounded. Bandits counterattacked before retiring and recovered bodies of 3 men. On November 30 bandits estimated at 180, captured and looted town of Rota on the railroad between León and El Sauce and tore up part of railroad.

BEAULAC

817.00 Bandit Activities, 1931/320 : Telegram

The Secretary of State to the Chargé in Honduras (Higgins)

WASHINGTON, December 2, 1931—3 p. m.

85. Your 182, December 1, 8 a. m., last paragraph. Department will be glad to have Major Fassett visit the Danli region and feels that his visit may be helpful.

STIMSON

[On December 10 the Chargé in Nicaragua reported that General Matthews and President Moncada had returned to Managua, and that the bandits were believed to have "definitely withdrawn into their accustomed areas in northern Nicaragua." (817.00 Bandit Activities, 1931/339)]

ASSISTANCE OF THE UNITED STATES IN STRENGTHENING THE
GUARDIA NACIONAL PREPARATORY TO THE WITHDRAWAL OF
MARINES FROM NICARAGUA ³⁰

817.00/6921 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 5, 1931—4 p. m.

[Received 7:45 p. m.]

5. Recent intensified bandit activities in northern Nicaragua, one incident of which was the almost complete extermination of a Marine patrol of 10 men which was ambushed when engaged in the repair of a telephone line of communication, have aroused public indignation and alarm and a greatly increased popular demand that energetic measures be adopted to exterminate banditry and reestablish and restore peace in the Segovias. President Moncada discussed this matter with me this morning and requested me to consult you concerning the following measures which he proposes for meeting the situation.

The President suggests that a temporary military force of approximately 500 men be raised to cooperate with the Guardia in the bandit regions. This force would be enlisted, equipped and trained by the Guardia and its military operation would be directed and controlled from Guardia headquarters and by the Guardia officers serving with such forces in the field. The President has assured me that it is not his intention that this force should be independent of the Guardia in any respect but, on the contrary, that it should constitute a temporary auxiliary to the Guardia under such conditions that it will not violate the provision of the Guardia Agreement ³¹ which establishes the Guardia as the sole police force of the Republic. The President believes that this proposed force can be created and maintained at a cost scale such that a greater increment of military strength can be acquired in this manner than could be attained with an equal expenditure by increasing the strength of the Guardia.

President Moncada proposes to combine the proposed intensification of such military campaign with a road construction program

³⁰ For previous correspondence, see *Foreign Relations*, 1930, vol. III, pp. 656 ff.; see also "Information Regarding Nicaragua sent to the Senate", Department of State, *Press Releases*, February 21, 1931 (Publication No. 164), p. 99.

³¹ *Foreign Relations*, 1927, vol. III, p. 434.

within the bandit territory provided the necessary funds can be made available. With this end in view he is opening negotiations through the manager of the National Bank here and the Nicaraguan Legation in Washington to obtain from the International Acceptance Bank a credit of one million dollars to be guaranteed by some acceptable specific revenue of this Government.

I have shown the foregoing to President Moncada and he has expressed approval.

General McDougal ³² is in Jinotega personally directing the Guardia operations and I will not have an opportunity to discuss this with him before Wednesday or Thursday. A portion of the press here has been advocating for some time the creation of a volunteer force separate and distinct from the Guardia and this idea appears to be finding considerable popular support. This was the idea the President appeared to have in mind at the outset of our discussion this morning but he finally formulated his proposal as expressed above after I had told him that I believed the proposal would not be acceptable to the Department unless the military force to be created is as completely under the administration and control of the Guardia as though it constituted a part of the Guardia itself. I think we should insist upon this point and establish it beyond doubt. I also told him that I believe his proposal would be more favorably considered by the Department if he could give assurances that the military operations would be combined with a road building program adequate to solve the economic features of the situation as set forth in the letters on this subject recently addressed to him by the Secretary.

HANNA

817.00/6928 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 8, 1931—1 p. m.

[Received 3:15 p. m.]

6. My telegram No. 5, January 5, 4 p. m. This subject was discussed in conference this morning with the Commander of the Marine Brigade, the Commander of the Guardia and Lieutenant Colonel Matthews who is to succeed to the command of the Guardia in the near future. We are of the unanimous opinion that President Moncada's proposal to increase the Nicaraguan military forces by 500 men should be accepted but only with the clear understanding that this force shall constitute a part of the Guardia as set forth in my telegram of reference. We are of the opinion that in view of the responsibility

³² Douglas C. McDougal, chief of the Guardia Nacional de Nicaragua,

of this Government in connection with the suppression of banditry its proposal of a measure to meet that responsibility should not be rejected if it can be accepted under conditions which are in accord with the agreement and policy governing our cooperation with the Guardia. We also deem it essential that those conditions should be such as will insure the creation of a disciplined and effective force. I am hopeful that an understanding of this nature can be reached with President Moncada.

General McDougal is now making a study of the details connected with carrying out such an arrangement and I will inform the Department in this connection.

A further important reason for accepting President Moncada's proposal is his expressed determination to combine the military increase with a road building program in the bandit territory if necessary funds can be obtained.

HANNA

817.00/6921: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, January 9, 1931—6 p. m.

5. Legation's 5, January 5, 4 p. m. You may inform President Moncada that I am disposed to concur in his suggestion that a temporary military force of approximately 500 men be established for the purpose of contributing to the suppression of the recently intensified bandit activities reported by you.

It must be clearly understood and formally agreed upon, however, that the proposed new force must be completely subject to the exclusive administration and control of the Jefe Director of the Guardia Nacional. This not only is essential as a matter of military procedure and expediency but likewise is imperative under the Guardia Agreement.

You may likewise say to President Moncada that, as stated in my letter to him of November 24,⁸³ I am in full accord with the proposal to construct highways in the territory affected by banditry and I should be glad to learn of the success of his efforts to obtain funds to be employed for that purpose.

Any plan for the formation of the temporary military force should of course be worked out with the cooperation of General McDougal.

STIMSON

⁸³ *Foreign Relations*, 1930, vol. III, p. 683.

817.1051/481 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 10, 1931—3 p. m.

[Received 5:05 p. m.]

11. Supplementing second paragraph my telegram No. 6, January 8, 1 p. m. General McDougal's estimate of the cost of an auxiliary force of 500 men for a period of 6 months is in round numbers \$20,000 for initial equipment and \$90,000 for pay and maintenance. He has eliminated all unessentials from his estimate and has included therein only such items as are absolutely necessary to uniform, equip, train and operate an efficient force. The officers for the new force would be 8 captains and 12 lieutenants assigned from the Marines and 16 Nicaraguan lieutenants. There would also be 8 Marine medical lieutenants. The pay of all grades enlisted and commissioned and the cost of subsistence would be the same as for the Guardia. I concur in his estimate.

General McDougal has informed me that the *voluntarios* organized in 1929 cost \$50 per man per month whereas the new force will cost approximately \$35 per man per month. The *voluntarios* were commanded by volunteer officers and were paid at a higher rate than the Guardia but were not supplied with clothing.

I will bring the foregoing to the attention of President Moncada with the purpose of correcting any misconception he may have as to the cost of the new force. His conversations with me have indicated that he has in mind an irregular force without uniforms and inadequately officered, armed, trained and equipped which would cost less than McDougal's estimate. I believe it is obvious that the commander of the Guardia cannot share responsibility for the creation of a force under conditions which will not fully guarantee its efficiency and if necessary I will so inform President Moncada.

HANNA

817.1051/484 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 14, 1931—7 p. m.

[Received 12 midnight.]

12. I duly informed President Moncada as instructed in the Department's telegram No. 5, January 9, 6 p. m. I had previously informed him of General McDougal's estimate of cost and proposed organization of the new force as outlined in my telegram No. 11,

January 10, 3 p. m. President Moncada replied in a personal letter to me expressing dissatisfaction with the proposed estimate and organization but with no reference to the Department's telegram in the matter, and suggesting that "we abandon the increase of 500 men but not the loan". I then called upon the President and discussed the subject with him in great detail in order that I might correctly report his attitude to the Department.

The President seemed to change his attitude somewhat and at the termination of our conference he authorized me to advise you that he will allot \$4,000 monthly from existing revenues to create immediately a temporary force of approximately 125 enlisted [and ?] that the new force should be selected as far as practicable from communities adjoining the regions where they are to operate and should be assigned to Guardia organizations in such manner as to avoid increase in the commissioned strength of the Guardia; that this increase will be paid and subsisted at the same rate as the Guardia, making economies however in other expenditures such as for uniforms; and that he would expect to commission two Nicaraguan officers with field officer grade to serve as advisers on the staffs of the Guardia officers directing operations.

I have discussed this proposal in conference with the Marine and Guardia commanders and Colonel Matthews and we all are of the opinion that its adoption would introduce complications, misunderstandings, and possibly divided control to such an extent that its acceptance is not justified. General McDougal objects particularly to the commissioning of two Nicaraguan officers of high rank. Both he and Colonel Matthews think that the services of these officers would be of little or no value and that their presence in the Guardia would certainly tend to defeat the Department's policy in the matter as outlined in the second paragraph of its telegram No. 5, January 9, 6 p. m.

The Liberal press here is continuing and intensifying its propaganda for the creation of a national army. The sentiment of the Conservative Party and President [*press?*] is opposed to such an army. Propaganda is combined with criticism of the methods employed by the Guardia in its operations against the bandits. The criticism in the main is the same as has been expressed from time to time by President Moncada. The situation presents a well defined issue and our attitude thereon would seem to be of exceptional importance in its bearing on the future development of the Guardia and our military cooperation here.

One of yesterday's local papers published over President Moncada's signature the following statement:

"I have no objection to the permanence of the Marines in Nicaragua because they have labored for liberty and order in my country. We

Nicaraguans should appreciate this but I think that we are the ones obliged to struggle against the bandits.

With regard to the increase of American Marines and doctors I should not like to see more corpses of American Marines leaving for the United States. The Government of the United States suffers much from this and my own Government more than all. It is we Nicaraguans who are obliged to restore peace to the country and to stanch its wounds.

The American Marines could guard the cities of the north and some of those in the interior while the Guardia proceeds to settle with the bandits.

I have felt profound sorrow for the Marines who perished in the last Sandino ambush. They fell in territory which they do not know, assassinated rather than killed in real combat. Let us pledge our will and our heart to avoid these misfortunes by means of a change of tactics, conducting real mountain warfare such as the bandits conduct."

The last three paragraphs of the foregoing statement are embraced in President Moncada's letter to me to which reference is made above. I am reliably informed that this statement was sent by the President's direction to various newspapers in the United States and the correspondents here of American papers have also transmitted the statement today to their respective papers.

With respect to the second preceding paragraph I told President Moncada with emphasis the day before he issued his statement that the Marines have not for some months been conducting offensive operations against the bandits but have been merely protecting certain towns and properties and have engaged in combat with the bandits only when acting in self-defense to repel attacks.

President Moncada gave out a formal memorandum yesterday which criticises recent operations against the bandits. It states that the greater part of the bandits under Orteza are Honduraneans and that members of the Conservative Party are cooperating with money, arms, or alarming propaganda. It states with reference to the recent contact of a Marine patrol in which eight marines were killed that the patrol proceeded with but little foresight notwithstanding its knowledge that bandits were in the neighborhood and fell into the trap prepared for it. It adds:

"They all entered the ravine, dismounted from their mules, and began to repair the line without taking any precautions."

The last two sentences are not in accord with the facts as reported by the responsible Marine officers.

It seems clear that a determined effort is under way to create a so-called national army independent of the Guardia. The press here takes the attitude that this Government has already made this decision and that the proposed loan is for that purpose. Personal motives

doubtless influence many of the advocates of the national army but doubtless also there exists a sincere belief in the efficacy of such an army and a general misconception that it would be more effective and cost much less than the Guardia. The high efficiency record of the Guardia is now an indisputable fact which is clearly established by the record of its operations during the past year. My military associates are of the decided opinion and I concur that the national army idea is unsound and that any additional funds available for this purpose should be employed in increasing the Guardia. Even if an efficient national army could be created at less cost than the Guardia and even if it were nominally under the administration and control of the Chief of the Guardia it would in fact be a separate organization that would introduce the defects and evils which the Guardia agreement is intended to prevent. My military associates are positive that there could not be unity of administration and control by the Chief of the Guardia over the two forces. We desire to cooperate with President Moncada and assist him in meeting his responsibilities in this matter but we would be failing in our duty as advisers to this Government if we should accept an unsound proposal.

We therefore reassert our opinion that any new measures adopted for the suppression of banditry should accord with the agreement and policy governing our cooperation with the Guardia and that any new military forces created for this purpose must be completely subject to this exclusive administration and control of the Chief of the Guardia as set forth in the Department's telegram number 5, January 9, 6 p. m. We are therefore convinced that any and all additional forces raised by this Government should be additions to the Guardia in strict compliance with the Guardia agreement and that we must insist on this point.

The President told me that any increase in the military forces beyond that obtained with the \$4,000 monthly must await the outcome of this Government's efforts to obtain a loan of one million dollars from the reserves of the National Bank and he reasserted his desire for your support in obtaining the loan. He said that road construction in the north will go far towards restoring peace and that he wants to initiate such construction at the earliest possible date.

If the proposed loan is guaranteed by \$300,000 per annum taken from current revenues which are now being expended for other purposes the Government will have \$700,000 to meet the existing emergency and I understand that the entire amount probably would be expended during this calendar year. The organization and maintenance during that period of 500 additional strength for the Guardia making reasonable allowance for delays in organization would cost approximately \$175,000 and an effective road construction program

in the bandit area during the same period would cost at least an average of \$20,000 per month for the 10 available months. The remaining \$325,000 would be available for other purposes and the balance of \$300,000 would replace the guarantee. I believe this would be a sound basis for the allocation of the loan.

I hope the Department will give me early instruction on this entire subject.

HANNA

817.51/2220: Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, January 21, 1931—9 p. m.

[Received January 22—12:22 a. m.]

18. My telegram No. 12, January 14, 7 p. m. The manager of the National Bank has just told me that the Government today received advice from its Legation in Washington that the International Acceptance Bank would grant the million dollar loan at the maximum rate of \$75,000 per month to be expended as follows:

Ten thousand on each of the two railway projects, 25,000 on the Atlantic Highway, 15,000 in the Segovias and 15,000 on other public works. He told me that he thinks this Government has telegraphed its acceptance of this proposition.

A loan on that understanding furnishes no guarantee that the situation in the bandit region will be materially improved. The existing situation here demands that at least 15,000 monthly shall be expended on increasing the Guardia strictly in accordance with the Guardia agreement and 20,000 monthly on road construction in the bandit area and that these amounts shall be specifically allocated for the purposes mentioned. Anything less than this will be a regrettable failure to meet the existing crisis and might have dire results.

HANNA

817.00/6959a

The Secretary of State to the Secretary of the Navy (Adams)

WASHINGTON, January 22, 1931.

DEAR MR. SECRETARY: I feel that we should be in a position, after the Presidential elections in Nicaragua in 1932, to withdraw all our Marines from the country, should this Government at that time decide that that is the wise thing to do. It is my understanding that the Navy Department feels that Marines should be maintained in Nicaragua while American officers are serving in the Guardia Nacional of Nicaragua. Therefore, in order that there may be no obstacle

to the complete withdrawal of our Marines from Nicaragua after the 1932 elections, I want to ask you to issue instructions to the Commander of the Guardia Nacional to devote special attention to the training up of Nicaraguan officers so that we may be in a position, should that then be the decision of this Government, to turn over the whole Guardia force to Nicaragua upon the installation of the new Government on January 1, 1933. I think it should be impressed upon the Commander of the Guardia that that is the objective to which he should work and should devote his energies.

Yours sincerely,

H. L. STIMSON

817.00/6962

The Secretary of State to the Secretary of the Navy (Adams)

WASHINGTON, January 28, 1931.

DEAR MR. SECRETARY: I have your letter of January 26 enclosing a proposed communication to the Marine Officer in charge of the Nicaraguan National Guard.³⁴ You state that you feel some hesitancy, however, in sending such an order without asking whether I see any objection on the ground that it is wholly likely that such policy would shortly be known in Nicaragua with the result of its being taken as an indication of a determined policy to withdraw our Marine force in 1932. You ask if I have any suggestions as to the form in which I should like to see this order sent.

I do not feel that it would be disadvantageous should this proposed policy be known in Nicaragua and be interpreted as a determination to withdraw our Marine force in 1932, or perhaps more correctly, after the installation on January 1, 1933, of the Government coming into office as a result of the elections of 1932. In fact, I have already intimated as much to President Moncada in a personal letter which I addressed to him on November 24. I pointed out that the presence of our Marine forces have always necessarily created an abnormal situation and one which can not be permanent; that they have remained in Nicaragua at the request of both Nicaraguan political parties solely because of the sincere desire of this Government to assist temporarily in the solution of certain crucial and fundamental problems, and that after the elections of 1932 this country will have helped Nicaragua for five years to police its territory and to keep banditry in check. I told President Moncada that public opinion in this country will hardly support a further continuance of that situation and that the result of these controlling factors necessarily indicates that the problem of these northern provinces must be solved by that date.

³⁴ Neither printed.

Accordingly I have no suggestions to make regarding the communication enclosed in your letter under acknowledgment, as it seems to me to cover the situation.

Yours sincerely,

HENRY L. STIMSON

817.1051/501

*Memorandum by the Secretary of State*³⁵

[WASHINGTON,] February 5, 1931.

STATEMENT OF POLICY IN NICARAGUA

The Secretary of State for the past week has discussed the present situation in Nicaragua in all its details with Mr. Hanna, American Minister to Nicaragua, General McDougal, Chief of the Guardia Nacional of Nicaragua, and Major General Frank R. McCoy, who supervised the Nicaraguan elections of 1928.

Mr. Hanna informed the Secretary that before leaving Nicaragua President Moncada authorized him to say:

1. That he favors a material increase of the Nicaraguan military forces operating against the bandits in the Segovias, (the bandit area) and believes that the increase should be approximately 500 men;
2. That he desires Mr. Hanna to present his views to the Secretary of State and to advise the Secretary that, in view of the Guardia Agreement under which the United States is cooperating with Nicaragua in the creation of a Guardia Nacional, he would be in full accord with the Secretary's decisions as to how the new military force should be created;
3. That he favors the construction of roads in the Segovias to aid in combatting banditry and for the development of the economic resources of that area;
4. That in order to accomplish this, in view of the reduced revenues of the Government, he desired the Directors of the National Bank of Nicaragua to agree to make an advance of approximately \$1,000,000 during the next 12 months to Nicaragua for these purposes; and
5. That he requested the assistance of the Secretary of State in these matters and desired his advice in concerting measures for the pacification of Nicaragua and its economic development.

The Secretary of State has been happy to learn that the Board of Directors of the National Bank of Nicaragua has consented to make

³⁵ The following notation appears on file copy: "Two originals initialed by the Secretary given to Mr. Hanna February 6, 1931, one of which was for President Moncada. 3 carbons also given Mr. Hanna; one for Legation at Managua, one for Marine Commandant and one for Guardia Commander. One copy given Gen. McDougal for information of Gen. Fuller, Major General Commandant of Marines."

The memorandum was subsequently initialed by President Moncada. A copy of the memorandum was also transmitted to the Navy Department on February 19, 1931.

a loan to the Nicaraguan Government which will be sufficient to permit of the increase of the Guardia by 500 men, in addition to the 1650 men agreed to by the Secretary of State in his letter to General Moncada of November 24, 1930, as the minimum Guardia force. Although this letter was not answered it appears that the arrangements set forth therein were accepted as shown by instructions given to General McDougal on December 10, 1930.³⁶

In this connection the Secretary of State again reiterated that any increase in the Nicaraguan forces must be solely through an increase of the Guardia which is the non-political, non-partisan force provided for in both the Tipitapa and the Guardia Agreements.

The Board of Directors of the National Bank of Nicaragua, in its meeting on February 3, 1931, unanimously decided to allocate the loan as follows:

\$20,000 per month for the continuation of work on the two railroads, one from San Jorge to San Juan del Sur, and the other from Leon to El Sauce;

\$30,000 per month for the continuation of work on the Atlantic Highway;

\$30,000 per month for pacifying and developing the Segovias.

General McDougal assured the Secretary of State, in the conferences discussing the matter, that this force of 2150 men will be sufficient not only to replace the Marines from the Marine Brigade now guarding American lives and property in and near Matagalpa and stationed for moral effect in the Segovias, but also vigorously to prosecute the campaign against the bandits.

The additional expense involved in increasing the Guardia by 500 men will cost, General McDougal states, \$15,107.07 per month. \$19,823.08 will be required for the initial equipment of these additional forces.

In addition, \$2000 per month will be required for the additional expenses involved in expanding the training school for native officers in the Guardia. With this expansion it will be possible to train and prepare sufficient Nicaraguan officers to officer completely the Guardia by January 1, 1933.

\$17,000 per month will thus be necessary for the increase in the Guardia and the military academy. In addition \$20,000 is required as stated above for initial equipment. As it is understood that the Bank of Nicaragua will make these monthly funds available to President Moncada beginning with the present month of February, 1931, and as there will inevitably be a short delay in putting the plan into operation, it is proposed that the funds necessary for the initial

³⁶ See President Moncada's letter to General McDougal, Department of State, *Press Releases*, February 21, 1931 (Publication No. 164), p. 132.

equipment be taken out of the first monthly payments. Thereafter, \$17,000 per month will be turned over to the Guardia in addition to the present expenses of the Guardia, the military academy and the penal institutions. The balance allotted for the Segovias, namely \$13,000 per month, is to be spent in the work of road building in the Segovias necessary to support and carry out the operations against the bandits and to furnish employment for the population in that area.

In order further to hamper the activities of the bandits, the Secretary of State and his advisers feel that the recruitment of the additional 500 men should be carried out, in so far as possible, among inhabitants in the Segovias, as this will supply the Guardia with men more familiar with the terrain in that region.

While the Bank of Nicaragua left to the discretion of the President the proportion of the \$20,000 allocated for railway construction to be used on each of the two railroads above mentioned, the Secretary of State desires Mr. Hanna to represent to President Moncada that in the Secretary's opinion it is highly desirable that three-quarters of this amount, or \$15,000 per month, should be spent on pushing forward the completion of the railroad from Leon to El Sauce. This railroad will form not only the main line of communication to the Segovias and hence will directly support the operations against the bandits, but also will furnish an outlet for the economic development of that area and should consequently be pressed to the utmost.

It should of course be distinctly understood that this plan is dependent upon not diverting any of this increased Guardia force to work which can be done, in accordance with the understanding set forth in the Secretary of State's letter of November 24, 1930, by the Guardia Municipal in protecting the cities and the peaceful portions of Nicaragua. To whittle away the force of the Guardia by such details would amount to a destruction of the entire plan.

This plan calls for 1500 men of the Guardia in the bandit area exclusively, approximately 200 members of the Guardia on the East Coast, and about the same number in the coffee growing regions. This leaves but 250 Guardia for other Guardia activities elsewhere in the Republic and it is therefore essential that no time should be lost by President Moncada in organizing the local Guardias Municipales as rapidly as possible as set forth in the Secretary of State's letter above referred to.

As stated in that letter, the time is rapidly approaching when the Marines must be taken out of Nicaragua. The Secretary of State has already in that letter notified President Moncada that the very latest time must be after the elections of 1932. The Secretary of State has also notified the Navy Department to make their arrangements for the

training of the Guardia so as to be able to withdraw not only their instruction battalion but also the Marine officers in the Guardia by that time. The feeling here, as represented in Congress and by the public in general, is getting stronger all the time that these steps are necessary and that the United States Government must not be drawn into the position of policing Nicaragua indefinitely.

The plan discussed in the conversations held during the last week by the Secretary of State contemplates that the Guardia will have taken over the situation in the bandit areas by June 1, 1931, and that the present detachments of approximately 600 Marines stationed outside of Managua, principally at Ocotal and in the region of Matagalpa, will have been withdrawn and their function taken over by the new force of the Guardia.

On the assurance by General McDougal that this substitution of Marines outside of Managua by Guardia can be done not only with safety to the military situation but with actual advantage in having one homogeneous force operating in that region, those Marine detachments will be withdrawn as rapidly as practicable and returned to the United States. By not later than June first, next, the Marine forces in Nicaragua will consequently have been reduced to an instruction battalion in the city of Managua and the aviation force.

This statement of policy sets forth the basis on which the United States Government is willing to continue, for the temporary periods mentioned, to maintain Marine forces in Nicaragua and Marine officers in the Guardia Nacional.

H[ENRY] L. S[TIMSON]

817.00/6999a : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, February 14, 1931—6 p. m.

16. The following statement was issued to the press February 13:

"At the recent conferences held by the Secretary of State with Minister Hanna, the American Minister to Nicaragua, Colonel McDougal of the Marine Corps, who has been commanding the Nicaraguan National Guard, and Major General McCoy, who supervised the Nicaraguan elections in 1928, a definite plan for the future has been arrived at which has been accepted by President Moncada of Nicaragua. Under this plan the Nicaraguan National Guard is to be increased by approximately 500 men to be used exclusively in the bandit area, and the necessary financial arrangements for this increase of force have been made by the Nicaraguan Government.

By this increase of the Nicaraguan National Guard it will be possible to withdraw from Nicaragua all of the Marine Brigade who are now on combatant duty probably by June next, leaving in Nica-

ragua only the Marines who are still engaged in instruction in the Nicaraguan National Guard and an instruction battalion to support such instruction and an aviation section which is being used for the present to carry supplies in the bandit provinces which are entirely without roads. This means that by June next the total force of Marines in Nicaragua will have been reduced from over 5,000 men, which was the size of the force in January, 1929, to probably not over 500 men. The Nicaraguan Government by this arrangement has also secured funds to increase the school in which Nicaraguan officers are being trained to completely replace the Marines now officering the National Guard.

In addition to this the Nicaraguan Government has obtained further funds which it has agreed to spend in the construction of long needed roads and trails in the bandit provinces. These roads will greatly facilitate the future work of its National Guard in that area and make it much more effective and protective to the surrounding country. The Department feels that the foregoing steps will greatly expedite the completion of the task of this Government in instructing the National Guard of Nicaragua, and that they have paved the way for the ultimate removal of all of the Marine forces from Nicaragua immediately after the election of 1932."

STIMSON

817.1051/505

The Secretary of the Navy (Adams) to the Secretary of State

WASHINGTON, February 24, 1931.

MY DEAR MR. SECRETARY: Receipt is acknowledged of State Department letter of 19 February⁸⁷ transmitting confidential copy of the plan for increase of the Guardia Nacional in Nicaragua and withdrawal of the naval forces now on shore in that country.

I note that this plan contemplates that by 1 June, 1931, the Guardia will have taken over the situation in the bandit areas and Marine forces in Nicaragua will have been reduced to an instruction battalion in Managua, the aviation force, and marine personnel in the Guardia; and that all naval forces are to be withdrawn from duty on shore in Nicaragua after 1 January, 1933.

With a view to carrying out the first part of this plan, the Commander Second Brigade will be instructed to withdraw into Managua his outlying forces, other than aviation, as rapidly as in his judgment and that of the Commander of the Guardia Nacional the latter force can take over their duties.

The forces thus relieved by the Guardia, or their equivalent, to the number of about six hundred, will be withdrawn from Nicaragua as transportation can be made available.

Sincerely yours,

C. F. ADAMS

⁸⁷ Not printed.

817.1051/511

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 360

MANAGUA, March 12, 1931.

[Received March 19.]

SIR: I have the honor to report that satisfactory progress is being made by Colonel F. L. Bradman, Commanding the Marine Brigade in Nicaragua, and General C. B. Matthews, Commanding the Guardia Nacional, in carrying out the policy for reducing the marine forces in Nicaragua decided upon during my recent visit to Washington. The cooperation of the Government of Nicaragua in this matter has also been satisfactory.

Under General Matthews' direction, the Guardia Nacional has been recruited to a total enlisted strength of approximately 1,950 men and it is estimated that the remaining 200 new enlistments to bring the Guardia up to the authorized total of 2,150 enlisted strength will have been completed by April 15 at the latest. General Matthews is subjecting these new enlistments to a period of intensive training which should prepare them for effective active service by June 1 at the latest.

General Matthews is also making his preliminary preparations to appoint 75 new cadets for the Military Academy who will begin their instruction in the Academy about July 15, which will be shortly after the graduation of the present class. General Matthews plans to complete the instruction of the new class in a period of nine months and immediately thereafter begin the instruction of another class for a like period. He expects to be able in this manner to graduate sufficient cadets to fill all except the higher grades of the Guardia Nacional by about January 1, 1933.

He is also perfecting plans to train Nicaraguan officers to take the place of marine officers in the staff departments of the Guardia. He expects to fill two existing vacancies in the Medical Corps with medical students who will graduate in the near future from the medical college in Leon. If this proves satisfactory he will fill future vacancies in the Medical Corps of the Guardia as they occur with Nicaraguan medical students or qualified doctors. The Nicaraguan officers for the Quartermaster and other staff departments will be obtained probably in large part by promoting Nicaraguan non-commissioned officers now serving in those departments.

The total number of officers line and staff for the Guardia after the increase of 500 men is to be 204 in accordance with the plan for the increase which was accepted by this Government. The decrease to a total of 160 in the number of officers contemplated in the plan agreed upon in the last months of 1930 was not completed before the present plan went into effect. The number had been decreased to 182 and

that number has now been increased to 188 by the appointment of six more marine officers. This was necessary to carry on the increase in an effective manner but it is General Matthews' intention not to appoint any more American officers to the Guardia if that can be avoided. He is holding 16 vacancies at present for graduates of the class now in the Military Academy, which class will graduate somewhere between 20 and 25 cadets. The new appointments of American officers for service in the Guardia and the reappointment of American officers now serving with the Guardia have been and will be made at the reduced scale of pay decided upon in the plan of last November. There probably will not be any considerable replacement of American officers by Nicaraguan officers until the class entering the Military Academy in July graduates about a year from the present date.

The Nicaraguan Government is cooperating effectively with General Matthews in the creation of the Guardia Municipal. These local auxiliaries to the Guardia are being created as rapidly as the municipal authorities concerned can be induced to cooperate and can provide the necessary funds. In addition to the 30 Guardia Municipal in Managua, the Guardia Municipal has been created in the following cities and villages in the number set opposite each respectively:

Leon	30
Granada	19
Masaya	15
Rivas	6
Nandaime	3
Diriomo	2
Nindiri	2
La Concepción	2
Diria	1
Tisma	1

The total number of Guardia Municipal organized to date is 111. Their pay varies from \$10 to \$21 per month, not including uniforms, depending on the locality where they serve. The Guardia Municipal in Leon, Granada, Masaya and Rivas is attached to the Guardia Nacional serving in those places. There is also a non-commissioned officer of the Guardia Nacional in command of the Guardia Municipal in Nandaime. The Guardia Municipal in the other places mentioned constitutes the only police force for their protection, subject to the orders and occasional inspection of the Headquarters of the Guardia Nacional of their respective districts.

Soon after I returned from Washington, a delegation of twenty or more coffee growers from the Matagalpa district called upon me to protest against the withdrawal of marine protection from their property. They represented American, British, German, Italian and Swiss nationalities. They were extremely anxious about the future pro-

tection for their lives and property. I explained the situation to them and their views underwent a material change when they became aware of the steps being taken to give them adequate protection after the withdrawal of the marines. I invited Colonel Bradman and General Matthews to be present at a second conference with them to give them further assurance concerning the military measures being carried out for their protection. Colonel Bradman told them that the marine guards would remain at their present posts in the Matagalpa district until about May 15, and General Matthews assured them that the Guardia Nacional would be prepared to relieve the marine guards by that date. I understand that they returned to Matagalpa reconciled in a degree although still anxious concerning their future safety.

I have had numerous conferences with Colonel Bradman and General Matthews since my return to Managua at which we have discussed and decided upon plans for carrying out the reduction in the marine forces with the least possible likelihood of encouraging disorder. The marine forces in Ocotal and vicinity will be withdrawn first. This withdrawal has already begun and will be completed as rapidly as General Matthews can send Guardia to replace the marines. The marines in the Matagalpa area will be withdrawn at a later date but in time to complete the withdrawal and embarkation at Corinto by June 1.

The additional funds necessary for the increase of the Guardia and the construction of roads in the bandit regions presumably were made available to the Nicaraguan Government by the approval of the million-dollar loan by the Nicaraguan Congress. I assume that President Moncada will now adopt measures to inaugurate the road-building program in the near future. I will not fail to keep in touch with this phase of the general project.

Respectfully yours,

MATTHEW E. HANNA

817.00/7068

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 363

MANAGUA, March 17, 1931.

[Received April 7.]

SIR: With reference to the decision to withdraw a large number of marines from Nicaragua by June 1 of this year and the remainder after the elections of 1932, I have the honor to report that the project has aroused mixed feelings here.

As is perfectly natural, many people look upon the departure of the marines with a certain amount of trepidation. This is true of the leaders of both parties and of the foreign residents. That the presence

of the marines has been a stabilizing factor has been the feeling of these people, who look back to 1925 and remember the events which followed the withdrawal of the Legation guard in that year.³⁸

However, there is another side to the matter. Nicaraguans have their national pride just as do people of other nations; and however much they may have welcomed the marines in the past and recognized that their presence was necessary to the peace and welfare of the Republic, they looked toward the day when Nicaragua might be able to stand on her own feet without the assistance of the marines. The fact that the other republics of Central America have been managing to conduct their own affairs without assistance of the United States marines has not passed unnoticed, and has contributed to the sense of humiliation which patriotic Nicaraguans have felt. The feeling of many Nicaraguans has been one of resentment, not against the marines, whose assistance to this country is appreciated by thoughtful men, but against the condition of affairs which made the presence of the marines necessary.

This feeling of national pride, the feeling that Nicaragua should be able to stand on her own feet just as much as Costa Rica and El Salvador has tended to make patriotic Nicaraguans very reticent in expressing their fears as to what may follow when the marines leave. The fears of these people have been to a considerable extent mitigated by the realization that every effort is being made to organize and train a real non-partisan National Guard, something which the country has never had before. This is also true of the feeling of fear among the foreign coffee planters in the Matagalpa area.

It is the feeling of intelligent men in both parties that the time has come when Nicaragua must make a real effort to get on by herself and that party leaders must be forced to restrain their ambitions in the interests of the national welfare. The recent revelations in connection with the deportation of Ernesto Bermudez (see my despatch No. 358 of March 10, 1931)³⁹ have disgusted sensible people irrespective of party and focused attention on the necessity of curbing party spirit for the sake of the country. I am enclosing a translation of an editorial from *La Prensa*, the Conservative organ, which reflects the fears which the prospective withdrawal of the marines causes and suggests that the salvation of the country must be sought in an agreement to choose as the next President a strong upright man whether Liberal or Conservative, on the understanding that the constitution will then be revised so as to provide a form of government

³⁸ For correspondence concerning withdrawal of the Legation Guard, see *Foreign Relations*, 1925, vol. II, pp. 618 ff.; for events which followed, see *ibid.*, pp. 636 ff.

³⁹ Not printed.

similar to that of Switzerland or of Uruguay. As an added safeguard *La Prensa* suggests that the party which does not have the Presidency should have the majority in Congress. Regardless of the merits of this proposal, the editorial reflects intelligent opinion that party spirit must be restrained.

It should perhaps be added that the announcement of the withdrawal of the marines is accepted as evidence of the good faith of the United States in its dealings with Nicaragua. I enclose a copy and translation of a statement issued by President Moncada soon after the announcement of the intended withdrawal.

Respectfully yours,

MATTHEW E. HANNA

[Enclosure—Translation]

Declaration by President Moncada

On the announcement in the United States of America of the withdrawal of the marines who are now in Nicaragua President Moncada declares that this is the eloquent proof that the Government at Washington has not come to his country except to assist it in its serious problems for peace and liberty, that he has always shown this confidence and that as head of the Government of Nicaragua he is disposed to honor in the proper manner the good offices, sincerity and justice with which the American Government has proceeded.

President Moncada will gradually increase to the necessary extent the National Guard of Nicaragua, in order that it may be a source of honor and prestige to this Nation and at the same time to the marines who have come to organize it.

817.1051/516 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 27, 1931—2 p. m.

[Received 10:15 p. m.]

47. General Matthews recently asked this Government for \$36,000 for pay for the Guardia for April and maintenance for the first half of May, to be made available by April 25th at the latest. The Minister of Finance told him today that \$10,000 can be furnished now and that he would make inquiry to determine what additional sum or sums can be furnished in the near future.

General Matthews has also asked for \$22,000 on May 10 for maintenance during the last half of May and has been given no reply to this request. He tells me all the above amounts are in strict accord with the recent agreement in this matter. I have just discussed the foregoing with President Moncada. He told me he can see no way to furnish the amounts requested immediately because the money is not available but that he would supply the funds as fast as possible.

I pointed out the possible dangers and consequences of failure to pay the Guardia promptly and the necessity greater than ever at this time for promptly meeting every Guardia obligation. I did not touch upon what the Department's attitude would be towards a failure of this Government to adhere strictly to the most recent agreement on the subject. I advised him that the money must be found from some source and suggested the million dollar loan. He said Carrazo Morales had told him that the loan was terminated by the earthquake. I replied that if the loan was necessary before the catastrophe it is far more necessary now and I reminded him that the plan for our continued military cooperation is founded on the loan. He said he would immediately ask for a categorical answer concerning the loan.

General Matthews says he has no funds for the April payroll. If the funds he has requested are not supplied immediately he anticipates a total demoralization of the Guardia followed by mutinies and assassinations of American officers in charge of outlying posts. He recommends that in the event funds in the amount he has requested are not furnished, the United States give notice of immediate withdrawal of its military assistance and the Nicaraguan Government be requested to inform him of the persons to whom command of Guardia troops should be turned over.

General Matthews has stated that he is confident of the ability of the Guardia to maintain law and order in the Republic provided they are paid and subsisted but believes that any failure or delay in payment will be seized upon by agitators who will be able to undermine the discipline of the Guardia to such an extent as to render control by American officers in outlying posts impossible.

Lindberg ⁴⁰ is of the opinion that the total revenues exclusive of the guarantee for bonded debt and not counting the revenues pledged as guarantee for the million dollar loan were prior to the earthquake approximately \$200,000 per month about equally divided between customs and internal revenues, and that the total for the next 6 months will be approximately \$100,000 per month of which \$30,000 will be customs and \$70,000 internal revenues. He says the foregoing is a very conservative estimate and that the total might increase to \$125,000 monthly. If the Government can obtain \$80,000 monthly from the loan, it would have a total of not less than \$180,000 monthly for all purposes. Under the terms of the most recent agreement the cost of the Guardia is approximately \$88,000 monthly and the cost of road construction in the Segovias is \$15,000 monthly, making a total of \$103,000 and leaving \$77,000 monthly for all other expenditures.

I realize that this Government is confronted by a crisis in its finances and that the economic situation resulting from the earthquake may

⁴⁰ Irving A. Lindberg, Collector General of Customs and member of the High Commission.

make it impossible for the Government to obtain a further loan or to increase its current revenues. The Government might balance its budget by reducing its expenditures but even if it had the energy to do this it would not be possible without complete cessation of all public works and the consequent danger of labor unrest. In any event the million dollar loan or some substitute equally acceptable is imperative and, in view of the critical situation confronting General Matthews, there should be no delay in establishing the source from which he is to obtain funds for the Guardia. The catastrophe has vastly increased the responsibilities of the Guardia and the country will be exposed to still graver disasters if the Guardia is not maintained. I sympathize with this stricken country and I do not doubt that the Department will exert every effort to assist it financially but it is clear to me that the latest agreement on the subject of the Guardia must be strictly observed by this Government if we are to continue our officers in the Guardia under conditions which do not expose them to grave danger. I urgently request the Department's instructions.

HANNA

817.1051/516 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, April 28, 1931—1 p. m.

103. Your 47, April 27, 2 p. m. The Department has ascertained by telephone from the President of the International Acceptance Bank in New York that the million dollar loan given by the National Bank of Nicaragua to the Nicaraguan Government is still in effect. The Nicaraguan Government asked the International Acceptance Bank to open a mail credit to the Bank of Nicaragua of \$500,000. This was done. The credit was not used and after the earthquake the Bank stated that this credit had been withdrawn until it could examine the situation further and be satisfied that there is sufficient security for it. The Nicaraguan Government asked permission to use \$100,000 of the million dollar loan for reconstruction in Managua. The bankers refused and said that the million dollar credit should be used solely for the purposes for which it was granted. The Bank did give them an additional temporary advance of \$100,000 for reconstruction work but has insisted that the million dollar credit be used as agreed upon. The funds for the Guardia are therefore available as arranged in February.

Please call on President Moncada at once and tell him of this situation and say that this Government insists that the money be paid in full and promptly to General Matthews for the Guardia.

Tell President Moncada that he doubtless does not know of the severe criticism in the press of this country regarding the difficulties which the American officers in the Guardia have to contend with to get the necessary funds to keep that organization going. Our officers are in the Guardia by virtue of a series of agreements with the Nicaraguan Government, the last one of which is set forth in the memorandum of February 5, 1931, initialed by the Secretary of State and by President Moncada. This agreement contemplates the orderly and prompt payment of the funds specified. It is an intolerable situation where the Commander of the Guardia has to fight every month for the funds due for this organization and this Government expects that these funds will be paid promptly by the Nicaraguan Government or that instructions will be given to the Collector of Customs to pay over these sums each month out of his collections, after paying the expenses of the customs collectorship and the service on the outstanding bonds. Cable reply.

STIMSON

817.1051/517 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 29, 1931—4 p. m.

[Received 10:35 p. m.]

54. I called upon President Moncada this morning and left with him a memorandum of the representations contained in your telegram No. 103, April 28, 1 p. m. The Ministers for Foreign Affairs, Gobernacion, and Finance were present and took part in the discussion of the matter. The discussion was friendly but very frank. The President said his Ministers dwelt upon the difficulty of supporting the Guardia in the present state of the country's finances. I recognized the difficulty but maintained with all firmness that the Guardia must be supported, in spite of the difficulty, strictly in accordance with the plan of February last.

President Moncada took exception to the determination of the International Acceptance Bank to use the loan solely for the purposes for which it was granted. He and his Ministers had been discussing this matter when I arrived and while I was present they decided upon the following allocation of the monthly advance of \$80,000. from this loan: \$10,000. for each of the two railway projects, \$10,000. for the Atlantic highway, \$5,000. for road construction in the Segovias, \$17,000. for the Guardia and military academy and the balance of \$28,000. for a reserve to be expended by this Government for other purposes to meet the emergency growing out of the earthquake.

I understand this Government will endeavor to get the bankers' approval to the foregoing allocation. I told those present that I agreed

with the idea in principle and would support this Government's efforts to obtain an allocation to meet the emergency which would be acceptable to the bank directorate.

I assume that the bankers cannot disregard the demands of the crisis existing here and, if properly and fully informed, will agree to a new allocation. The loan, other than the portion for maintenance of the Guardia, should be expended where it will give the greatest measure of relief, and I deem this the general principle to follow in a new allocation. I think smaller amounts than those mentioned above should be spent on the two railways and that the amount for the Atlantic highway should not be more than the \$10,000. mentioned, preferably less. In view of the grave labor conditions in Managua and other portions of the Republic resulting from the earthquake, I believe the \$15,000. monthly originally allocated for road construction in the Segovias should be temporarily reduced to the \$5,000. set forth above. I am also strongly in accord with creating a reserve of the balance of the loan to be expended as this Government may desire, possibly under restrictions which would give the banks a watchful supervision over the purposes for which the expenditures are made.

The labor and general economic conditions in this capital are so critical as to give rise to the gravest fears for the near future if the Government is unable to give the city financial assistance. The Government of the national district is not functioning actively, is entirely without funds and has absolutely no revenues coming in at the present time. The capital of the country is completely bankrupt and apparently without any way of raising more than the most trifling sums.

I endeavored to leave the President and his Ministers in no doubt concerning the positive attitude of my Government regarding the future maintenance of the Guardia but I did not press for a categorical reply. I believe funds to meet the present requirements of the Guardia will now be made available without further delay but I anticipate continued difficulties in this connection.

HANNA

817.1051/518 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, April 30, 1931—10 a. m.
[Received 1:45 p. m.]

56. My telegrams 47, April 27, 2 p. m., and 54, April 29, 4 p. m. General Matthews has been given \$65,000 for pay for the Guardia for April and maintenance for the first half of May.

HANNA

817.00/7140

The Secretary of State to the Secretary of the Navy (Adams)

WASHINGTON, June 4, 1931.

MY DEAR MR. SECRETARY: I have your letter of May 28⁴² inquiring whether Marine aviation forces in Nicaragua should continue to operate with the Guardia as they have been operating before the Marines were concentrated at Managua. You also ask my views regarding the recommendation of the Commandant of the Marines that the offer of the Bragmans Bluff Lumber Company to provide a plane to operate in connection with the Guardia should be refused.

It is my view that the Marine aviation forces in Nicaragua should continue to operate with the Guardia as they have been operating before the Marines were concentrated at Managua. I think that this cooperation is in line with the purpose of the instruction battalion to be maintained in Managua while American officers continue in the Guardia Nacional. In the confidential Statement of Policy dated February 5, 1931, drawn up at the time that Mr. Hanna and General McDougal conferred with me—the Statement being subsequently initialed by President Moncada—it was provided that “by not later than June first, next, the Marine forces in Nicaragua will consequently have been reduced to an instruction battalion in the city of Managua and the aviation force.” In other words, the plans made for the reduction of the Marine forces outside of Managua did not contemplate any reduction in the aviation force. You will recall that a copy of the Statement of Policy was given to General McDougal at the time it was drawn up for the information of the Major General Commandant of Marines and that a copy of it was also formally transmitted to the Navy Department in this Department’s communication of February 19, 1931. This memorandum was quoted from on the bottom of page 5 of the memorandum dated April 20 of the conversation between you, Admiral Pratt, General Fuller and myself on April 18, a copy of which I sent you on April 23,⁴² and which you returned to me on May 6 with your approval and that of Admiral Pratt and General Fuller.

With regard to your second point concerning the recommendation of the Commandant of Marines that the offer of the Bragmans Bluff Lumber Company to provide a plane to operate in connection with the Guardia be refused, I desire to say that I do not agree at all with this recommendation. You will recall that the position taken by this Government at the time of the recent attack by the bandits on

⁴² Not printed.

Puerto Cabezas and other points on the east coast of Nicaragua was that it is the duty of the Nicaraguan Government to protect Americans and other foreigners in Nicaragua. This Government sent vessels to the sea port to give protection there while the Guardia was unable to do so, but emphasis was continually put on the obligation of Nicaragua to provide for the protection of persons and property in Nicaragua. It was for this reason that the Guardia was established. The Guardia has no aviation force. The Standard Fruit and Steamship Company, which controls the Bragmans Bluff Lumber Company, was not satisfied with the protection accorded it by the Guardia. On the other hand, this Government did not feel that its forces should be used for this purpose. The Company then offered to pay for the equipment, transportation to Puerto Cabezas, and maintenance there of fifty addition[al] Guardia Nacional. The Company also desired the protection of an airplane and offered to supply one. This suggestion of the Company was accepted by the Department of State after the American Minister in Managua had discussed the matter with the Commander of the Guardia and the Nicaraguan authorities, and the plan had met with their approval.

The private secretary of President Moncada approved on his behalf this project in a letter to the American Minister dated May 19. On May 8, the American Minister informed the Department that he had discussed this matter with General Matthews who said that "the employment of an airplane presents some difficulties but it is believed the plan can be made to work to the mutual interests of the Company and the Guardia Nacional. The operator and mechanic will of course be required to sign a contract of engagement with the Guardia Nacional, agreeing that all military operations shall come under the strict control of the Guardia Nacional. The operator will be required to be licensed and satisfy the Jefe Director as to his skill and training in the operation of military aircraft." General Matthews' views, as above set forth, were transmitted to you in this Department's letter of May 11.⁴³

I feel, therefore, that the plan should be carried out as agreed to. The fact that the Guardia Nacional will operate a plane, provided by the Company, in the Puerto Cabezas area, is another step toward the complete policing of the country by the Guardia Nacional. If this plane is able to control the situation in the Puerto Cabezas area, the Marine planes will be relieved to that extent.

Yours very sincerely,

HENRY L. STIMSON

⁴³ Not printed.

817.1051/550

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

No. 456

MANAGUA, August 3, 1931.

[Received August 29.]

SIR: With reference to my telegram No. 107 of June 13, 1931 [7] a. m.,⁴⁴ reporting that this Government had furnished General Matthews with pay for the Guardia Nacional for the month of June and maintenance for the month of July, I have the honor to report that General Matthews now informs me that the Government has subsequently furnished him with \$90,485.13 for the following purposes:

Pay for the Guardia Nacional for July, 1931	\$50,168.30
Maintenance for Guardia Nacional for August, 1931	33,733.50
Maintenance for Military Academy for August, 1931	3,250.00
Maintenance of prisons and penitentiaries for August, 1931	3,333.33
Total	<u>\$90,485.13</u>

In this connection, General Matthews has also informed me that the deposit slips furnished by the Banco Nacional of Nicaragua show that the following amounts have been allotted for the Guardia from the \$1,000,000 loan of February 5, 1931:

March 27, 1931	\$1,000.00
" 27, "	9,000.00
April 17, "	7,150.00
May 15, "	17,000.00
June 20, "	17,000.00
July 10, "	20,000.00
" 15, "	12,633.05
Total	<u>\$83,783.05</u>

The arrangement set forth in the "Statement of Policy in Nicaragua" dated February 5, 1931, contemplated that \$17,000 per month would be necessary for the increase in the Guardia and the Military Academy, and that this amount would be made available beginning with the month of February, 1931. Funds necessary for the initial equipment of the increase in the Guardia made under that arrangement amounting to approximately \$20,000 were to be "taken out of the first monthly payments", the supposition being that there would be a short delay in putting the plan into operation. It might be considered, therefore, that from February to July inclusive there have been available six monthly payments of \$17,000 totaling \$102,000. It would therefore appear from the above item totaling \$83,783.05 that there is

⁴⁴ Not printed.

still available, on this basis of calculation, \$18,216.95 of the total amount allotted for the Guardia for those six months.

General Matthews points out further, however, that a deposit of \$39,500.27 made on April 9, 1931, was presumably drawn from the loan although the deposit slip furnished him by the Banco Nacional gives no information concerning the source from which the sum was drawn. If General Matthews is correct in his belief that this amount was drawn from the loan, it would appear that the allotment of \$17,000 per month has been overdrawn by \$21,283.32.

It would appear that the Government, in any case, is proceeding on the basis that the monthly allotment of \$17,000 has been available since and including February, 1931. It is reasonable to suppose, if this assumption is correct, that the Government will also consider that the Guardia will have completed its participation in the loan on January 31, 1932, provided the Government continues to allot \$17,000 monthly from the loan from now until and including the month of January, 1932. If General Matthews is correct concerning the \$39,500.27 mentioned above, the monthly allotment of \$17,000 will have terminated sometime in the month of December.

General Matthews, naturally, is much interested in this phase of the financial support he can expect for the Guardia, and I am therefore giving the Department the foregoing statement with the thought that it may become useful at some subsequent date.

Respectfully yours,

MATTHEW E. HANNA

817.00/7215

*The Chief of the Division of Latin American Affairs (Thurston) to
the Assistant Secretary of State (White)*

[WASHINGTON,] September 12, 1931.

MR. WHITE: For your information when you talk with General Matthews, and later with Mr. Hanna, you are informed that as of September 1, 1931, the total United States military representation in Nicaragua was as follows:

NAVY:

2nd Brigade	27
Aircraft Squadrons	4
Nicaraguan National Guard	<u>25</u>

56

MARINE CORPS:

2nd Brigade	513
Aircraft Squadrons	241
Nicaraguan National Guard	<u>195</u>

949

Total	<u>1005</u>
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This is, of course, 500 above the figure which our press release of February ⁴⁵ said would be left in Nicaragua after the reduction then contemplated should have been completed. I thought there were only about 800 men left.

WALTER C. THURSTON

**INSISTENCE OF THE DEPARTMENT OF STATE THAT SO LONG AS THE
GUARDIA NACIONAL IS DIRECTED BY AMERICAN OFFICERS IT
SHOULD NOT TRY NICARAGUAN CIVILIANS**

817.1051/344a

The Secretary of State to the Chargé in Nicaragua (Beaulac)

No. 614

WASHINGTON, December 27, 1929.

SIR: The Department acknowledges the receipt of the Legation's despatches Nos. 1231 and 1233 of November 21, 1929,⁴⁶ with respect to the contemplated utilization of the Guardia Nacional de Nicaragua as an agency for the administration of criminal justice through courts martial. It is noted that to this end the Jefe Director of the Guardia has agreed to appoint several Nicaraguan citizens designated by President Moncada as Second Lieutenants in the Guardia in order that they may receive training in military law and subsequently serve on courts martial.

The Department cannot approve of the trial of Nicaraguan civilians by members of the Guardia so long as this institution is directed by American officers. The purpose for which the Guardia has been established is the maintenance of public order and, save in the case of military offenses, it should not be called upon to prescribe the penalties of the law even though the ordinary courts fail to function properly. If the Nicaraguan courts are, as stated, notoriously ineffective, it is obviously preferable that measures should be taken to bring about a strengthening of this branch of the Government than that it be further weakened by the transference of its duties. The Legation accordingly is authorized in its discretion to discuss this matter with President Moncada and to suggest to him the advisability of urging upon the Supreme Court the need which seems to exist for the improvement of the Nicaraguan judiciary system. It would appear that the responsibility for the maintenance of order, so far as the punishment of offenders is concerned, rests squarely upon that body.

In this connection the Department calls attention to its instruction No. 570 of October 7, 1929,⁴⁷ concerning the desirability of training

⁴⁵ See telegram No. 16, February 14, to the Minister in Nicaragua, p. 844.

⁴⁶ Neither printed.

⁴⁷ Not printed.

Nicaraguan citizens for appointment as junior officers in the Guardia Nacional de Nicaragua. This procedure not only would be designed to obviate the resentment which follows direct participation in the administration of police functions by American officers, but would constitute an important and necessary step in the nationalization of the Guardia in anticipation of the eventual withdrawal from Nicaragua of the present armed assistance of this Government.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

817.1051/346 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, January 7, 1930—4 p. m.

[Received 7:11 p. m.]

3. Department's instruction number 614, of December 27, 1929, second paragraph. Do I understand correctly that the Department does not consider banditry a military offense?

BEAULAC

817.1051/346 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, January 10, 1930—noon.

2. Legation's 3, January 7, 4 p. m. The Department understands that a military offense coming within the purview of a court martial is an offense committed by a member of the military forces (in this case the Guardia) in violation of military laws or regulations.

COTTON

817.1051/351 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, January 15, 1930—3 p. m.

[Received 5:05 p. m.]

8. Department's instruction No. 614 December 27, 1929 and Department's telegram 2 January 10, noon. I have discussed the above communication with the Commanding General Second Brigade and with the Jefe Director of the Guardia Nacional. They are both of the opinion that cases involving organized armed resistance in areas where the Nicaraguan Government has declared martial law should be tried by extraordinary courts martial composed of Nicaraguan officers sitting under authority of the articles for the government of the Guardia Nacional de Nicaragua. The specific cases in mind are members of

organized bandit groups captured in the field. Ordinary police cases would continue to be tried by city.

It should be borne in mind that in the departments where martial law exists the city is not functioning except in cases of minor offenses.

Cases of armed resistance such as those referred to above have in the past been handled by the Nicaraguan Government under military law through military courts. It is understood that Escamilla and his volunteers last year tried bandits freely and executed some of them.

The Commanding General of the Marine Brigade considers "that the opinion of the Secretary of State as expressed in his instruction No. 614 of December 27, 1929, is correct as to territory where there is no martial law decreed, but that in areas where there is armed revolt against the established authority of the Nicaraguan Government and where martial law has been duly decreed by the Nicaraguan Government on account of such conditions, the law of war unquestionably sanctions the employment of military commissions and provost courts for the trial of such offenders."

The Commanding General considers that the outlaws operating in the northern area and generally referred to as bandits are in "armed revolt against the established authority of the Nicaraguan Government."

There is no doubt in my mind that from the military point of view it is essential that proper machinery be established for the punishment of members of organized bandits engaged in armed resistance against the Government. Their trial by civil courts in areas where martial law exists appears to be quite impracticable. Their trial by military courts outside the Guardia presents serious difficulties and is considered generally undesirable.

I have not yet discussed this matter with President Moncada.

BEAULAC

817.1051/350 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, January 15, 1930—4 p. m.

[Received 5:10 p. m.]

9. Legation's despatch No. 1214 October 31, 1929.⁴⁸ A Guardia court of arbitration [*court martial?*] consisting of three American officers and four Nicaraguan officers will try Sergeant Larios for mutiny, sedition, murder, and menaces and threats toward his subordinates. Date for trial not finally set but it will probably begin within a week.

BEAULAC

⁴⁸ Not printed.

817.1051/351 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, January 16, 1930—6 p. m.

4. Your 8, January 15, 3 p. m. The Department's objection is based on considerations of policy. So long as the Guardia is directed by United States marine officers such officers will necessarily share the responsibility for the actions of any courts established under that institution. The Department is willing to have American officers assume responsibility for training the Guardia and temporarily, because of special conditions, to have them take part in operations for the maintenance of order. It is not willing to have them exercise judicial functions with respect to Nicaraguan civilians.

So far as the Department is informed there is no legal reason why bandits cannot be dealt with by the civil courts in areas where martial law exists. If this is true the Department feels that the Nicaraguan Government should assume responsibility for seeing that proper courts are established. The Department assumes that the Supreme Court would be willing to assist the executive in this so far as appointments are concerned, and that the Nicaraguan Congress, which is now in session, could pass new legislation if any were needed. Is there any insuperable obstacle to action by the Nicaraguan Government which would result in the establishment of civil courts which had sufficient authority and sufficient courage to deal with this situation? The Department feels that the executive, legislative, and judicial powers in Nicaragua must do their part toward the reestablishment of order if the United States Government is to continue the assistance which it has been rendering.

Please report fully on this matter by air mail after discussing it with the military authorities and the Nicaraguan Government.

COTTON

817.1051/350 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, January 17, 1930—5 p. m.

5. Your 9, January 15, 4 p. m. As the case of Sergeant Larios is one of discipline of a member of the Guardia the Department will not insist that American officers should not sit on the court.

For your information. This whole matter has been gone over thoroughly with the Major General Commandant of the Marine Corps who is in hearty accord with the Department's position as set forth in instruction 614, December 27, 1929, and telegram No. 4, January 16, 6 p. m. He is so advising the Brigade Commander in Nicaragua. He

feels as does the Department that Guardia courts should be used only for discipline of members of the Guardia, and that even in those cases more and more Nicaraguan members should compose the court until finally it will be possible to eliminate American officers entirely.

COTTON

817.1051/353

The Chargé in Nicaragua (Beaulac) to the Secretary of State

No. 1290

MANAGUA, January 21, 1930.

[Received January 25.]

SIR: With reference to the Department's telegraphic instruction No. 4 of January 16, 1930, concerning the trial of Nicaraguan civilians by extraordinary courts martial under the Articles for the Government of the Guardia Nacional de Nicaragua, I have the honor to report that I had discussed this subject at length with President Moncada, the Commanding General Second Brigade and the Jefe Director of the Guardia Nacional.

President Moncada agrees thoroughly with the Department that the weakness of the present system is the inefficiency of the courts and that every effort should be made by his government to improve them. While he stated that his efforts in the past to do this had been unsuccessful, he promised to call a meeting of the Supreme Court to discuss the matter and determine what steps could be taken under the Constitution or, if necessary, in what way the Constitution must be amended to permit the various civil courts to function in cases of banditry in districts where martial law has been declared.

He said that he had been informed by members of the Supreme Court that the trial of bandits by civil courts under martial law was not possible. He had therefore given that idea up long ago. For several months he tried to handle a large number of bandit cases in the Northern Area through military courts composed of civilians sitting under authority of Nicaraguan military law and having no connection with the Guardia. This system broke down utterly and had to be abandoned.

General Williams and General McDougal likewise agreed that the procedure outlined by the Department, if it can be successfully worked out, is preferable to the trial of bandits by Guardia courts martial. Both however expressed doubt as to the possibility of its success under the plan outlined. General McDougal in particular stressed the urgent necessity which he feels exists to dispose in one way or another of bandits now in the custody of the Guardia. There is transmitted a copy of a memorandum prepared by him on the subject.

President Moncada said that a great deal of pressure was being exerted on him to turn Sergeant Larios over to the civil courts (Lega-

tion's telegram No. 9 of January 15). The Legation likewise has received a number of petitions from various groups of citizens in the same sense. A copy and translation of one dated January 15 are transmitted herewith.⁴⁹ President Moncada expressed the hope that the Department would stand behind him in this case which he considers extremely important to the future discipline and success of the Guardia. The court martial which will judge Larios will meet for the first time today. Instead of three Americans and four Nicaraguans as I previously informed the Department, it has now been decided that the court will consist of one American who will act as President and six Nicaraguans.

I shall communicate further with the Department on the subject of courts martial as soon as President Moncada informs me of the results of his meeting with the Supreme Court.

I have [etc.]

WILLARD L. BEAULAC

[Enclosure]

*The Jefe Director of the Guardia Nacional (McDougal) to the
American Chargé (Beaulac)*

MANAGUA, January 18, 1930.

MEMORANDUM

Prior to the declaration of martial law by the President, 9 April, 1929, and 7 October, 1929, no bandits had been tried by any courts except court martials convened by chiefs of *Voluntarios* of which no reports have been received by the Guardia; but as a matter of common knowledge these courts tried and sentenced prisoners captured in the field and others who were apprehended on information. The one case I have cognizance of is the case of Jiron, who was tried by Escamilla and three or four of his colonels, all of whom being Mexican and one Costa Rican. Jiron was tried and sentenced to death and executed by this court without reference to higher authority.

The Government appointed two *Fiscals de Guerra*, one who was sent to Ocotal and the other to the Jinotega area, it being the intention of the Government to send a commission of civilians to try cases prepared by these *Fiscals*, presumably under the military code or customs of the country of previous times. I have no information of the activities of the *Fiscal* in Jinotega, but the *Fiscal* who went to Ocotal became very active in preparing different lists of Conservatives, who he listed as bandit suspects, and also lists of Guardia who had been formerly

⁴⁹ Not printed.

Conservatives and whom he wished to classify as ex-bandits. He took little interest in the bandit prisoners being held by Guardia and Marines for trial, beyond ascertaining which political party they belonged to. Requests were made to the President to send up the commission of civilians to clear up these cases, and to handle cases that would occur from time to time in the future, but no commission was ever appointed for either place. I was informed that the difficulty was in finding reputable persons who were willing to go up into the bandit areas to serve on these courts, and finally the *Fiscals* were recalled and were discharged.

Upon the discontinuance of the *Voluntarios* there ceased to be any military tribunal before which bandits could be brought to trial in the Segovias. In Matagalpa, which borders the bandit country, a number of cases were put to the order of the court in that place, and all were either placed on bond or were released summarily. Several notorious criminals were thus set at large, and protests by the Jefe Politico and other civilians were made to the President with representations that the courts were in sympathy with the bandits, and that no further cases should be sent to these courts. On verbal instructions of the President all cases of a bandit nature occurring in that locality have been held waiting the formation of some tribunal which could dispose of them. I have repeatedly urged that a Military Commission formed of civilians be created by the President, under such laws as authorized him so to do, to clear up these cases; but nothing has been done due I believe to the fact that no one could be found who was willing to serve, and thereby incur the enmity and the risk of retaliation which seems to be well founded.

We have the names of a great many of the known bandits and many could be located, but without means of bringing them to trial prestige would be lost by catching them and then having to release them for lack of machinery for handling the cases.

We are facing a situation which exists in the present, which must be met in some way shortly if banditry is to be kept from increasing. At present Martial Law where it exists is in name only. Its only effect is to prevent captured bandits from being released by the courts immediately after capture.

The following courts are in the areas where Martial Law has been proclaimed:

- (a) District Criminal Courts, Matagalpa, Esteli, Ciudad de Dario, Jinotega, Ocotal, Somoto, Juigalpa, Boaco and Acoyapa.
- (b) Court of Appeals, Matagalpa.

D. C. McDUGAL

817.1051/350 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, January 29, 1930—4 p. m.

10. Department's 5, January 17, 5 p. m. The President has received several telegrams of protest which indicate that Sergeant Larios was condemned to death. Please telegraph full information at once.

If death sentence has been passed, please say to President Moncada that the Department understands that the death sentence imposed by the ordinary courts has not customarily been carried out in Nicaragua and that it feels it to be unwise for it to be done now by the Guardia Nacional. In view of the situation here any such action would make it very much more difficult for Department to maintain marines in Nicaragua. The Department therefore requests as an act of grace on President Moncada's part that he commute any death sentence.

Should President Moncada not accede to this request you will please tell the Commandant of the Guardia that no marines shall have anything to do with the carrying out of the sentence, shall not be part of the firing squad, nor be present at the execution in any capacity whatsoever. Rush reply.

COTTON

817.1051/378

The Chargé in Nicaragua (Beaulac) to the Secretary of State

No. 1328

MANAGUA, February 18, 1930.

[Received February 24.]

SIR: I have the honor to refer to the Department's telegram No. 4 of January 16, 1930, and to the Legation's despatch No. 1290 of January 21, 1930, with reference to a possible improvement in the condition of the Nicaraguan Judiciary which would result in the establishment of civil courts adequate to handle cases involving banditry.

During my conversation with President Moncada reported in my despatch above referred to, the latter requested me to draft a memorandum which he could present to the Supreme Court embodying the substance of the Department's telegram No. 4. I prepared and handed to him a memorandum of which a copy is enclosed.

On February 8, 1930, President Moncada's private secretary sent me a copy of a letter addressed to him by the Secretary of the Supreme Court in reply to my memorandum and to a letter addressed to the President by General McDougal concerning an entirely different matter. A copy of the letter of the Secretary of the Supreme Court dated February 7, 1930, together with a translation of that portion

of it dealing with the Legation's memorandum are transmitted herewith.⁵⁰

After studying the letter of the Secretary of the Supreme Court I became convinced that there had been a fundamental misunderstanding of what was desired by the Department of State, inasmuch as in Paragraph 2 of the letter the following appears:

"The Supreme Court of Justice understands that that program embodies the following points: (a) the faculty that American officials may exercise the function of judges within the military jurisdiction to which they are assigned; that they should take cognizance of and decide cases involving civilians who commit offenses against the military, in order that the Guardia Nacional may carry out more efficiently the high purposes for which it was instituted . . . [""]

The President of the Supreme Court, Dr. Carlos Morales, called at the Legation at my request and after having called his attention to the clause quoted above I reminded him that far from interpreting correctly the program that the Department of State had suggested, it was directly opposed to the Department's desires as expressed in the first sentence of my memorandum which states "the Department of State cannot approve of the trial of Nicaraguan civilians by members of the Guardia so long as this institution is directed by American officers".

Dr. Morales said that the Supreme Court had apparently fallen into an error in interpreting the Legation's memorandum. He said that this could be explained by the circumstance that the Court had in mind not only the Legation's memorandum but the Articles for the Government of the Guardia Nacional de Nicaragua, which do provide for Guardia courts with jurisdiction over civilians. I reminded him that I had made no mention of the Articles for the Government of the Guardia in my memorandum and that the point that the Department had brought up specifically was that Nicaraguan civilians should not be judged by Guardia courts but by Nicaraguan civil courts.

He said that this circumstance placed a new light on the matter and that he would have another memorandum prepared in the light of the Department's desires as I had pointed out to him.

He stated, however, that the Supreme Court was still in a very difficult position because the Department's wishes as outlined in my memorandum were directly contrary to the Articles for the Government of the Guardia which provided specifically for the Guardia courts to which the Department objected. He said it was very difficult for the Supreme Court to reconcile divergent points of view and still remain within the law.

⁵⁰ Not printed.

With respect to the establishment of civilian courts to handle cases of banditry in Departments where martial law has been declared, he said that an attempt had been made to utilize the ordinary courts in this connection but it had resulted in failure, not on account of the unwillingness of the Judges to cooperate, but because under the law those Judges had to abide by the ordinary rules of evidence, etc., which were usually lacking in cases of bandits taken in the field and even in the cases where such evidence was obtainable the long delay in terminating cases in strict accordance with the law was prejudicial to the interests of the Government.

He stated that in his private opinion the solution of the problem would be a total reform of the Constitution. He said there were many other provisions of the Constitution unsuited to present day conditions in Nicaragua and that he had for a long time favored the adoption of an entirely new Constitution. He said that this was feasible inasmuch as the Conservative Government two years ago had taken the initial steps to replace the present Constitution with a new one and the present Legislature could complete the total reform of the Constitution during the present session. I have not had the opportunity to verify the circumstances alleged by Dr. Morales but I presume that his information is accurate.

Since Congress has adjourned for fifteen days there is no possibility of immediate action to reform the Constitution even though the Executive Power should agree with the recommendation made by Dr. Morales to the Legation. This recommendation of course was entirely personal. I should appreciate having the benefit of any views which the Department may wish to express on the subject.

I have [etc.]

WILLARD L. BEAULAC

[Enclosure]

*The American Chargé (Beaulac) to the President of Nicaragua
(Moncada)*

MEMORANDUM

The Department of State cannot approve of the trial of Nicaraguan civilians by members of the Guardia so long as this institution is directed by American officers. The purpose for which the Guardia has been established is the maintenance of public order and save in the case of military offenses, it should not be called upon to prescribe the penalties of the law even though the ordinary courts fail to function properly. If the Nicaraguan courts are ineffective, it is obviously preferable that measures should be taken to bring about a strengthening of this branch of the Government than that it be further weakened by the transference of its duties. The responsibility

for the maintenance of order, so far as the punishment of offenders is concerned, rests squarely upon the Nicaraguan judiciary.

In the establishment of proper courts for handling bandit cases it is assumed that the Supreme Court would be willing to assist the Executive in so far as appointments are concerned and that the Nicaraguan Congress could pass new legislation if any were needed. It is believed that there exists no insuperable obstacle to action by the Nicaraguan Government which would result in the establishment of civil courts with sufficient authority and sufficient courage to deal with this situation.

MANAGUA, January 18, 1930.

817.1051/378

The Acting Secretary of State to the Chargé in Nicaragua (Beaulac)

No. 638

WASHINGTON, March 11, 1930.

SIR: The Department has received your despatch No. 1328, dated February 18, 1930, reporting the results of the representations made by you before the appropriate officials of the Nicaraguan Government with respect to the apparent inadequacy of the Nicaraguan courts to administer the law and the adoption of measures to overcome that inadequacy.

The Department approves your action in submitting to the President of Nicaragua the memorandum on this subject dated January 18, 1930, a copy of which was enclosed with your despatch, and your subsequent statement with respect to it during your conversations with the President of the Supreme Court. In this connection, however, you are advised that the revision of the constitution of Nicaragua with a view to the strengthening of the judiciary is a matter with respect to which the Legation is directed to make no suggestions or comment excepting under specific instructions from the Department.

I have [etc.]

For the Acting Secretary of State:

FRANCIS WHITE

817.00 Bandit Activities, 1931/237 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, September 17, 1931—2 p. m.

175. American Consul, Bluefields, telegraphed September 11⁵¹ he has informed you of reported death sentences imposed on two bandits following court martial by Guardia. See Department's January 16, 1930, 6 p. m., January 17, 1930, 5 p. m. and January 29, 4 p. m., and

⁵¹ Telegram not printed.

endeavor to see to it that death sentences if imposed are not carried out.

Advise what action subsequent to Legation's No. 1328, February 18, 1930, has been taken by Nicaraguan Government to establish civil courts adequate to deal with cases involving banditry.

STIMSON

817.00 Bandit Activities, 1931/239 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, September 18, 1931—3 p. m.

[Received 8 p. m.]

167. Department's 175, September 17, 2 p. m. The Acting Jefe Director of the Guardia has assured me that in the event death sentences have been imposed as reported to the Department they will not be carried out. Such sentences would have to be confirmed by him and by the President of Nicaragua.

The Legation has no copy of its 1328 of February 18, 1930⁵² but so far as I am able to ascertain there are still no civil courts adequate to deal with cases involving banditry.

BEAULAC

817.00 Bandit Activities, 1931/241 : Telegram

The Chargé in Nicaragua (Beaulac) to the Secretary of State

MANAGUA, September 21, 1931—4 p. m.

[Received 8:33 p. m.]

173. My 167, September 18, 3 p. m. The Acting Jefe Director of the Guardia has informed me that no death sentences were applied in the case of the rioters at Rama. I have discussed with him the Department's attitude concerning the trial of civilians and Guardia courts martial and he will take measures to see that such trials are not held in the future.

BEAULAC

817.00 Bandit Activities, 1931/244 : Telegram

The Secretary of State to the Chargé in Nicaragua (Beaulac)

WASHINGTON, September 22, 1931—1 p. m.

179. Your 167, September 18, 3 p. m. American Consul, Bluefields, states that court martials before Guardia have been conducted with the approval of superiors in Managua to local Commander. There-

⁵² Presumably because of the destruction of the archives in the earthquake at Managua; see pp. 780 ff.

fore, you will state to appropriate authorities that as the Department informed Nicaraguan Government in 1930, it cannot approve trial of Nicaraguan civilians by Guardia so long as this institution is directed by American officers. Department's position was endorsed at that time by Major General Commandant of Marine Corps who so advised Brigade Commander in Nicaragua.

Department is sending you copy of Legation's despatch 1328, February 18, 1930.

STIMSON

817.00 Bandit Activities, 1931/246

The Chargé in Nicaragua (Beaulac) to the Secretary of State

No. 511

MANAGUA, September 24, 1931.

[Received October 1.]

SIR: In reply to the Department's telegram number 179 of September 22, 1931, directing me to state to the appropriate authorities that, as the Department informed the Nicaraguan Government in 1930, it cannot approve the trial of Nicaraguan civilians by the Guardia so long as that institution is directed by American officers, I have the honor to state that as I reported in my telegram Number 173 of September 21, 1931, I made representations in that sense to the Acting Jefe Director of the Guardia who assured me at that time that he would take measures to insure that such trials would not be held in the future.

I have not at this time made any representations to the Nicaraguan Government in the matter nor do I believe it necessary for me to do so if the Department's present object is merely to insure that courts martial of civilians by the Guardia will not be carried out in the future.

In connection with any representations which I may be instructed to make to this Government concerning the establishment of civil courts competent to deal with cases of banditry, I believe it well to recall the history of the strong representations in a like sense which I made to this Government early last year. Following my representations the Supreme Court met with the President to consider ways and means of cooperating, and then the subject became confused with a project for partial reform of the Constitution, to which the Department was opposed on account of the inclusion, among other reforms, of a project to extend the Presidential period.⁵³ The reform of the Constitution was not carried out, and, as far as I can ascertain without actually reopening the subject with this Government, no actual steps have been taken to provide civil courts adequate to try cases of banditry in Departments where martial law exists. In other words

⁵³ See *Foreign Relations*, 1930, vol. III, pp. 695 ff.

my understanding is that my representations last year brought no improvement in the situation under discussion.

As Minister Hanna doubtless has already informed the Department, President Moncada is again considering a project to reform the Constitution by providing, among other things, for the "legalization" of the present situation under which American officers serve in the Guardia Nacional, and for an extension of the Presidential term.

Since the principal legal reason advanced in the past for the inability of the established civil courts to deal with cases of banditry in Departments under martial law has been one of constitutionality, I anticipate that the reopening of this subject at the present time would result in its being merged with a number of other projected reforms of the Constitution, some of which might appear desirable and some not, and furthermore might actually be used, as was the case last year, to give impetus and an appearance of sanction to the projected reforms to the Constitution.

If the Department desires me to reopen this subject with the Nicaraguan Government I will gladly do so, but in that case I would suggest that I be provided with a copy of the complete record up to date, since the Legation's record is far from complete. Before giving me such specific instructions, however, I also suggest that the Department consider the matter carefully in connection with the reported project to reform the Constitution, and that it bear in mind that in the absence of factors of which I am not aware there is little reason to hope that representations at this time will be any more effective than those made last year.

Respectfully yours,

WILLARD L. BEAULAC

817.00 Bandit Activities/250

The Secretary of State to the Chargé in Nicaragua (Beaulac)

No. 245

WASHINGTON, October 12, 1931.

SIR: The Department has received your despatch No. 511, of September 24, 1931, with regard to the matter of the trial of Nicaraguan civilians by the Guardia.

Inasmuch as you state that you have received assurances from the Acting Jefe Director of the Guardia, that he would take measures to insure that such trials will not be held so long as the Guardia is directed by American officers, the Department shares your view that it will be unnecessary to make any present representations regarding the matter to the Nicaraguan Government. It is noted that you were advised in connection with representations made to the Nicara-

guan Government in 1930, that the matter could only be dealt with by an amendment to the constitution and that you are of the opinion that the reopening of the subject at this time might result in its being merged with a number of other constitutional changes some of which might be undesirable.

Very truly yours,

For the Secretary of State:
HARVEY H. BUNDY

APPOINTMENT OF MAJOR CHARLES F. B. PRICE, U.S.M.C., TO OBSERVE
MUNICIPAL ELECTIONS IN NICARAGUA *

817.00 Johnson Electoral Mission/184

The Secretary of State to the Minister in Nicaragua (Hanna)

No. 135

WASHINGTON, March 7, 1931.

SIR: You are informed that Captain Alfred Wilkinson Johnson having fully complied with the instructions issued to him as Personal Representative of the President of the United States in Nicaragua and as Chairman of the American Electoral Mission to that country, has been relieved from active duty in connection with that Mission and has resumed his regular naval duties. Captain Johnson has not, however, relinquished his office as Chairman of the American Electoral Mission or, consequently, as President of the Nicaraguan Board of Elections.

It is deemed by the Department to be highly desirable that the present structure of the National Board of Elections shall be retained in so far as may be practicable, and that an American member continue to serve thereon during the greater part of the period which will intervene until the presidential elections of 1932 shall have been held. In view, therefore, of the absence of Captain Johnson he will be represented on the Board by his alternate. That official, Commander Andrew S. Hickey, however, has been compelled, by virtue of the pressure of his naval duties, to resign as Vice Chairman of the National Board of Elections, in consequence of which Captain Johnson has nominated as his successor Major Charles F. B. Price, United States Marine Corps.

Captain Johnson will forward to your Legation, for delivery to President Moncada, notice of the resignation of Commander Hickey and of his nomination of Major Price. When you shall have received and delivered to President Moncada the communication from Captain Johnson containing notice of the resignation of Commander Hickey

* For previous correspondence regarding elections in Nicaragua, see *Foreign Relations*, 1930, vol. III, pp. 636 ff.

and the nomination of Major Price you are directed then to communicate the substance of this instruction to President Moncada, and, pursuant to the provisions of Article 16 (c) of the Electoral Law of Nicaragua as modified by the Executive Decree of July 26, 1930, to request him to appoint Major Price as alternate to the Chairman of the National Board of Elections, and to cause such further steps to be taken as may be requisite to the assumption of his duties by Major Price.

You are, furthermore, directed to call to the attention of President Moncada the note, No. 64, dated February 12, 1929,⁵⁵ addressed to Mr. Eberhardt by the Minister for Foreign Affairs, requesting the designation of an American citizen to preside over the National Board of Elections, wherein it was stated that a salary of \$8,000 a year would be paid to that person. It is contemplated that Major Price will proceed to Nicaragua during the month of July, 1931, and that he will remain there until the municipal elections of the following October shall have been held, returning thereafter to the United States. Subsequently he will again return to Nicaragua prior to the 1932 presidential elections, should any questions requiring his presence be submitted during that period to the National Board of Elections. You will request that Major Price shall be paid during such time as he may actually be on duty in Nicaragua a salary at the rate of \$8,000 per annum. His expenses while traveling to and from Nicaragua will be paid by the Government of the United States, and his salary paid by the Nicaraguan Government will of course cease at such times as he may be absent from Nicaragua. His salary will be his only expense to the Nicaraguan Government. Any traveling expenses in the Republic of Nicaragua and any other incidental expenses will be paid by Major Price out of his salary.

Very truly yours,

HENRY L. STIMSON

817.00 Johnson Electoral Mission/195: Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, May 11, 1931—6 p. m.

115. Has President Moncada designated Major Price yet as *suplente* to the Chairman of the Electoral Commission? He must make his definite plans very shortly and desires to know what to expect in this connection.

STIMSON

⁵⁵ *Foreign Relations*, 1929, vol. III, p. 647.

817.00 Johnson Electoral Mission/196 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 12, 1931—3 p. m.

[Received 6:40 p. m.]

74. Your 115, May 11, 6 p. m. I have been awaiting a favorable opportunity to take up with President Moncada the designation of Major Price. It is very embarrassing to propose the contemplated arrangement because of the salary which this Government will be expected to pay Major Price. The amount is small by our standards but this Government will consider it a real drain on its revenues at this time. Many of its high officials are receiving practically no salary at present. I hope the Department of State or the Navy Department can give Major Price an appropriate allowance for this tour of duty only. This would be appreciated by this Government and would help me materially in my representations.

HANNA

817.00 Johnson Electoral Mission/197 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 26, 1931—11 a. m.

[Received 2:05 p. m.]

87. I am awaiting a reply to my 74, May 22 [12], 3 p. m., before taking up with President Moncada the designation of Major Price. I have just learned that President Moncada is considering the appointment of Dr. Aguado, the Vice President, as chairman of the National Board of Elections and Dr. Aguado has expressed a desire to consult me in this matter. Please instruct.

HANNA

817.00 Johnson Electoral Mission/201 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, May 27, 1931—1 p. m.

125. Your 74, May 12, 3 p. m.

1. The Department deems it to be important that President Moncada make effective at an early date the appointment of Major Charles F. B. Price as Vice Chairman of the National Board of Elections. You are requested therefore to comply with the Department's instruction No. 135⁵⁶ in so far as his appointment is concerned.

2. The Department is cognizant of the extreme difficulty of the financial problems with which the Nicaraguan Government is confronted

⁵⁶ Dated March 7, p. 873.

and does not desire to add to them through the appointment of Major Price. Accordingly it will defray the expenses which will be incurred by Major Price while on his mission in Nicaragua from funds now at its disposal.

3. Nevertheless this action by the Department is not to be construed as establishing a precedent with respect to the 1932 elections, during which it is expected that the Nicaraguan Government itself will defray salary and other costs as in the case of the 1928 and 1930 elections.

4. When formally arranging for Major Price's appointment in compliance with paragraph 1, you may informally and orally apprise the Nicaraguan Government of the substance of paragraphs 2 and 3 above.

5. Please report.

STIMSON

817.00 Johnson Electoral Mission/200 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, May 27, 1931—3 p. m.

126. Your 87, May 26, 11 a. m. A separate telegram is being sent to you concerning the appointment of Major Price.⁵⁷

With respect to the rumored appointment of Dr. Aguado as Chairman of the National Board of Elections, the Department does not understand how this could be effected inasmuch as Captain Johnson continues to hold that position. See the Department's instruction No. 135, dated March 7, 1931.

By the appointment of Major Price as Vice Chairman of the National Board of Elections he will preside over that Board in the absence of Captain Johnson thus completing its organization.

STIMSON

817.00 Johnson Electoral Mission/203 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, May 29, 1931—3 p. m.

[Received 5:45 p. m.]

91. Your May 27, 1 p. m. I have discussed the matter of Major Price's appointment with President Moncada. A majority of the members of the Supreme Court were present by President Moncada's request. They expressed the opinion that the plan proposed by the Department would be illegal for the following reasons.

Executive decree number 102 of July 26, 1930, making changes in the electoral law of 1923 specifies in its article 3 that those changes

⁵⁷ *Supra.*

shall have force only when an American citizen designated by the President of the United States and appointed by the Supreme Court of Justice of Nicaragua is President of the National Board of Elections and "during elections for supreme authorities". The changes consequently are not in force for the municipal elections this year and the electoral law of 1923 will govern the municipal elections this year. The electoral law of 1923 makes no provision for the appointment of an alternate to the chairman of the National Board of Elections. President Moncada and the four members of the Supreme Court present were of the opinion that the purposes the Department has in view may be accomplished in one of the following ways:

1. The executive might submit to the Nicaraguan Congress now in session a bill modifying the existing legal situation so as to legalize the appointment of Major Price as alternate with the right to succeed to the chairmanship of the National Board of Elections in the absence of Captain Johnson. This bill might or might not provide also that the electoral law as modified by the executive decree of July 26th, 1930, would be applicable during the municipal elections this year. This plan was deemed objectionable by those present because of the discussion it would provoke in Congress and the probability that the bill would not be approved.

2. The executive might delay action until the Congress adjourned and then make the necessary changes in the law by executive decree under the authority conferred upon him by article 111, paragraph 2 and 33, of the Constitution. This procedure might involve considerable delay because Congress may take a recess and prolong its ordinary session indefinitely.

3. If Captain Johnson will resign as President of the National Board of Elections the Supreme Court may appoint Major Price to the position under the provisions of the electoral law of 1923. The law does not, in the opinion of the members of the Supreme Court present at the conference, preclude the appointment of an American to that position. This plan seemed to be the least objectionable to those present.

President Moncada authorized me to present the foregoing for your consideration and advice. I noted no disposition on the part of those present to oppose the general purpose of the Department's plan. On the contrary they seemed to be making a serious effort to find a legal way to put the plan into effect.

The following procedure occurred to me but did not propose it. Captain Johnson might resign as President of the National Board of Elections and this Government might then fill the vacancy by the appointment of a Nicaraguan in accordance with the electoral law of 1923. Major Price could then be designated as an observer after an exchange of notes with this Government which would insure his being so recognized by this Government and being given ample facilities to enable him to accomplish his mission. I perceive strong objections to

Major Price acting as President of the National Board of Elections under the electoral law of 1923. He would have great responsibility without adequate powers and his position consequently would be extremely difficult. His presence would be considered as constituting American supervision, especially by the opposition party, and this probably would give rise to serious complaints, unjust conclusions and misjudging of our true purpose. If he were here as an observer only he could fairly well accomplish the main purpose we have in mind and could avoid all responsibility in connection with the elections but his presence nevertheless would exercise a moral effect. There would be little or no ground for a claim that the elections were being supervised. I prefer this plan.

HANNA

817.00 Johnson Electoral Mission/204 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, June 3, 1931—2 p. m.

129. Legation's 91, May 29, 3 p. m. Please report by telegraph whether the National Board of Elections of Nicaragua normally functions in connection with municipal elections and has jurisdiction over same. If so, explain fully to what extent and cite appropriate laws.

STIMSON

817.00 Johnson Electoral Mission/205 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 5, 1931—11 a. m.

[Received 6:46 p. m.]

98. Department's 129, June 3. The following opinion was given to me by Vice President Aguado, formerly a member of the National Board of Elections: The National Board of Elections does normally function in connection with municipal elections.

The electoral law of 1923 differs materially in spirit and detail from the McCoy law and the law as amended July 26, 1930, in that the first mentioned law provides a decentralized organization in the case of municipal elections.

Under the law of 1923 however the National Board of Elections has limited jurisdiction over municipal elections arising out of (1) its power as the recognized agency for the execution of the electoral law, and (2) its power to name presidents of departmental board and fill vacancies in that office and to fill vacancies in the office of political

member of such boards (articles 22 and 23 electoral law) and through the power of the departmental board to name the presidents of the *directorios electorales* and fill vacancies in the office of political members (articles 26, 27 and 28 electoral law), the *directorios electorales* being charged with the function of keeping the electoral registers.

Exception of the power to name presidents of the departmental boards and fill vacancies in that office, and to fill vacancies in the office of political member of such boards, duties and powers of the national boards of elections with reference to municipal elections are not clearly or definitely established in the law of 1923 but arise in general indirectly from the spirit of that law.

A fundamental difference between elections of supreme authorities and municipal elections under the law of 1923 is that in the former case election returns are counted by the National Board of Elections, while in the latter case they are counted by the Alcaldes from whose decision appeal can be made only to the Supreme Court (article 108 electoral law).

HANNA

817.00 Johnson Electoral Mission/207 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, June 11, 1931—5 p. m.

135. Legation's 91, May 29, 3 p. m., and 98, June 5, 11 a. m. In view of the clear intent of Decree No. 102 of July 26, 1930, as expressed in Article 3, that the changes and suspensions of the provisions of the Electoral Law promulgated March 20, 1923, should be effective only with respect to the elections for supreme authorities, it obviously is not practicable to proceed further at this time with the proposed appointment of Major Price to the National Board of Elections under Article 16 thereof.

You may so inform the appropriate authorities, stating that while American supervision of the municipal election is not contemplated it is considered desirable that Major Price should be present in Nicaragua prior to and during those elections to observe them and report thereon. Such action would be in conformity with the request of the Nicaraguan Government as conveyed to the Legation in the note of February 12, 1929, and would likewise, in view of the important bearing of the municipal elections on the forthcoming presidential elections, constitute a preliminary step in the plans for their supervision.

You may state furthermore, in compliance with paragraph 2 of the Department's telegram No. 125 of May 27, 1 p. m., that the expenses

which will be incurred by Major Price during his mission in Nicaragua will be defrayed by this Government.

The Department considers it desirable for you to convey the substance of the foregoing to the Nicaraguan Government in the form of a written communication and to obtain from the Government of Nicaragua a written response thereto acquiescing in the assignment of Major Price to the duties contemplated. In this connection you may mention that it is the intention of the Department to have Major Price proceed to Nicaragua in the month of July. He will be accompanied by Lieutenant Floyd A. Stephenson as assistant.

Upon being informed by you of the formal acquiescence of the Government of Nicaragua in the assignment of Major Price to this duty the Department will issue to the press the "Statement of Policy with respect to the Elections in Nicaragua between now and November, 1932" a copy of which was transmitted to you with the Department's air mail instruction No. 132 [134] of March 7, 1931.⁵⁸ You may make the statement public in Nicaragua at the same time. The first full paragraph on page 2 should be omitted. The third and fourth sentences of the next paragraph on that page should be deleted and the following sentences substituted: "It is nevertheless desirable that an American electoral official should be present in Nicaragua at this time. Captain Johnson has gone to sea and is unable to return to Nicaragua, in view of which the Department has designated Major Charles F. B. Price, United States Marine Corps, as electoral observer."

STIMSON

817.00 Johnson Electoral Mission/208 : Telegram

The Minister in Nicaragua (Hanna) to the Secretary of State

MANAGUA, June 12, 1931—5 p. m.

[Received 6:11 p. m.]

105. Department's June 11, 5 p. m., and last paragraph of my 91, May 29, 3 p. m. May I advise this Government at the same time that Captain Johnson will resign the position of President of the National Board of Elections and thus enable this Government to complete the organization of the board? I suggest that the reply be submitted by cable as this Government is anxious to have the board resume its duties as early as possible.

HANNA

⁵⁸ Instruction not printed; for statement of policy, see Department of State, *Press Releases*, July 11, 1931 (Publication No. 211), p. 51.

817.00 Johnson Electoral Mission/211 : Telegram

The Secretary of State to the Minister in Nicaragua (Hanna)

WASHINGTON, June 15, 1931—2 p. m.

139. Legation's 105, June 12, 5 p. m.

1. Inasmuch as Major Price will serve only as an observer of the municipal elections and will have no official connection whatsoever with the Nicaraguan National Board of Elections, the Department deems it to be preferable that his appointment and questions regarding the membership of that Board be kept separate. For this reason you are requested, provided you perceive no objection to such a course, to carry out the procedure set forth in the Department's telegram No. 135, June 11, 5 p. m.

2. In a separate communication you may inform the Nicaraguan Government that if it so desires the Department will promptly request Captain Johnson to resign as Chairman of the Nicaraguan Board of Elections to the end that a Nicaraguan citizen may be appointed in his stead.

3. Supervision of the 1932 Presidential elections, however, will necessitate the presence of an American as Chairman of the Nicaraguan National Board of Elections, as well as the amendment, alteration, and partial suspension of the Electoral Law of March 20, 1923 (experience having demonstrated the insufficiency of the measures effected by the Decree of July 26, 1930). Assurances, therefore, from the Nicaraguan Government that these requirements will be met in ample time prior to the 1932 elections should be obtained at this time. You may point out that a similar arrangement was made effective prior to the appointment of Captain Johnson, at which time the Nicaraguan Chairman who followed General McCoy resigned in his favor.

STIMSON

817.00 Johnson Electoral Mission/213

The Minister in Nicaragua (Hanna) to the Secretary of State

No. 405

MANAGUA, June 20, 1931.

[Received June 25.]

SIR: With reference to the Department's telegram No. 139 of June 15, 1931, and previous correspondence on the subject of municipal elections to be held in Nicaragua this year, and concerning certain preliminaries to American supervision of the presidential elections of next year, I have the honor to transmit herewith copies and translations of correspondence exchanged between President Moncada and me on that subject.

In compliance with the Department's instruction No. 135 of March 7, 1931, and following the receipt of the Department's telegram No. 125 of May 27, 1931, I addressed a letter to President Moncada on May 27, 1931, a copy of which is enclosed,⁶⁰ informing him of the resignation as Vice Chairman of the National Board of Elections of Commander Andrew S. Hickey, U.S.N., and requesting the designation of Major Charles F. B. Price, U.S.M.C., in his stead. A copy and translation of President Moncada's acknowledgement, dated June 1, 1931, are likewise enclosed.⁶⁰

During the interim between the dates of the two letters I had discussed the matter of elections with President Moncada and a majority of the members of the Supreme Court, with the results expressed in my telegram No. 91 of May 29, 1931.

Following the receipt of the Department's telegrams No. 135 of June 11, 1931, and No. 139 of June 15, 1931, I addressed to President Moncada on June 16, 1931, two letters, copies of which are enclosed,⁶¹ the first expressing the opinion of the Government of the United States that Major Price should be present in Nicaragua prior to and during the municipal elections of 1931, to observe them and report on them, and the second expressing the willingness of the Department of State to request the resignation of Captain Johnson as Chairman of the National Board of Elections, and requesting assurances from the Government of Nicaragua that certain measures, including necessary changes, reforms, etc., to the Electoral Law of March 23, 1923, and the resignation of the Nicaraguan President of the National Board of Elections in favor of the American to be designated to supervise the Presidential Elections of 1932 be effected in ample time prior to those elections.

I have just received President Moncada's reply, dated June 18, 1931, to my two letters of June 16, in which he accepts the Department's proposal to send Major Price to Nicaragua to observe the municipal elections of 1931, and expresses the belief that Captain Johnson's resignation as President of the National Board of Elections is desirable. A copy and translation of the letter are enclosed.

The President's letter, while acceptable in the sense that it expresses agreement with certain of the Department's suggestions, is in other respects not so satisfactory, in that it contains inaccuracies and statements capable of misinterpretation. For example, in the first paragraph of his letter President Moncada refers to a desire alleged to have been expressed in my first letter of June 16 that Major Price be appointed President of the National Board of Elections. The De-

⁶⁰ Not printed.

⁶¹ Neither printed.

partment will note that in my acknowledgment of the President's letter, enclosed herewith, I corrected this inaccuracy.

In his third paragraph President Moncada states that the Department of State, prior to the Presidential Election last year, "thought of extending the activities of the National Board of Elections, especially in municipal changes in the Department of Chontales". It is my recollection that the Department at that time expressed its willingness that the National Board of Elections under the Presidency of Captain Johnson should supervise municipal elections in that Department if the Nicaraguan Government so desired, but that it was a matter for that Government's decision.

In his fifth paragraph President Moncada appears to be of the impression that Major Price's appointment as President of the National Board of Elections is still being requested, whereas my letter of June 16, to which the President's letter refers, in its first paragraph states that "it obviously is not practicable to proceed further at this time with the proposed appointment of Major Charles F. B. Price, U.S.M.C., to the National Board of Elections under Article XVI of that decree".

In the eighth paragraph of the President's letter he refers to the wish of the Department of State that he make a new statement regarding the necessity of an American President of the National Board of Elections during the next Presidential election. I expressed no such wish in either of my letters to which he refers. In my second letter of June 16, 1931, I expressed the Department's wish, set forth in its telegram No. 139 of June 15, 1931, for assurances that certain preliminaries to the supervision of the Presidential elections of 1931, including the resignation of the Nicaraguan President of the Board in favor of the American to be named, be effected in ample time prior to the elections. It was doubtless this statement which the President had in mind.

While it would appear that the misstatements and inaccuracies in the President's letter should be cleared for the sake of the record, I shall make no attempt to do this on my own initiative, since the destruction of the Legation's archives has made it impossible to make concise references to documents which the Legation formerly possessed. It is believed, however, that the Department has in its possession material with which to clear the record if it considers this step desirable.

From the general tone of President Moncada's letter, and especially from the contents of the last paragraph, in which he refers to the acquiescence of Congress and the Judicial Power as part of the support for the suspension of the fundamental laws of the Republic, I have gained the impression that the President may be preparing legal

grounds on which the Nicaraguan Government may object to possible changes in the Electoral Law prior to the 1932 elections. It will be remembered in this connection that the amendment covering the election of 1930 was made by executive decree, without reference to Congress, and was not officially submitted to the Supreme Court. The Department will likewise note, in this connection, that the President in his letter does not give the assurance requested by the Department that the necessary changes, alterations, etc., in the Electoral Law of 1923 will be made in ample time prior to the elections of 1932.

With reference to the fourth paragraph of the Department's telegram No. 135 of June 11, 1931, instructing me to make certain changes in the text of the "Statement of Policy with respect to the Elections in Nicaragua between now and November, 1932", I wish to state that it is my intention to delay releasing that statement until informed by the Department of the date on which it will make it public in the United States. I would therefore appreciate receiving telegraphic advice of that date.

Respectfully yours,

MATTHEW E. HANNA

[Enclosure 1—Translation]

*The President of Nicaragua (Moncada) to the American Minister
(Hanna)*

MANAGUA, June 18, 1931.

EXCELLENCY: I have read with close attention Your Excellency's letter of June 16, 1931, with reference to the National Board of Elections and the desire to name Major F. B. Price, United States Marine Corps, as President of that Board.

Notwithstanding the good will of my Government to comply with the desire of the Department of State to achieve free elections in Nicaragua, not only with respect to Supreme Authorities, but also with reference to Municipal Authorities, an obstacle has been encountered in the Constitution and the laws of Nicaragua.

During the elections for Senators and Deputies last year, under the Presidency of the National Board, filled by an American delegate, Captain Johnson, the Department of State thought of extending the activities of the National Board of Elections, especially in municipal changes in the Department of Chontales. But the Organic Law of Municipalities, the Dodds Law, and the Political Constitution, itself, of Nicaragua, establish the right of mayors of municipalities to accept nominations and declare them, and to make the final count, and consequently the right of appeal to the Supreme Court for an injunction in case any of the candidates considered himself prejudiced

by the non-compliance with the express laws of the Republic. Since the good will of the American Government has been directed toward the progress of our institutions and the development of the Republic in Central America, the Department of State has been confronted with the obstacle of our Constitution, and it has been necessary, in various ways, to study and meditate concerning the friction between the emergency laws originating in the Tipitapa agreements⁶² and dictated with the advice of General Frank R. McCoy and Captain Johnson, and the Fundamental Law of the Republic, already referred to. This latter has been placed aside with the consent of the two principal parties, the Liberal and the Conservative, that is, with the concensus of the well established majority of the Nicaragua people, which, under the Republican form of Government definitely solves these problems.

But it is one thing to obey necessity and another to obey the law. If my Government had consented to the manifest desires of Captain Johnson to hold Municipal elections, the supervision would have lost its prestige; and the Supreme Court of Justice, notwithstanding its good will to cooperate with Captain Johnson, would have been obliged to declare an injunction against all those municipalities elected in contravention to the Fundamental Charter of the Republic, to the Organic Law of Municipalities, and to the Dodds Law.

The same results would follow today the supervision of Major F. B. Price, United States Marines, if he intervened in municipal elections. I am sure that if in the last emergency Captain Johnson did not esteem these reasons pertinent, the Department of State will so consider them now, conceding that my Government is fully justified.

Consequently, I applaud and accept the designation of Major Price as an expert observer in the future municipal elections, which I hope and wish will be absolutely free, with the ready and efficient aid of the National Guard.⁶³

Your Excellency sent with the note referred to another in which you tell me that Captain Johnson can resign if my Government so desires. I believe it is advisable, in order that the Supreme Court may be free to follow the provisions and spirit of the Dodds Law.

With respect to the wish of the Department of State that I make a new statement regarding the necessity of an American President of the National Board of Elections during the next Presidential elections, Your Excellency may assure the Department that is a great pleasure

⁶² i. e., the agreement between Colonel Stimson and General Moncada, confirmed by Colonel Stimson's note to General Moncada, dated at Tipitapa, May 11, 1927, *Foreign Relations*, 1927, vol. III, p. 345.

⁶³ Major Price arrived in Managua on July 23, 1931.

for me, and an imperative duty, to carry out my word already given, which arises from my own convictions.

It is obvious that as in the case of the McCoy and Johnson Laws, this suspension of the Electoral Law of March, 1923, is unconstitutional and that in suspending it we have as support only the acquiescence of the two political parties in which the Republic is divided, of their representatives in Congress, of the good will of the Judicial Power and of the Executive Power—since the emergency laws referred to are not based on our constitution's precepts or the statutes of the Republic.

I have [etc.]

J. M. MONCADA

[Enclosure 2]

*The American Minister (Hanna) to the President of Nicaragua
(Moncada)*

[MANAGUA, June 20, 1931.]

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's reply of June 18, 1931, to my two letters of June 16, 1931, one of which related to the contemplated visit to Nicaragua of Major Charles F. B. Price, United States Marine Corps, in connection with the municipal elections of this year, and the other related to the probable desire of the Nicaraguan Government to name a Nicaraguan citizen Chairman of the National Board of Elections to serve in connection with those municipal elections. I am gratified to note that Your Excellency is pleased to accept the suggestion of the Department of State that Major Price act as an observer of those elections. I also note that Your Excellency accepts the proffer of the Department of State to request Captain A. W. Johnson, United States Navy, to resign as Chairman of the National Board of Elections to the end that a Nicaraguan citizen may be appointed to that position for the approaching municipal elections. I shall lose no time in transmitting a copy of Your Excellency's reply to the Department of State.

The first paragraph of Your Excellency's letter, in which you refer to my letter of June 16 as expressing a desire that Major Price be named President of the National Board of Elections, indicates that there may exist some misunderstanding on that point, and I therefore wish to point out that, in my letter referred to, I did not suggest that Major Price be appointed to that position, but did, in view of certain legal circumstances which Your Excellency had previously mentioned to me, express my Government's desire to send Major Price to Nicaragua as an observer of the coming municipal elections.

I avail myself [etc.]

MATTHEW E. HANNA

817.00 Johnson Electoral Mission/234

The Acting Secretary of State to the Minister in Nicaragua (Hanna)

No. 203

WASHINGTON, July 14, 1931.

SIR: With reference to the Department's telegram of today's date⁶⁴ and previous correspondence with respect to the resignation of Captain Alfred W. Johnson, United States Navy, as President of the National Board of Elections of Nicaragua and also as Chairman of the American Electoral Mission in Nicaragua, there are transmitted to you herewith a copy of a letter addressed to the Secretary of State by Captain Johnson under date of July 8 tendering his resignation, and also a letter of resignation addressed to His Excellency the President of Nicaragua by Captain Johnson.⁶⁵ Please have the letter addressed to President Moncada delivered without delay.

Very truly yours,

For the Acting Secretary of State:

FRANCIS WHITE

817.00 Johnson Electoral Mission/241

The Minister in Nicaragua (Hanna) to the Acting Secretary of State

No. 434

MANAGUA, July 22, 1931.

[Received July 30]

SIR: With reference to the Department's instruction No. 203 of July 14, 1931, I have the honor to state that Captain Johnson's resignation as President of the National Board of Elections of Nicaragua was duly delivered to President Moncada, who in turn delivered it to the Supreme Court. The latter body on July 21, 1931, accepted Captain Johnson's resignation and appointed Doctor Enoc Aguado as President of the National Board of Elections. A copy and translation of the decree of the Supreme Court accepting Captain Johnson's resignation and appointing Doctor Aguado is transmitted herewith.⁶⁴

Respectfully yours,

MATTHEW F. HANNA

⁶⁴ Not printed.⁶⁵ Neither printed.

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 792 ff.)

NORWAY

REFUSAL OF A CONSUL TO RECOGNIZE JURISDICTION OF A NORWEGIAN COURT WITH RESPECT TO THE DELIVERY OF A PASSPORT

702.05/137

The Chargé in Norway (Bevan) to the Secretary of State

No. 92

OSLO, June 2, 1931.

[Received June 15.]

SIR: I have the honor to transmit herewith for the Department's information copies of an exchange of correspondence¹ between the Legation, the Norwegian Foreign Office, and the American Consulate at Stavanger, in regard to a Norwegian court decree ordering the American Consul at Stavanger to withhold the delivery of a passport and other papers belonging to an American citizen by the name of I. S. Rasmussen, pending the settlement of a case concerning an alleged debt.

I called on the Secretary-General of the Foreign Office² in regard to the matter and he advised me off hand that he thought the action of the Consul in refusing to recognize the jurisdiction of the court in the case was proper, but requested a little time to study the case.

At my suggestion he agreed to speak to the judge at Stavanger on the telephone and request him to withdraw the court order addressed to the Consulate, and ask as a courtesy, that Mr. Rasmussen's passport be retained until the case was settled. The judge, however, refused to withdraw the order.

Mr. Esmarch thereupon wrote me an informal note (see enclosure No. 3 with translation), asking me to request the Consul to respect the court order as an act of courtesy, and not bring to an issue the point of international law involved therein. During the interim, the case was settled through Mr. Rasmussen's payment of the debt. The court then cancelled the order sent to the Consulate.

I wrote informally to Mr. Esmarch (see enclosure No. 4) requesting his opinion as to whether the Consul at Stavanger had properly interpreted Article XIII of the Treaty of 1827.³ In reply he stated (see

¹ Not printed.

² August Esmarch.

³ Commercial treaty with Sweden and Norway, signed at Stockholm, July 4, 1827, Miller, *Treaties*, vol. 3, p. 283.

enclosure No. 5) that the point at issue is whether the inviolability of a document could be considered to exclude the competence of the courts from issuing an order to the Consulate calling for the non-delivery of the document.

I would be obliged for the Department's opinion in the premises, as it is probable that similar cases of this kind will arise in the future.

Respectfully yours,

THOMAS H. BEVAN

702.05/137

The Acting Secretary of State to the Minister in Norway (Phillip)

No. 45

WASHINGTON, July 15, 1931.

SIR: The Department has received the Legation's No. 92, of June 2, 1931, with enclosures, in regard to a Norwegian court decree ordering the American Consul at Stavanger to withhold the delivery of a passport and other papers belonging to I. S. Rasmussen, an American citizen, pending the settlement of a case concerning his alleged indebtedness.

The Legation requests an expression of the Department's opinion in relation to the Consul's answer to the court, that he was unable to recognize the jurisdiction of the court in matters pertaining to the issuance and delivery of American passports, in view of the stipulations of article XIII of the Treaty of 1827 between the United States and Sweden and Norway with respect to the inviolability of archives and documents relative to the affairs of consulates.

In reply you are informed that the Department approves the action of the Chargé d'Affaires and that of the Consul. In general it may be stated that the rule has commended itself to universal acceptance that the archives and other official property of the Consulate are inviolable; that is to say, absolutely exempt from seizure or examination by the local authorities. This privilege belongs to the government which the foreign consul represents.

In this particular case the Consul was not before the Court and he was not given an opportunity to be heard. Consequently the Court's resolution, which amounted to an injunction against the Consul, would doubtless have been vacated on appeal.

The inviolability of consular archives should undoubtedly exclude the competence of local courts to control the official actions of consuls in relation to official documents. Otherwise local courts would be in a position of controlling the official acts of consuls and interfering with the exercise of their discretion in performance of their official duties in connection with the handling of official documents.

Very truly yours,

W. R. CASTLE, JR.

PANAMA

REVOLUTION IN PANAMA

819.00 Revolutions/1 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 2, 1931—9 a. m.

[Received 12:15 p. m.]

96. Revolutionists in control of Panama City.¹ For confidential information of Department I conferred with President Arosemena who requested troops. Have refrained from calling troops up to the present time because there would be great bloodshed. Used my unofficial influence to stop violence and save lives of scores of Panaman officials held prisoners including President. After conference with members of Supreme Court that body is leading in effort to find peaceful solution. It is considering possibility of calling fire department which is non-political to patrol city while conferences are held looking to a peaceful solution of problem.

I have conferred with General Brown and Governor Schley.² American troops on boundary line prepared to intervene in case American lives and property are not protected.

DAVIS

819.00 Revolutions/2 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 2, 1931—3 p. m.

[Received 4:08 p. m.]

98. When Supreme Court met early this morning situation improved immediately and revolutionists concentrated at police station and ceased their activities. Firemen under command Colonel Guizado and under direction Supreme Court took over policing of city. Fire organization is independent of all branches of Government.

Supreme Court after consulting representatives of various groups called upon President Arosemena for conference which resulted in President appointing Dr. Ballen President of Supreme Court and

¹ For a historical account of the revolution, see despatch No. 307, January 6, from the Minister in Panama, p. 894.

² General Preston Brown, in command of the Panama Canal Department, and Acting Governor Schley of the Panama Canal Zone.

Harmodio Arias Secretary of Government. The President then resigned and Arias as Prime Minister took over the Government.

It appears that the best possible solution under the circumstances has been reached. The intelligent cooperation and assistance of General Brown and Governor Schley helped materially in preventing great loss of life.

DAVIS

819.00 Revolutions/8 : Telegram

The Secretary of State to the Minister in Panama (Davis)

WASHINGTON, January 2, 1931—6 p. m.

1. Your 96, June [January] 2, 9 a. m. The Department approves of your action in not calling troops out unless necessary for the protection of American lives. Unless it is necessary to do so for the maintenance of public order in the cities of Panama and Colon, the Department does not want troops used and if they should be used they should be returned to the Canal Zone as soon as public order is restored. In any event it is most important that they should be used only for the maintenance of public order and not in any manner whatsoever in connection with the internal political affairs of Panama.

Arrange with the Governor of the Canal Zone and General Brown that appropriate steps be taken so that no political activities can be carried on from the Canal Zone either by revolutionists or Government authorities or any persons who may take refuge in the Canal Zone.

Cable fully all the details of the movement and all subsequent developments.

Department appreciates the delicate and difficult situation which you are handling and has confidence in your judgment.

STIMSON

819.00 Revolutions/3 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 2, 1931—10 p. m.

[Received 11:35 p. m.]

9. If those in control of government desire to transport troops across Canal Zone to interior and to transport troops to Colon via Panama Railway should they be permitted to do so? Rush reply.

Situation may be complicated and counterrevolutionary movements develop in case *de facto* authorities now in power are not in a position to send troops to outlying points. It is my opinion that every effort

should be made to avoid clashes of course and I shall directly use my influence to that end.

DAVIS

819.00 Revolutions/19 : Telegram

The Secretary of State to the Minister in Panama (Davis)

WASHINGTON, January 3, 1931—2 p. m.

2. Your 9, January 2, 10 p. m. In view of the overthrow of the Panaman Government the Department feels that this Government cannot be called upon to allow transportation of troops across the Canal Zone or to Colon via the Panama Railroad as a matter of right under Article 19 of the Treaty of 1903.³ The Department leaves to your discretion the granting of such right of transit to the *de facto* authorities for purposes of pacification but you should not grant such requests if to do so would lead to fighting in the Canal Zone or the cities of Panama and Colon.

STIMSON

819.00 Revolutions/12 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 3, 1931—3 p. m.

[Received 4:03 p. m.]

15. The question of recognizing signatures of authorities of Panaman Government now functioning by Panama Canal authorities has arisen. The question of right of present government to take advantage of provision of the treaty of 1903 article 19 may arise at any moment.

Please instruct immediately by cable as to attitude this Legation and Panama Canal authorities should assume toward the Panaman Government now functioning.

It would appear that the Panaman Supreme Court is of the opinion that recent changes in the government have been effected in accordance with the Constitution and laws of the Republic of Panama.

DAVIS

819.00 Revolutions/16 : Telegram

The Secretary of State to the Minister in Panama (Davis)

[Paraphrase]

WASHINGTON, January 3, 1931—7 p. m.

4. Your 15, January 3, 3 p. m. In transacting necessary and urgent business no objection is perceived to the Canal Zone authorities' recog-

³ *Foreign Relations*, 1904, p. 543.

dition of signatures of the present *de facto* authorities as such, but it should be made clear that this does not mean recognition of the authorities as the *de facto* Government. Any business with the present authorities should be postponed if it is possible to do so.

STIMSON

819.00 Revolutions/15 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 4, 1931—3 p. m.

[Received 7:50 p. m.]

19. I have just received a note dated yesterday signed "Francisco Arias Paredes, Minister for Foreign Affairs" the first paragraph of which reads in translation as follows:

"I have the honor to inform Your Excellency that His Excellency the President of the Republic, Don Florencio Harmodio Arosemena, yesterday irrevocably resigned his office and before so doing appointed Dr. Harmodio Arias Minister of Government and Justice. Upon the resignation of the President the Cabinet charged Dr. Arias with the executive power until the arrival in the country of Dr. Ricardo J. Alfaro⁴ whom the Honorable Supreme Court of Justice has called to take over the Presidency of the Republic in his capacity of First Designate the election of Mr. Tomas Gabriel Duque by the last National Assembly having been declared unconstitutional."

The writer then informs me of the appointment of the Cabinet which is substantially as reported in my telegram number 8 of January 2, 7 p. m.,⁵ and expressing the hope that the relations between the Ministry and the Legation will continue to be as cordial as in the past.

Identical notes were addressed to the chiefs of all diplomatic missions accredited to Panama.

Please instruct as to phraseology or sense of reply and form to be used in addressing Mr. Arias Paredes. If the Department considers it to be advisable I could limit my reply to the statement that I had forwarded his note to the Department thus affording additional time for the situation to clarify before the Department makes known its attitude on the Panama situation.

DAVIS

⁴Dr. Alfaro was serving as Panaman Minister in the United States at this time.

⁵Not printed.

819.00 Revolutions/21 : Telegram

The Secretary of State to the Minister in Panama (Davis)

[Paraphrase]

WASHINGTON, January 5, 1931—1 p. m.

6. Your 19, January 4, 3 p. m. You should make no reply to the note at present. Urgent business that has to be taken up in writing should be done by memoranda from the Legation to the Ministry for Foreign Affairs and not addressed to any individual in an official capacity.

The following is for your strictly confidential information only.

The delay in sending you instructions respecting recognition is not based on any doubt regarding the constitutionality of Señor Arias' appointment, but arises from the question of whether the new regime will have sufficient stability and control of the country to remain in office. Therefore action will probably not be taken by the Department until after Alfaro has returned to Panama to take control. The decision of the Department at that time will depend on the light of developments in the interim. Advise Department as to the control the new regime has over the country, whether there develops any armed opposition to the new authorities, and whether the new regime can maintain itself in power. Does the new regime command a majority in the country?

STIMSON

819.00 Revolutions/29

The Minister in Panama (Davis) to the Secretary of State

No. 307

PANAMA, January 6, 1931.

[Received January 10.]

SIR: Referring to cablegrams from this Legation relative to the recent political disturbances in this Republic, I have the honor to submit the following detailed report:

At approximately three o'clock on the morning of January 2 I was awakened by a servant who announced that Mr. Jorge Arias wished to see me. Arias rushed into my bedroom and informed [me] that he had just escaped from the Central Police Station, which had been captured by revolutionists, and that an attack was being made upon the President's Palace. The Panama telephone central had been captured by revolutionists, but through the Canal Zone telephone system I succeeded in getting in touch with Acting Governor Schley of the Panama Canal and General Brown, in Command of the Panama Canal Department, and requested them to come to my office for a

conference. It was understood that General Brown would bring only his personal guard. They arrived about four A. M. In the meantime, I could hear continuous firing throughout the city, especially in the vicinity of the Palace.

I ascertained that the armed movement was being carried out under the general direction of the "Acción Comunal", an organization which had been formed largely for the purpose of supporting a political program opposed to that of the Government. The members of the "Acción Comunal" come largely from the younger element and include some people of semi-radical tendencies. It is not, however, in any way connected with the International Communist movement. So far as I can ascertain, none of the local Communist leaders took part in the armed movement, nor was any one of these leaders active in planning the attack on the Government.

While conferring with Acting Governor Schley and General Brown, several responsible and representative Panamanians who have consistently opposed the political group in control in Panama arrived at the Legation, greatly disturbed. While it is possible that some of these men knew that the younger element had been planning an armed attack on the Government, it appears probable that few, if any of them, knew that the attack was to be carried out at this time.

They appeared to fear that those actively engaged in the armed movement would carry it to excess. On the other hand, they did not encourage intervention by armed forces from the Canal Zone. They attempted to induce me to instruct them to get in touch with the leaders of the armed movement and offer some compromise. I took the position that I could not enter into negotiations with the revolutionists, but I took advantage of the opportunity to express the opinion that, if they continued to shed blood, it would be most difficult for any one to treat with them, and that they would certainly defeat the ideals for which they claimed they were fighting. I made my remarks as forceful as possible, in the hope that they would be carried to those leading the armed forces. I have been informed that two or three of the more responsible leaders of the Opposition did then get in touch with the revolutionists and that their activities were curtailed. In the meantime, however, they had captured the President's Palace, after a pitched battle with the Palace guard.

While considering the question of policy to be followed in this emergency, two incidents occurred which tended to complicate the situation,—the wounding of an American citizen, Mr. Hartwell F. Ayers; and the request of the Governor of Colon for a train to transport armed police forces from Colon to Panama.

When Ayers was mortally wounded one of the responsible Opposition leaders who had been pleading against intervention of armed

forces came to me, greatly disturbed, and expressed the belief that the revolution would turn into a riot and counseled armed intervention. I decided, however, not to take action until I could ascertain the conditions under which Ayers was wounded, and soon ascertained that he had entered the zone where fighting was taking place, with a full knowledge of the danger he was incurring.

The request for a train to transport an armed police force also offered complications, because a refusal to grant the request might have been interpreted as indicating that the Government of the United States was supporting the revolutionists. To have granted the request would probably have resulted in a pitched battle along the Canal Zone boundary and directly in front of the Tivoli Hotel. The suggestion that the situation could be met by bringing in American troops was considered and discarded.

After careful consideration it did not appear advisable to call troops or take any action until I could ascertain the conditions existing in the city and at the Palace. At daybreak I announced my intention to visit the Palace. Some of the more responsible leaders of the Opposition wished to accompany me, but I insisted on making the visit alone. I was not disturbed when I passed through the lines of revolutionists surrounding the building. I was conducted to the President's quarters by the chief of the revolutionists in charge of the Palace, which was filled with revolutionists, some carrying dynamite bombs, and some toying with machine guns and other firearms.

I briefly discussed the situation with President Arosemena, who requested armed intervention, but did not insist upon it.

The survey I made of the situation on the trip to the President's Palace caused me to reach the definite conclusion that it would be inadvisable to move American troops into Panama for the following reasons:

1. Because I doubted the advisability of injecting the United States into a problem which had to do with political policies in Panama.
2. Because it was apparent that, if American troops should enter Panama, there would have been a bloody skirmish with considerable loss of life. Bitter feelings would have resulted in the relations between the United States and Panama which would have lasted for years; and it also appeared probable that such action would be severely criticized at home and abroad.
3. Because it appeared probable that the revolutionists would kill the President and his family and all of their prisoners immediately upon receiving word that American troops were entering the city.

The situation was, however, so serious that it appeared possible that rioting and serious disorder might break out at any minute unless some controlling force could be established. Since it appeared inadvisable to establish and maintain order by means of American troops,

the only course left open was to find some responsible authority in Panama which could take the situation in hand. It was evident that I must make some constructive suggestion before it became known that troops would not enter the city.

When I returned to the Legation I encountered a member of the Supreme Court at the door. I requested him to bring the Chief Justice to the Legation immediately. I then conferred with responsible representatives of the Opposition party, who I felt could influence leaders of the revolution, with some of the President's friends, and with the presiding judge of the Supreme Court, and informally and unofficially suggested that the Supreme Court act extra-officially as a board of mediation to find ways and means of establishing order and in finding a solution of the problem confronting the Panamanian people. I also suggested that it appeared advisable for the firemen's brigade to take over the policing of the city, under the direction of the Supreme Court, calling attention to the fact that the Supreme Court is non-political and that the firemen's organization, which is competent and well trained, is also independent of politics and had no connection with either the Government or the revolutionary movement. I also observed that, in case the above suggestions should be acted upon, it would be advisable for the revolutionists to withdraw from the streets and concentrate at the Central Police Station. I made it clear that these suggestions were informal and unofficial and were made merely as a friend interested in the peace and well-being of Panama. I pointed out most earnestly that this offered Panama an opportunity to settle her own problems and keep her house in order.

When it was suggested that the Supreme Court might meet at the Legation, I insisted that it should meet in its own chambers. When an effort was made to ascertain my opinion as to whether the President should resign and my opinion as to candidates to replace him, I made it perfectly clear that I considered such inquiries inappropriate and that I could not and would not express any opinion about the matter, because I considered it to be the duty of the Panamanians to settle their own affairs.

The program outlined above was carried to completion. Armed men withdrew from the streets and the policing was done by the firemen's brigade. Armed revolutionists were also withdrawn from the Presidencia and the President was guarded by firemen and by a guard of honor of four prominent Panamanians. Members of the Supreme Court, after several conferences and after a first-hand study of the situation, conferred with President Arosemena. I understand that the members of the Court were unanimous in suggesting that the

President resign. In any event, he decided to present his resignation. Up to that point the members of the Supreme Court had been acting in an unofficial capacity.

The cooperation of the members of the Supreme Court in this matter appeared to be advisable for many reasons. First, it would have been impossible for any commission appointed directly from the active revolutionists and from the Government to reach an agreement, because of bitter feelings; second, it was highly desirable to avoid any suggestion that the Legation mediate in the matter; third, the members of the Supreme Court could act without recognizing the revolutionary movement; fourth, it was also thought that any solution proposed by members of the Supreme Court would be based upon constitutional and legal principles.

At one time objection developed to the members of the Supreme Court acting as friendly mediators, on the ground that all members of the Court had been appointed during the Chiari and Arosemena administrations, and it was asserted that members of the Court would be prejudiced. When this objection was presented to me I was somewhat disturbed because it was raised by two or three of the more responsible representatives of the opposition group and it appeared that the entire plan might be wrecked. I replied that if Americans and other foreigners had been willing to accept the decision of the Panamanian Supreme Court it would appear that the Panamanians ought to be willing to trust the members of that body. I inquired if they, as representative Panamanians, were willing to indicate by their action in repudiating the Court at this time that foreigners had had their cases decided by incompetent and prejudiced judges. Those who came to object against the Supreme Court, remained to cooperate in the movement.

When President Arosemena indicated a desire to resign, way and means were discussed—the Legation did not participate in any way in these discussions—under which the government could continue on a constitutional basis, and the following steps were taken in the belief, on the part of the Supreme Court, that the transfer of authority would come within constitutional provisions:

First: Dr. Ballen resigned as Secretary of Government. President Arosemena accepted his resignation and immediately appointed Dr. Harmodio Arias in his place.

Second: President Arosemena presented his resignation to the Supreme Court which accepted it. (See Article 75 of the Constitution).

Third: Members of the Arosemena Cabinet then met and elected Dr. Harmodio Arias as Provisional President. (See Article 81 of the Constitution).

Fourth: All of the members of the Cabinet then resigned except Arias.

Fifth: In the meantime the Supreme Court had met in formal session and rendered a decision that the election of *designados* effected on October 1st was unconstitutional, (see my despatch No. 218, dated October 4, 1930),⁶ and also rendered a decision to the effect that the *designados* elected in 1928 continued to be the constitutionally elected *designados*. The Supreme Court having accepted the resignation of President Arosemena therefore called Dr. Ricardo Alfaro, elected First *Designado* in 1928, to take charge of the presidency.

Sixth: In the temporary absence of Dr. Alfaro, Dr. Harmodio Arias took the oath as Provisional President before the Supreme Court.

I am transmitting herewith copies of the several resolutions adopted by the Supreme Court.⁷

Apparently the only question raised as to the constitutionality of this change in authorities had to do with the question raised relative to the Second and Third *Designados* elected in 1928 when Dr. Alfaro was elected First *Designado*. At that time Dr. Carlos Lopez was elected Second *Designado* and Mr. Eduardo Chiari was elected Third *Designado*. Dr. Lopez at first insisted upon his right to assume the presidency but later informed the Supreme Court that he did not desire to assume the presidency and sent the following telegram to Dr. Alfaro:

"Moved by patriotic sentiment, I presented my excuses to the Court of taking charge of the Presidency during the period of your absence. I trust your Government will answer to the principle of your good name, illustration and patriotism. If you think it convenient, you may so communicate it to the State Department. Your friend, Carlos L. Lopez, Second Designate."

I have been reliably informed that Mr. Eduardo Chiari resigned as Third *Designado*, thus leaving Dr. Alfaro as the only constitutionally elected *designado* willing to accept the Presidency.

Provisional President Harmodio Arias then appointed his Cabinet and organized the new government.

The Governor of the Province of Colon refused to recognize the new government and it appeared that complications might arise which would be embarrassing, not only for the new authorities, but also for the Legation because it was entirely possible that those favoring the new regime might attack the Governor and his police force. After two days, however, the police force of Colon went over to the new regime and the Governor was imprisoned.

One by one the interior provinces accepted the new regime and at present all have accepted the change and new provincial authorities have been appointed and have taken over control without disorder.

⁶ Not printed.

⁷ None printed.

The new government is confronted by many problems. It not only has to face the possibility of a counter revolution on the part of the overthrown government but it is also confronted with the problem of dealing with irresponsible and radical elements within the group which carried out the armed movements against the Arosemena administration. Some of those who took part in the movement feel that the change in administration was due entirely to their efforts and they are dissatisfied because some of the more radical leaders have not been given high positions in the new government. Some elements are also insisting upon bitter reprisals and upon wreaking vengeance upon those who were in any way connected with the previous administration. Provisional President Arias is a man of great ability. He is doing everything in his power to control some of the irresponsible revolutionists.

On account of the attitude of the extremists in the revolutionary party, several politicians connected with the Chiari and Arosemena factions are still held as prisoners. President Arias is, however, making every effort to liberate these prisoners and will, no doubt, do so as soon as he feels he is sufficiently strong to meet the opposition of the over-zealous revolutionists.

The spite of the more zealous revolutionists is directed against Rüdolfo Chiari, President from 1924 to 1928, and head of the political faction which elected Arosemena to the Presidency. During the disorders incident to the revolution, Mr. Francisco Arias, one of the opposition leaders but a friend of Chiari, took him to the Ecuadorean Legation and requested the Minister to grant him asylum, to which the Minister acceded. Francisco Arias is Minister for Foreign Affairs in the new Cabinet and some of the radical revolutionists resent the protection he gave to Chiari. The feeling against Chiari is so bitter in some quarters that rumors were current that the Ecuadorean Legation would be attacked and Chiari seized. The Ecuadorean Minister informed me about the matter and confidentially requested my assistance. I conferred informally with members of the new regime and called their attention to the grave situation which would develop if the immunity of any legation should be violated. Steps were taken to protect the Ecuadorean Legation, and to point out to the over-zealous revolutionists the danger that would be incurred if they should carry out their plans.

The armed movement against the Arosemena administration was planned and executed by an organization known as "Acción Comunal", in which a Dr. Ramon Mora is a leading spirit. When this organization was first founded it was my impression that it was connected in some manner with the communist movement. Later investigation, however, leads me to believe that the organization has no connection

with the International Organization of Communists and its only interest is in Panamanian political affairs. While a part of its program appears to be semi-radical, its energies have been directed largely against the political faction which has been in control of the Panamanian Government for many years.

The activities of Mora came to the attention of authorities in the Canal Zone as early as last October when two enlisted men reported to their superior officers that Mora had attempted to make arrangements with them to manufacture bombs and other explosives. Information about Mora's activities was made available to the Panamanian Government by this Legation. (See my despatch No. 233, dated October 16, 1930).⁸ So far as I could ascertain no action was taken against Mora by the Panamanian authorities.

The outbreak of the armed movement at this time came as a surprise not only to the Panamanian Government but to American agencies in the Canal Zone and Panama. While it has been known that there has been considerable discontent with regard to political matters, it was believed that this discontent would not show itself actively for several months. In fact, it appears that the movement on the morning of January 2nd came earlier than was originally planned by those who promoted it. It is reported that members of "Acción Comunal" met on the evening of January 1st to make definite plans for the revolutionary movement to take place some days later. It is asserted that they discovered that their plans were about to be disclosed and they decided to act at once.

While it appears that the new government is slowly dominating the situation there is, of course, always the possibility that disorders will develop. I am using the influence of this Legation, insofar as I consider it proper to do so, to encourage calmness, saneness, and seriousness on the part of all elements. The attitude of the United States in declining to intervene in political affairs has thrown upon the Panamanians the responsibility of meeting a situation which they had not anticipated, and considerable time must pass before complete confidence can be established.

In connection with recent developments in Panama, every effort has been made by this Legation to avoid complications for the United States Government.

I wish to speak in the highest terms of the friendly cooperation and wise and useful counsel given me by Acting Governor Schley and General Preston Brown and members of their respective staffs.

I also wish to commend to the Department Foreign Service Officers Merrell and Bucknell for the splendid service they have performed dur-

⁸ Not printed.

ing the trying period. In fact, each member of the staff from the First Secretary to the Janitor has rendered faithful and efficient service.

Respectfully yours,

ROY T. DAVIS

819.00 Revolutions/25 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 9, 1931—6 p. m.

[Received January 9—5:48 p. m.]

28. My telegram No. 19, January 4, 3 p. m., and Department's telegram No. 6, January 5, 1 p. m. I am informed that the Spanish Minister has addressed a note to present Panaman Government stating that Spanish Government is of the opinion "that the recent change does not affect in any manner the diplomatic relations between the two countries."

I am also informed that the Governments of Italy, Peru, Ecuador and Chile have established or have continued diplomatic relations with the new government.

DAVIS

819.00 Revolutions/28 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 10, 1931—noon.

[Received 1:15 p. m.]

29. Department's telegram No. 6, January 5, 1 p. m. The new authorities appear to be in control throughout the Republic of Panama and order has been maintained. It is probable that in some cases irresponsible local authorities have been appointed under pressure from the extreme elements which participated in the armed attack on the previous administration.

The new administration apparently has the support of a great majority of the people in Panama City and probably in Colon. It is difficult to judge situation in the interior provinces which have so long been controlled by political chieftains of the old regime that independent thought and action in political affairs is almost unknown. It is possible that the experienced leaders of the old regime could drive out the new authorities in the interior but it does not appear probable that they will do so as long as the new authorities can control Panama City. Unless the old leaders should become active the great majority of the people in the interior will probably take little interest in the change in the government.

The immediate problem is to control the extreme element of the revolution. Arias has been able to do so. Alfaro will probably experience considerable difficulty with the extremists.

DAVIS

819.00 Revolutions/33 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 14, 1931—10 p. m.

[Received 10:42 p. m.]

32. My telegram No. 29, January 10, noon. The following Governments consider present government constitutional continuation of Arosemena government and have continued normal diplomatic relations: Italy, Spain, Ecuador, Costa Rica, Germany, Colombia, and Mexico.

New Government apparently has support of great majority of residents of capital and has been well received throughout the Republic. Opposition from deposed authorities improbable in immediate future. Question of satisfying extreme element of group which carried out revolution will be Dr. Alfaro's chief problem.

Alfaro will arrive tomorrow and is planning to take oath of office Friday January 16th. I am informed invitation will be extended diplomatic corps to attend inauguration and reception. Unless otherwise instructed immediately by cable I shall not attend. My absence may cause comment. However I shall attempt to meet situation as discreetly as possible until Department finds it convenient to act on question of recognition.

DAVIS

819.00 Revolutions/35 : Telegram

The Secretary of State to the Minister in Panama (Davis)

WASHINGTON, January 15, 1931—noon.

12. Your 32, January 14, 10 p. m. The Department is inclined to consider Alfaro's coming into office as a constitutional devolution. Furthermore the ordinary standards of international law for the recognition of new Governments would appear to be met with. The Department's only preoccupation on this score in the past has been the question of stability and your present statement that the new Government apparently has the support of the great majority of the residents of the capital and has been well received throughout the Republic, and that opposition from the deposed authorities is improbable in the immediate future, leads the Department to feel that you

should attend the inauguration of Doctor Alfaro and carry on normal diplomatic relations thereafter with his Government. You are authorized to do so.

STIMSON

819.001 Alfaro, Ricardo J./4 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 17, 1931—10 a. m.

[Received 11:20 a. m.]

33. Department's telegram No. 12, January 15, noon. Alfaro was inaugurated yesterday at 4 p. m. I attended inauguration.

DAVIS

819.001 Alfaro, Ricardo J./5 : Telegram

The Minister in Panama (Davis) to the Secretary of State

PANAMA, January 19, 1931—10 a. m.

[Received 1:30 p. m.]

37. Am I to interpret Department's telegram No. 12, January 15, noon, as authorization to acknowledge receipt of note quoted in my telegram 19, January 4, 3 p. m.?

DAVIS

819.001 Alfaro, Ricardo J./6 : Telegram

The Secretary of State to the Minister in Panama (Davis)

WASHINGTON, January 19, 1931—5 p. m.

15. Your 37, January 19, 10 a. m. Yes.

STIMSON

PERU

REVOLUTION IN PERU¹

823.00 Revolutions/65 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, October 11, 1930—noon.

[Received 8:04 p. m.]

240. A number of well informed observers report matters in general not going well and increasing discontent among Army, Navy and civilians. They say a general feeling of uneasiness exists, that apprehension Government cannot last prevails and that a *coup d'état*, probably originating among deposed generals, is expected within from 2 weeks to 2 months.

It is almost impossible to secure anything more and my own feeling is less pessimistic but I think I must inform the Department of this atmosphere on account of what possibly may eventuate. An important local bank is apparently in serious difficulties, exchange is falling and general financial situation is less satisfactory.

DEARING

823.00 Revolutions/99 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, February 20, 1931—10 a. m.

[Received 2:15 p. m.]

48. Reported from good sources Navy revolted this morning, seized Callao and in accord with certain Army elements has given President ultimatum expiring at 11 a. m. calling on him to resign. All banks and business houses closed. Palace and *prefectura* guarded by machine guns, Guardia Republicana and police loyal to President, patrolling city. Chorrillos cadets picketing road to Callao. Aviation supposed to be loyal. No communication with Callao and difficult to confirm reports. Trouble expected.

DEARING

¹ Continued from *Foreign Relations*, 1930, vol. III, pp. 720-760.

823.00 Revolutions/103 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, February 21, 1931—8 p. m.

[Received February 22—2 : 35 a. m.]

57. My 53, February 21, 2 p. m.² Reports just received from Panagra, Peruvian Corporation, United Press and the Government from Arequipa indicate revolutionary outbreak at Arequipa last night headed by Colonel Garcia Godos who was last reported in Ecuador and operating with dissatisfied Army elements in the North and in cooperation with Castillo at Piura. Government has just issued following official statement:

"A Leguista revolt which occurred yesterday in Callao had ramifications in other parts of the country. Last night part of the garrison at Arequipa rebelled. The insurrection was headed by some officers allied with Leguismo and also some civilians. Troops from Tacna, Cuzco and Puno are marching on Arequipa. Traffic in the port of Mollendo has been closed. The Government is resolved to punish the revolting officers.["]

Southbound Panagra plane carrying U.S. mail including possibly official pouches to Chile and Argentina held up at Arequipa. Captain Harris, General Manager Panagra, fears further trouble but does not wish to invoke diplomatic assistance except as last resort and will make every effort to put mail through regardless of interruptions.

Director of Ministry of Government has very cordial relations with Harris and Acting Prefect at Arequipa, Beytia, is reported a fair and reasonable man.

Captain Harris states Beytia delivered the Tacna garrison to Sanchez Cerro in the revolt of last August and was then very close to him.

Government has authorized Panagra mail planes to go and come directly Lima Arica. Communication with Arequipa cut but following messages were exchanged between Captain Harris and Panagra at Arequipa early this afternoon.

(1) Trimotor held up Arequipa by order of Prefect. Send Fairchild to take mail to Arica. It should remain in Arica.

(2) Captain Harris replied:

Point out to Prefect responsibility incurred in holding or delaying plane with foreign registry transporting international mail. Request authorization to despatch Ford early Sunday direct to Arica to fulfill international mail schedule to the North. Advise hour arrival and departure Fairchild. Two passengers for Miami awaiting plane at Arica.

² Not printed.

(3) Later Captain Harris telegraphed:

Cable immediately status of Ford and crew since we do not desire take matter up with American Government unless rights likely to be infringed.

Captain Harris says he has telegrams from Tacna as late as 4 o'clock this afternoon inquiring the whereabouts of the mail planes, thus indicating no trouble at Tacna.

A Lockheed Vega plane was ordered to leave Arica at 4:20 to proceed to Arequipa, pick up the mail and carry it on to Chile and Argentina.

Captain Harris thinks the planes are wanted for observation and the transportation of leading officers and possibly for bombardment; he even feels that the unsigned messages he has received from Arequipa may be a trick to enable the revolutionists to have additional planes sent so they can take possession of them.

Embassy will withhold action until requested by Captain Harris to move but is standing by to assist in any way possible and will send special representative to Arequipa, if necessary and feasible, meanwhile every effort is being made to establish trustworthy lines of communication.

The Director of Government says that the revolt is a matter for only 2 or 3 days and that the garrisons at Tacna, Puno the [and] Cuzco are absolutely loyal but this may be somewhat discounted.

Mr. Grant of Peruvian Corporation states General Cooper, now in Arequipa, is held there and unable to return by plane; that communications are cut and that all forces are in revolt.

It is too early with meager information on hand to estimate the force of the southern movement. The north seems quiet but Beingo-lea, Minister of Gobernacion, is still at Talara and conditions there are obscure. The Navy's best boat, the *Grau*, is at Talara and only one cruiser and five submarine boats are at Callao. It is unlikely to cast its lot with southern revolutionists unless strong Army faction in Lima revolts; and, in view of the Government's success in dominating the Callao outbreak of yesterday this seems improbable.

A report current for some time is that Chile has assisted this southern movement. A more persistent report is that if the South cannot overturn the Lima Government it will set up an independent government and has an understanding with Bolivia for joining that country somewhat later on, an operation which would very likely cause widespread South American readjustment with Chile, Bolivia, the Argentine and Peru being the chief actors in the drama.

Censorship is being maintained.

DEARING

823.00 Revolutions/120 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, February 27, 1931—8 p. m.

[Received February 28—8:35 p. m.]

71. My telegram No. 70, February 27, 8 a. m.³ Present situation may be summarized about as follows:

Center, enforced quiet under martial law.

North, Government reports success at Piura but unrest there seems spreading.

South, 2,000 troops departing tonight. Fight expected at Mollendo where cruisers *Bolsi* [*Bolognesi*?] and *Grau* are patrolling. Panagra according to arrangement between British Legation and Ministry of Gobierno will evacuate British women and children tomorrow. Consul General says no Americans in South in any danger, Helen Ripley and her sick husband have arrived at La Paz.

Panagra pilots, Rickards and Hillman, at Arequipa are reported flying under protest to Arica under parole to return. Harris thinks Chilean authorities may detain them which would be a good thing.

Northern Commander Santibanez called upon Panagra for plane but under Embassy's advice Panagra refused because:

1. Unwilling to interfere in domestic quarrel.
2. Interruption of international mail passenger schedules.
3. Government should use its own planes.

Mediation to avoid bloodshed suggested to President but he refuses and is determined to fight and put down insurrection. Rebel forces double his but he is expecting popular reaction in his favor.

The contest appears to be chiefly within the Army with people indifferent and resenting the interruption in their lives and affairs.

Americans and other foreigners minding their business and, except the airplane pilots, being unmolested.

Chinese and Japanese are fearful of attack and looting in case of disturbance and Japanese and Chinese Ministers consider position of their nationals grave and dangerous.

Kemmerer Mission ⁴ is working hard and fast. Financial situation better with arrangements completed for March 1st service on tobacco loan. Finance Minister after consultation with President has informed me:

1. That Peru will do everything possible to meet her obligations.
2. That she can pay part of the national loan service and will pay as large a portion as possible.
3. That he will be guided by advice of Kemmerer Mission.

³ Not printed.

⁴ The Kemmerer Mission went to Peru early in 1931 at the invitation of the Federal Reserve Bank of Peru to make a survey of Peruvian finances (823.51A Kemmerer Mission/3).

4. In view of Peru's good faith such assistance as is possible and appropriate under the circumstances will be sought from bondholders and bankers.

It is not possible to say whether decisive events may be expected in the next few days or not. I am inclined to think situation now amounts to practical civil war and may continue for some time. There is suspicion as to the loyalty of some of the troops. Many diverse elements now active make for anarchy and continued disturbances. Lima, now held quiet by force of arms, could become chaotic and dangerous. There are a number of savage and criminal men in this vicinity who would form in dangerous mobs if authority breaks down. Department should keep this possibility clearly in mind but I am not yet ready to ask for any definite measures, wishing to avoid any appearance of interference or concern and any act that would have unfortunate repercussions elsewhere in South America.

DEARING

823.00 Revolutions/119 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 1, 1931—8 a. m.
[Received 2:15 p. m.]

72. Juan O'Connor, chief of Flying Service, has seized two Johnson-Shippee planes and ordered pilots Hay, Shippee and Johnson, over their protest, to make a flight with military officers to Pisco. I am protesting at once to Foreign Minister and asking release of planes and pilots. Major Allen⁵ is doing the same to Juan.

DEARING

823.00 Revolutions/118 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 1, 1931—2 p. m.
[Received 9:58 p. m.]

77. My 72, March 1, 8 a. m. Made formal protest to Foreign Minister and asked issuance immediate orders return of pilots George R. Johnson, Robert Shippee and Irving G. Hay and planes. He raised question as to whether Peruvian officers commandeering their services were on Government's orders or own responsibility. I said that in either case I formally asked return of planes and pilots. Foreign Minister agreed this must be done; said he would see President at once and report.

DEARING

⁵ Major C. J. Allen, Military Attaché.

823.00 Revolutions/117 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 1, 1931—6 p. m.

[Received 11:25 p. m.]

78. Sanchez Cerro and the entire junta government resigned shortly after 3 o'clock this afternoon. When the meeting of prominent citizens (my 74 March 1, 10 a. m.)⁶ convened this afternoon Sanchez Cerro and his cabinet came in, Sanchez Cerro made a statement of the situation, then presented the resignation of the government and withdrew with his colleagues from the Palace leaving those invited to the meeting to organize a new junta. I understand they are still deliberating.

Measures have been taken to insure public order and Colonel Sologuidoen [*Sologuren*] chief of the Lima garrison formerly Minister of Justice in the junta government is in charge.

DEARING

823.00 Revolutions/124 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 1, 1931—7 p. m.

[Received 11:18 p. m.]

79. My 72, and 77.⁷ Pilots Johnson, Shippee and Hay returned to Fawcett Field, Lima, this afternoon and are now at Embassy. In view resignation Sanchez Cerro government they are not apt to be further molested. They report that when required to fly from Las Palmas Field to Pisco, O'Connor and military aviation had already gone over to the rebels, a fact which neither Foreign Minister nor I knew at the time. They say however that their release was due to the Government's order to O'Connor (given after my protest to Foreign Minister) saying that our Government would enter the situation in case men and planes were not returned and left alone.

DEARING

823.00 Revolutions/135 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 3, 1931—9 p. m.

[Received March 4—2:50 p. m.]

87. My 81, March 2, 3 p. m.⁶ Diplomatic corps at meeting this morning decided to ignore Sanchez Cerro; to await notification from

⁶ Not printed.⁷ March 1, 8 a. m. and 2 p. m., p. 909.

Foreign Office as to composition new junta before making any courtesy calls upon members of junta; and that present transitory junta and provisional junta presently to be formed are logical continuation of Sanchez Cerro government.

Most of colleagues and I feel meeting premature and ill-considered. British and Japanese state they wish to follow our lead regarding recognition.

DEARING

823.00 Revolutions/139 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 5, 1931—11 p. m.

[Received March 6—5:38 a. m.]

91. Between 6:30 and 7:30 this afternoon the soldiers of the southern expedition, which had disembarked at Callao during the day having refused to land at Ancon, quietly marched to the Plaza de Armas and Plaza San Martin and took charge of the Palace and the Government. The coup was planned and executed by Jimenez who has issued a somewhat conciliatory manifesto. Lima is quiet at present and Sologuren who has been in charge of public order appears to be with Jimenez. It is not certain whether Sanchez Cerro will return to Palace or Jimenez will retain command. One of the southern delegates has sought asylum in the Japanese Legation. It is not known what Jimenez will do to his enemies but as his own tenure may not be [apparent omission], he may be moderate. Given his character and determination however the outlook is grave indeed. Civil war is again a possibility. Anything however may happen; Barco, former Minister of War and strong in the South is with Jimenez and Jimenez himself is strong in the South and the Fifth and Seventh Regiments, the main force in Lima, were brought from Arequipa by Sanchez Cerro. Foreigners will very likely not be molested but if disorder and street fighting should begin the Department should be prepared for eventualities. I shall watch situation closely and report developments as soon as possible. In handling the disembarkation of the troops of the southern expedition the transitory junta seems to have been inept to the last degree. Elias has become ambitious and was informed this morning he could not remain in office. The new prefect, Bernales, is said to have bought his office and the whole recent movement seems to have become pointless the moment Sanchez Cerro resigned. It is uncertain what the Navy and aviation will do but they are unlikely to accept the coup lying down.

DEARING

823.00 Revolutions/149 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 6, 1931—10 p. m.

[Received March 7—5:06 a. m.]

97. Sanchez Cerro called with his brother at Embassy at 7 this evening. He said he was suspicious of Jimenez and that Jimenez had very bad advisers who were close to him. Sanchez Cerro expects a troubled situation for the next 2 or 3 months and says the Southerners lack the ability to govern. He declares he will return in about 3 months to present his candidacy for the Presidency and to stump the country. He says he has many strong friends in the Army and in other quarters. He then with immense naïveté asked me to talk with my colleagues particularly and with others in such a way as to create a demand for his return as the best hope for the country and orderly government. I replied that I could not in any way interfere in internal Peruvian politics or questions and that I could not accede to his direct request or make any promises. I added, however, that I had always believed in the sincerity of his ambitions for his country and his patriotism, and believed him to be honest and constructive in purpose, that I had frequently said as much to my Government and to all others with whom I had in ordinary course occasion to speak and would continue to do so whenever in the natural course of events I should find myself speaking of him. This he seemed to find satisfactory.

I said I should be glad to see Peru settle her questions by election and peaceful methods and avoid revolutions and disturbances. He said that was one of the reasons why he wanted to run for the Presidency.

I said I hoped Jimenez would not allow any difficulties to arise in connection with the protection of foreign interests or lives. Sanchez Cerro said with emphasis he had advised Jimenez most pointedly on this matter telling him he must give full protection.

Sanchez Cerro sails on *Oropesa* tomorrow and intends to return to Peru via the United States. British Minister informs me Sanchez Cerro had an exactly similar conversation with him and that he replied about as I did.

DEARING

823.00 Revolutions/169 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 13, 1931—noon.

[Received 4:38 p. m.]

116. My 115, March 13, 11 a. m.⁹ Note from Foreign Office, apparently unsigned through inadvertence, number 11, March 12th, reads:

⁹ Not printed.

"Mr. Ambassador: I have the honor to inform Your Excellency that as a result of the negotiations undertaken for the unification of the national will and the pacification of the country carried out by the transitory Junta of Government headed by Commander Gustavo A. Jimenez, the Junta Nacional of Gobierno took oath of office yesterday March 11th instant and has assumed supreme command of the Republic. It is composed as follows: (Same as my 112, March 11, 4 p. m.).¹⁰

In informing Your Excellency as above, I take pleasure in assuring you that the National Junta of Government is resolved to comply strictly with the international obligations contracted by Peru and is animated by the determination to maintain and make closer the bonds of friendship which happily unite the Republic with the nation which Your Excellency so worthily represents."

This is the first definite declaration that international engagements will be honored. Persistence in the recent attitude regarding a moratorium would vitiate this declaration but happily Vinelli's¹¹ attitude is indicative of good faith on the part of the provisional junta. In view of disaffection in the South, I believe I should defer recommendations to the Department regarding recognition until the situation is better defined which I expect will be within a few days. Recommendations will however be made as soon as seems advisable. Meanwhile the Embassy will carry on with the Foreign Office but make no reply to this second note also.

United Press correspondent, Nuncio, British and Japanese Ministers are inquiring regarding our attitude. I reply Embassy will carry on without raising question for present but is not inclined to create any difficulties. Opinion in all American circles is favorable to Ocampo government and Burdett,¹² just returned from Arequipa, believes South unlikely upset present situation.

DEARING

823.00 Revolutions/175 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 14, 1931—10 a. m.

[Received 8:22 p. m.]

119. My 114 [118], March 13, 9 a. m.¹⁰ Breach with South growing wider. Beytia and fellow officers Jimenez resign. Jimenez cites Article No. 2 of statute, my 113, March 13 [12], 11 p. m.,¹⁰ stating impossible, adjures Beytia cease opposition, adhere to the junta within

¹⁰ Not printed.

¹¹ Minister of Hacienda in the provisional junta.

¹² William C. Burdett, Consul General at Callao-Lima.

the hour or suffer consequences. Jimenez states Government will take measures necessary to subdue them. Gonzales asks Southerners to yield, saying country worn out with dissension and financial situation growing worse.

Mollendo and Southern airports ordered closed by Minister of Marine. Unconfirmed report states Bolivia mobilizing at Guaqui, east shore of Lake Toccaca [*Titicaca?*]. Undecipherable message just received from the Legation at La Paz, repetition requested. Pro-Jimenez manifestation took place yesterday. Order issued today under martial law prohibiting public manifestations. Jimenez, Morey and Tamayo said to have formed radical bloc in the Cabinet. The outlook is unfavorable.

DEARING

823.00 Revolutions/183 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 17, 1931—10 a. m.

[Received 1:15 p. m.]

126. My 123, March 16, 11 a. m.¹⁵ La Paz reports nothing in story Guaqui mobilization. Bolivian Legation here issues public denial.

Country now appears quiet and unified.

British Minister has cabled London requesting authorization to inform junta that change from Sanchez Cerro administration "does not affect diplomatic relations" and that usual intercourse will continue, question of recognition not being raised so far as Great Britain is concerned. No government has yet announced recognition of this junta. I am preparing a message regarding our relations with junta which will go forward before end of [apparent omission]. I believe it would be preferable for our action to follow that of some Latin American country rather than for us to take the lead since for us to act first might be interpreted as giving junta more support than it really deserves until it has shown more willingness to support rights of American bondholders and might be considered precipitate at home. I do not, however, favor making efforts to secure moratorium the full test or criterion of our action. There are signs that junta especially desires our recognition and will face its financial problems more resolutely but too much importance must not be attached to them. Certain responsible Peruvians, enemies of Jimenez, urge recognition be withheld.

DEARING

¹⁵ Not printed.

823.00 Revolutions/184 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 17, 1931—8 p. m.

[Received March 18—12:09 a. m.]

127. New Foreign Minister informs diplomatic corps he will receive its members March 18, 6 p. m. Since Embassy is carrying on with present authorities Embassy staff will attend unless Department perceives some objection.

DEARING

823.00 Revolutions/189 : Telegram

The Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, March 18, 1931—4 p. m.

13. Your 127, March 17, 8 p. m. Should you deem it advisable to attend Foreign Minister's reception you may do so, stating orally and informally to the Minister that you are glad to be present personally but that you are without authority to attend in your representative capacity. For purposes of record make careful memorandum of your statement.

STIMSON

823.00 Revolutions/190 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 18, 1931—8 p. m.

[Received March 19—4:25 p. m.]

130. Department's 13, March 18, 4 p. m. Carillo, official Mayor of Foreign Office having informed me junta would not seek recognition but desired merely to continue present relations, and as practically all my colleagues were responding to Foreign Minister's invitation and raising no question of recognition, and as I have for practical purposes carried on and adjusted myself to the actualities without any reference to recognition and having in mind the Secretary's restoration of our Government's *de facto* policy in such matters, I felt it would be too marked for me to fail to respond to the Foreign Minister's invitation to come and get acquainted and that it would be the best plan to follow the course of my colleagues, the majority of whom called at the Foreign Office this afternoon, the British, French, Colombian, Cuban, Brazilian, Papal and Spanish representatives being there when

I called. I went alone without my staff and was careful to explain to Señor Larco Herrera that I was without authority to call upon him in my representative capacity but that I was to be present personally. He received this in good part and was most cordial. The gist of our conversation will be reported in my telegrams 131, March 18, 9 p. m., and 132, March 18, 10 p. m.,¹⁶ and by mail.

Uprising in the south will necessarily postpone recommending regarding recognition promised in recent message but I shall report thereon by mail.

DEARING

823.00 Revolutions/199 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 23, 1931—11 p. m.

[Received March 24—2:42 a. m.]

143. Fighting and firing has been going on in all the central part of Lima since 8 o'clock this afternoon. The wildest rumors are current and the situation is frankly very dangerous. As nearly as we can ascertain the soldiers of the Fifth Regiment at the Santa Catalina Barracks revolted, threw out their officers; marched upon the Palace and are now calling for return of Sanchez Cerro and in possession of the city. Unknown whether Palace has fallen. Whereabouts and intentions of government, police, Seventh Regiment which generally guards Palace, and naval forces unknown but Chorillos cadets and Fifth Cavalry are thought to be under command of Colonel Roberto Lopez who will endeavor to regain control.

It is extremely dangerous to reach the cable office which is in a narrow downtown street and there may be some delay with our messages.

Responsible persons tell me the movement is communistic and they expect the worst. It is difficult to say what will happen but looting and disorder are expected tonight and a reign of terror. Firemen and volunteer guards are standing ready to afford protection but as they are poorly armed they are not especially effective.

Department should be prepared for eventualities and take immediate steps to establish communication with the Embassy in case it receives no word for 24 hours.

DEARING

¹⁶ Neither printed.

823.00 Revolutions/202 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, March 24, 1931—8 a. m.

[Received 11:40 a. m.]

145. My 144, March 23 [24], 1 a. m.¹⁷ Government has dominated situation. City quiet, no injury American or foreign life or property yet reported. Further report in few hours.

DEARING

823.00 Revolutions/229

The Secretary of State to the Ambassador in Peru (Dearing)

No. 127

WASHINGTON, April 10, 1931.

SIR: The Department acknowledges the receipt of your despatch No. 555, of March 25, 1931,¹⁷ confirming your telegram No. 143 of March 23, 11 p. m., and giving further details regarding the revolt on the night of March 23 last of the non-commissioned personnel and men of the Fifth Regiment stationed at Catalina Barracks, Lima.

The Department appreciates the Embassy's industry in procuring information regarding recent political developments in Peru, particularly in connection with the series of revolutions which has taken place in that country. In Enclosure 2 to your despatch under reference, however, the Department notes that Major Allen and the Third Secretary of the Embassy were instructed to proceed to that section of the city in which the revolt above referred to was in progress, for the purpose of obtaining information as to military developments in that quarter. It is noted that Major Allen and Mr. Coe advanced, apparently during a lull in the fighting, to a point close to the National Palace, at which a machine gun nest was situated, and subsequently entered the Palace and interviewed one of the Aides to the President.

While the Department commends the personal courage displayed by Major Allen and Mr. Coe in proceeding to the scene of danger for the purpose of obtaining information as to the progress of events on the night of March 23, it is, nevertheless, inclined to doubt the wisdom of exposing members of the Embassy personnel in this manner to danger, both on their own account, because of their official status, and also by reason of the misinterpretation which their appearance on the scene of hostilities might occasion, unless imperative for the immediate protection of American lives and property. While the Depart-

¹⁷ Not printed.

ment realizes that its officers in the field are in times of revolution and civil strife subject to danger from which they cannot be relieved, it nevertheless counts upon them to exercise due discretion in order not needlessly to expose their own lives or to embarrass their government by imprudent acts.

Very truly yours,

For the Secretary of State:
FRANCES WHITE

823.00 Revolutions/231

The Secretary of State to the Ambassador in Peru (Dearing)

No. 128

WASHINGTON, April 10, 1931.

SIR: The Department acknowledges the receipt of your despatch No. 534 of March 13, 1931,²⁰ reporting changes in the Peruvian Government and political events of recent occurrence in Lima.

With reference to the present confused state of Peruvian politics and to your opinion that a general disintegration of the country accompanied by communistic tendencies might ensue, you suggest that the Department consider some initiative looking to a joint mediation in Peruvian affairs by the nations most concerned therein, to wit, the Papal State, Argentina, Chile, Brazil, England, France, Germany, Italy, China, Japan and possibly also Spain and the League of Nations.

While it is not the Department's policy to adopt an attitude predicated upon contingent or theoretical eventualities, for your confidential information, it does not look with favor upon any idea of mediation in Peruvian affairs, especially in concert with European Powers, nor would it be inclined to take joint action with either the League of Nations of which this Government is not a member nor with the Vatican with which it has no diplomatic relations.

Very truly yours,

For the Secretary of State:
FRANCIS WHITE

823.01/76 : Telegram

The Secretary of State to the Ambassador in Peru (Dearing)

[Paraphrase]

WASHINGTON, May 8, 1931—6 p. m.

30. Your despatch 624 of April 12.²⁰ The question of recognition of the present Peruvian Government has been receiving very careful consideration from the Department. The Department is reluctant not

²⁰ Not printed.

to extend recognition at this time, but before reaching a definite decision in the matter would like to have additional information from you. Information in the Department shows that particular circumstances have led to recognition by Spain and Norway, the only countries to have taken this action thus far. You indicate British, Brazilian, and Japanese representatives are ready to follow our lead. What attitude is being taken by the other Latin American countries such as Chile and Argentina?

The Department is aware of the continually changing situation, but would be glad to have your opinion as to the present regime's stability and the probable support of the new regime by the people of Peru in the next succeeding months. The Department understands that this regime is supported by the Navy. Does it have the support of the Army or is the Army's allegiance divided, and is there likely to be a movement for its overthrow in the near future? Would conditions in Peru be stabilized by recognition?

STIMSON

823.01/78 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, May 15, 1931—2 p. m.

[Received 7:25 p. m.]

224. Department's telegram No. 30, May 8, 6 p. m.

1. General. The present Peruvian Government weathered the crisis of March 23 and comes through the present general strike and its political complications intact. It has at present the support of the Army, Navy and police and the acquiescence of people in general and seems likely to continue for the immediate future.

2. Army attitude. All the information I can secure indicates that the morale of the Army is improving. With the removal of the communistic non-commissioned officers after the trouble of March 23, a better feeling and better discipline have prevailed. Recently some doubt has existed as to the troops in the South who rather truculently informed the junta, it must prevent the return of Sanchez Cerro to Peru but in the absence of any other threatening situation I do not expect an early movement within the Army for the overthrow of the Government.

3. Recognition by non-Latin American Governments. Spain, Sweden and France have formally recognized the present Peruvian Government. Great Britain is on the point of regularizing relationships in the manner indicated in my 196, April 3 [23], 11 a. m.,²¹ and Japan

²¹ Not printed.

expects to take similar action. All desire merely to facilitate intercourse.

4. Attitude of the Latin American countries. The Ambassadors of Chile and Argentina acknowledged the junta's note of March 11th, enclosure No. 10 with my despatch 542 of March 17th,²² reciprocating its declarations. They inform me that having accepted the theory of the junta that it is but a continuation of the revolutionary movement initiated August 1930, Chile and Argentina consider that full diplomatic relations exist with the present Peruvian Government and are acting accordingly. Most other Latin American countries and the Papal State take the same position and feel that no special recognizing action on their part is necessary.

5. Position of United States. It seems to me we have only to consider what is generally and normally desirable and our own interests and convenience. I can see nothing whatever to be gained by not informing this Government that we will continue full diplomatic relations with it and accordingly beg most respectfully to make again the recommendations made in my number 624, April 12. It is quite as desirable to maintain full diplomatic relations with this Government as it was with that of Sanchez Cerro and probably more so. We need a regularized relationship for the conduct of our business as for instance in the Sutton case,²³ in which the Department has directed me to make formal written representations to this Government and I believe we should immediately put it in a responsible relationship to us and informing it we will continue full diplomatic relations. Under its theory it considers itself in such a relationship but we do not.

6. Effect of establishing full diplomatic relations. In my opinion to accord full diplomatic relations will tend to stabilize conditions in Peru and by regularizing our intercourse will greatly facilitate our current business. Even though the junta should soon disappear, I would still follow this course as the best and most logical in the circumstances. There is nothing to be gained by leaving in the way obstacles which can be removed. Moreover I believe we should act at once as our delay in Peruvian eyes is somewhat at variance with what is expected of us in view of our recent declarations regarding *de facto* recognition²⁴ and makes our intercourse, which we of course intend to continue, awkward instead of easy.

7. British attitude. The British Minister has just called on me to say he has instructions from his Government first to inform me and

²² Not printed.

²³ Mr. Charles W. Sutton, an American engineer, had been imprisoned without civil or judicial warrant by the military junta (423.11 Sutton, Charles W.).

²⁴ See press release issued by the Department of State on September 17, 1930, *Foreign Relations*, 1930, vol. I, p. 387.

then to say to the junta that Great Britain does not consider recent changes in the Peruvian Government to have altered the diplomatic relations between the two countries. I informed the Minister I was on the point of sending this message and he said he would wait a day or two before carrying out his instructions. He indicated that Germany and Belgium are waiting on his lead and asked me to let him know the Department's instructions in reply to this message.

8. Japanese attitude. My Japanese colleague has also called, saying that the British Minister had consulted him and that he favored early recognition, since various business which has come up has been rendered awkward by the undetermined and casual relationship prevailing at present.

As in my own case, my colleagues have been awaiting the termination of the strike to act.

DEARING

823.01/79 : Telegram

The Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, May 19, 1931—4 p. m.

35. Your 224, May 15, 2 p. m. You may answer Peruvian Government's note of March 12²⁵ last and state that the change in government in Peru will make no difference in the diplomatic relations between the United States and Peru.

STIMSON

823.001 Sanchez Cerro, Luis/29

The Ambassador in Peru (Dearing) to the Acting Secretary of State

No. 872

LIMA, July 2, 1931.

[Received July 8, 1931.]

SIR: I have the honor to attach hereto an official communiqué,²⁶ with an office translation, permitting Colonel Sanchez Cerro to return to Peru for the purpose of taking charge of his campaign for the presidency.

In accordance with this permission, Sanchez Cerro left Panama a few days ago on the Italian steamer *Orazio*, and is expected to arrive at Callao this afternoon.

Fearing that his arrival may result in a large demonstration by his adherents, the Ministry of Government issued a communiqué warning all political parties, societies, etc. against holding manifestations of

²⁵ See telegram No. 116, March 13, noon, from the Ambassador in Peru, p. 912.

²⁶ Not printed.

any kind, since the City is still under Martial Law, and stating that violation of the warning will be severely dealt with. Nevertheless, there is every indication that several thousand people will be at the docks when Sanchez Cerro arrives this afternoon.

La Tribuna, the Apra daily newspaper, carries the notice today that Haya de la Torre²⁷ arrived in New York on the *Bremen*; that he went to Washington and that he will sail for Peru on the steamship *Santa Maria* on Saturday, July 6th. His arrival here is looked forward to with mixed interest.

Respectfully yours,

For the Ambassador:
H. P. STARRETT
Counselor of Embassy

823.00 Revolutions/257 : Telegram

The Ambassador in Peru (Dearing) to the Acting Secretary of State

LIMA, July 2, 1931—7 p. m.
[Received 10:42 p. m.]

282. My 280, July 2, noon.²⁸ Manifestants gathered at Callao this afternoon to meet Sanchez Cerro, clashed with heavy police and cavalry patrols endeavoring to disperse them, and several persons were killed and many wounded. Government is permitting no communication with Callao and will not permit Sanchez Cerro to land until midnight, when it is rumored it will endeavor to spirit him quietly away under cover of darkness. In Lima mobs are milling around in Plaza San Martin and the Plaza de Armas which police are endeavoring to break up, so far without casualties. Press censorship is absolute. Outlook is for serious trouble tonight or tomorrow. Last minute report is that dynamite bombs are being thrown and many killed.

DEARING

823.001 Sanchez Cerro, Luis/41 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, November 29, 1931—noon.
[Received 2 p. m.]

367. The National Electoral Board yesterday officially proclaimed Sanchez Cerro elected President of Peru by 152,000 votes out of 299,000. The Constituent Assembly held its first meeting and organized.

²⁷ De la Torre was a candidate for the Presidency of Peru.

²⁸ Not printed.

The National Electoral Board has completed its work and terminated.

Sanchez Cerro should take oath of office the 8th or 9th of December.

DEARING

823.001 Sanchez Cerro, Luis/42 : Telegram

The Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, December 2, 1931—6 p. m.

67. Your telegram No. 367, November 29, 12 noon. At the time of the inauguration of Colonel Sanchez Cerro you may extend to him the cordial congratulations of the President and the assurances of his best wishes for the success of Colonel Sanchez Cerro's administration.

STIMSON

823.001 Sanchez Cerro, Luis/54 : Telegram

The Ambassador in Peru (Dearing) to the Secretary of State

LIMA, December 8, 1931—3 p. m.

[Received 4:36 p. m.]

381. Referring to my telegram No. 378, December 6, 10 a. m.,²⁹ inauguration of Sanchez Cerro took place today about 1 o'clock in the Chamber of Deputies without untoward incident.

DEARING

²⁹ Not printed.

POLAND

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND POLAND, SIGNED JUNE 15, 1931

660c. 11212/34

The Minister in Poland (Stetson) to the Secretary of State

No. 1752

WARSAW, May 24, 1928.

[Received June 16.]

SIR: Adverting to the Department's telegraphic Instruction No. 29 of April 17, 7 P. M.,¹ relative to American indirect shipments into Poland, I now have the honor to transmit herewith a memorandum of a conversation between myself and Mr. Allen on the one hand, and Mr. Kwiatkowski, Minister of Industry and Commerce, and Mr. Dolezal, Vice Minister, on the other. The Department will find the memorandum in question self-explanatory.

I shall have the honor to keep the Department informed of the results of any future conversations which I may have with Mr. Kwiatkowski on the subject.

I have [etc.]

JOHN B. STETSON, JR.

[Enclosure]

Memorandum of a Conversation Between the American Minister in Poland (Stetson), the American Commercial Attaché (Allen), and Certain Officials of the Polish Ministry of Industry and Commerce, May 17, 1928

Mr. Stetson announced his desire to open the old question of a trade treaty with the United States, sketching the course the negotiations had taken during the past two years.² He explained that the American Legation in Warsaw had for some time refrained from any initiative in the matter, at the express request of Mr. Ciechanowski, the Polish Minister in Washington. A recent visit to the United States had, however, given Mr. Stetson an opportunity of talking with Mr. Ciechanowski and of conferring with the Department of State,

¹ Not printed.

² On August 31, 1925, the Department submitted to the Polish Legation a draft commercial treaty similar to the treaty between the United States and Germany signed December 8, 1923, *Foreign Relations*, 1923, vol. II, p. 29. The records of the intermittent negotiations following the submission of the draft are not printed.

whereupon it was deemed advisable for Mr. Stetson to solicit an opinion from the competent Polish officials in Warsaw as to whether the present might not be a favorable time to define and discuss any differences in point of view which it may be necessary to resolve before a commercial treaty between the United States and Poland can be concluded.

Mr. Kwiatkowski replied that far from looking upon the question as old, he was inclined to view it as a new one, because the Poland of today was far different from the Poland of the time when the subject first came up. He expressed himself as most cordial to the suggestion of the American Minister and eager to facilitate discussions in whatever way he could. He emphasized his hope that practical aspects would characterize any discussions which might take place to the exclusion of academic or theoretical considerations.

After acknowledging his pleasure at meeting an attitude of mind so receptive, Mr. Stetson took occasion to allude to the Polish-German commercial treaty negotiations. He had observed an opinion during his trip abroad, doubtless deliberately inspired, that failure of the two parties to agree in spite of repeated attempts was an incurable disposition on the part of the Poles which rendered reasonable dealing with them impossible. If, in the face of such propaganda, Poland might now speedily negotiate a trade treaty with the United States, she would furnish a most effective denial to these damaging insinuations of third parties, and at the same time, further fortify the country's good reputation abroad.

Mr. Kwiatkowski's reply showed that he was deeply impressed by this thought.

Mr. Stetson continued that he would be glad to begin work as early as officials from the Polish side might find it convenient and wondered whether the Polish Government was ready to discuss objections it found to American proposals already advanced.

Mr. Kwiatkowski said that the matter would first be considered by a special commission who could make a report to him in about two weeks. After studying the report, he would be pleased to confer again with Mr. Stetson with a view to arranging for appropriate exchange of opinions and full consideration of the problem. Here Mr. Kwiatkowski digressed into some affable but sincere remarks about American co-operation with Poland, the substance of which was that in effective benefits and absence of friction, the results already visible of American participation in Polish affairs was truly astounding and exceeded anything that could possibly have been imagined a few years ago. Digressing even further, Mr. Kwiatkowski referred to his joy and pride, the harbor of Gdynia, and asked whether Mr. Stetson had seen it lately. It so happened that Mr. Stetson had just returned from a

trip which included a visit to Gdynia and was able to make several remarks concerning the accomplishment of the project which were highly pleasing to Mr. Kwiatkowski.

In taking leave, Mr. Stetson offered any assistance to the Commission he could render which might ease their immediate task.

611.60c31/80 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, July 2, 1928—4 p. m.

[Received 11:16 p. m.]

49. In continuation of Legation's telegram No. 45, June 26, 4 p. m.^{2a} During a long conversation which the Commercial Attaché and I had on June 30 with high officials of the Polish Ministry of Commerce, the following verbal proposal was made unofficially:

(1) Consideration will be given by the Polish Government to accepting our position with reference to indirect trade by instructing Polish consular officers in third countries to grant certificates of origin and by having officials admit the goods in question at the conventional rates of the Polish tariff. The above procedure would not be followed in countries having no commercial treaties with Poland but would be followed in all others. Russia and Germany are the only European countries which do not have such treaties.

(2) It is the desire of the Polish Government that the United States Government recognize the above exception by exchange of notes. The latter would continue in force until Poland has concluded commercial treaties with Russia and Germany. The Polish authorities request further that the United States Government express in a note its approval of the principle that trade between all countries should be direct and that the United States Government indicate that direct trade between Poland and the United States will so far as possible be supported.

That this Government could assume no responsibility actively to encourage direct shipments to Poland was explained to the Polish authorities. I have the impression that a vague general statement such as would not modify our existing policy would satisfy them.

Intimations were received that acceptance of the above proposal would remove the principal obstacle to continuing negotiations for the commercial treaty and that such negotiations might then immediately proceed.

The hope was expressed by the Polish authorities that in about 3 weeks these discussions could be continued.

STETSON

^{2a} Not printed.

660c.11212/35 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, August 10, 1928—4 p. m.

50. Legation's No. 49, July 2, 4 p. m., and despatch No. 1808, June 21.³

(1) It is the understanding of the Department that indirect shipments are subject to the following difficulties under present Polish regulations. Because of the lack of suitable provisions for certificates of origin, American goods shipped into Poland from stocks in bonded warehouses, free ports or elsewhere in a third country are subject to general tariff rates. Moreover, the importation from stocks in Germany of goods covered by the decrees of June 17 and July 11, 1925, is allowed only against a special permit, and goods now generally subject to import restrictions under the decree of February 10, 1928, cannot be imported from stocks in Germany against permit for the United States, or even transshipped between carriers in the ports of Germany.

(2) Briefly, the grounds for objection to the foregoing regulations are: American trade with Poland and other eastern European countries can be handled most economically and effectually via western European centers of distribution. The large proportion of American exports which spontaneously seek such channels sufficiently indicates this fact. The Department of Commerce estimates that some four-fifths of American trade with the Baltic countries, and as much as three-fourths of American trade with Poland, is carried on in this manner. Since American exporters depend to such an extent upon the facilities of third countries, the imposition of any penalties in consequence of the use of these facilities, places them at a distinct disadvantage in comparison with European competitors, who for obvious geographic reasons do not need to rely so largely thereon. Therefore, regulations by Poland which impose higher duties and even prohibitions on goods imported by way of third countries defeat the intent and purpose of the *modus vivendi*. The foregoing considerations should again be emphasized by you, and you should endeavor in every proper way to persuade the authorities of Poland to remove completely the obstacles to indirect trade now existing.

(3) After having fully considered the matter, the Government of the United States is unable to accept the proposals set forth in the second point of Legation's telegram No. 49. It is not unsympathetic with Poland's desire to develop national distributing agencies nor antagonistic toward the principle of direct trade, provided the means used to these ends do not preclude the interests of commerce itself.

³ Latter not printed.

But the United States cannot acquiesce in measures by which Poland seeks to obstruct in an artificial manner the economical channels of trade and force it from its natural avenues to the advantage of particular ports and distributing agencies. Furthermore, the acceptance of this precept would necessitate consistent adherence to it in accordance with the desires of any other governments. Since conducting successful American trade with all countries of eastern Europe depends at the present time so largely upon the use of distributing facilities in Germany and other countries, such acceptance would have unfortunate and far-reaching consequences for the United States.

(4) Nor can the desired exception regarding shipments via Germany be recognized by the Government of the United States. The estimate of the Department of Commerce, which shows that about one-third of the total exports of the United States to the Baltic countries consists of indirect shipments via Germany, indicates the importance of German distributing centers to our trade with eastern Europe. Were it not for the artificial obstacles which Poland has interposed, it is probable that these centers would be advantageously used to a corresponding extent in trade with Poland. Since any limitation on the use of such facilities operates to the material disadvantage of the trade of the United States, this Government is unable to accept the Polish proposal which amounts to a request that the United States voluntarily sacrifice the interests of its own exporters in order that Poland may secure from Germany certain benefits for itself. Moreover, our concurrence in the maintenance of these restrictions on our trade through Germany presents a difficulty of explanation to that country, which should be emphasized. The United States would be placing itself in the position of opposing Germany's interests, even to the extent of sacrificing its own, in a controversy to which it is not a party.

(5) Should the Polish authorities be disposed to make the acceptance of the proposals in point (1) of Legation's telegram No. 49 conditional upon the carrying out of those covered in point (2), you may say in substance that since this constitutes merely an offer partially to grant to the United States privileges to which, in its opinion, it is already entitled as a matter of right, Poland offers no real consideration for the concessions desired from the United States. Should the authorities of Poland contend that because of the general application of the indirect trade regulations in question there is no discrimination against the United States within the meaning of the *modus vivendi*, you may point out the fact that Poland has concluded a treaty with at least one country by which shipments originating in that country and imported into Poland via any third country apparently would be accorded the same customs treatment as if imported direct. There is no doubt but that the imposing of the regular tariff rates on indi-

rect shipments from the United States constitutes a violation of the letter of the *modus vivendi*. (See protocol and article 5 of the Japanese Treaty of Commerce and Navigation, signed December 7, 1922.)⁴

It may be useful in this connection to note that treaties between Poland and some other countries provide in substance that goods originating in a third country and imported by way of a country party to such treaty shall receive as favorable treatment as if shipped direct. Those countries are: Austria, by treaty of September 25, 1922, article 8;⁵ Denmark, March 22, 1924, article 3;⁶ Finland, November 10, 1923, article 11;⁷ Sweden, December 2, 1924, article 6.⁸ You may desire to consult your colleagues to ascertain whether any action has been taken under the above treaties, or is contemplated.

(6) Legation's despatch No. 1648, April 2.⁹ If the authorities of Poland make reference to our customs duty on cement imported from Poland with regard to the most-favored-nation clause of the *modus vivendi*, you may say informally that the Department is giving careful attention to the questions involved. However, you may indicate that the interests of Poland involved in this instance are obviously of relatively small significance to that country compared with American interests affected by the indirect shipment regulations of Poland. In the former case only one item of Poland's trade is involved, less than one percent of Poland's total exports, whereas in the latter case the greater part of American exports to Poland are affected.

(7) The Department in consultation with the Department of Commerce has carefully studied the Polish proposals and is unable to make any material concessions regarding indirect shipments. The Department hopes, however, that the foregoing explanation of the position of the Government of the United States will be understood by the authorities of Poland. The Department recognizes, of course, the practical value to American trade of the proposed removal of existing difficulties to shipments via third countries other than Germany, and it desires you to make every effort at least to insure the modification of the regulations to this extent.

If the authorities of Poland make the acceptance of the exception regarding Germany a condition for the granting of such concession, you should cable a further report to the Department and await instructions.

KELLOGG

⁴ League of Nations Treaty Series, vol. XXXII, p. 61.

⁵ *Ibid.*, vol. LIX, p. 307.

⁶ *Ibid.*, vol. XXXI, p. 13.

⁷ *Ibid.*, vol. XXIX, p. 229.

⁸ *Ibid.*, vol. XXXVI, p. 299.

⁹ Not printed.

660c.11212/36: Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, September 15, 1928—11 a. m.

[Received 2 p. m.]

61. Department's telegram No. 50, August 10, 4 p. m., seventh paragraph.

(1) Yesterday the Commercial Attaché and I had a lengthy and confidential conversation with Vice Minister of Commerce Dolezal and his department chief, Sokolowski, during which I outlined our position as follows:

(a) The United States could not agree to Polish proposals of which the Department was informed in Legation's telegram No. 49, July 2.

(b) That, after 3 years' discussion, I believed the time had come for a definite answer from the Government of Poland as to whether they could accept the point of view of the United States regarding commercial rights and relations under the *modus vivendi*.

(c) That the serious detriment to American trade is causing the Government of the United States to become impatient with the existing conditions, since we believe that we are asking only for considerations due us as a matter of right.

(d) That I was speaking officially [*unofficially?*] in order to give them the opportunity to consider the answer they might make before I should bring the question in its juridical aspects formally to the attention of the Foreign Office.

(e) The suggestion was made that if, through all countries except Germany, the Government of Poland immediately would free American commerce of the present hindrance to indirect trade, I would cable the Department for further instructions. The instructions might have a bearing on the strength of my proposed note to the Foreign Office. In any event the exception for Germany could only affect the speed of the negotiations and not the principles involved, because I did not desire to embarrass the Government of Poland while negotiations with Germany were in progress. These officials promised to reply to me unofficially in about 10 days, at which time I intend to send a note to the Foreign Office.

(2) I am of the opinion that the time has arrived to press the matter toward a decision, and, with this end in view, I intend to present a strong note within 2 weeks, based upon juridic considerations supplied by the Department in its telegram No. 50 and various instructions. In my opinion no advantage will be gained in postponing action pending the conclusion of German-Polish Commercial Treaty with Russia, especially since the best informed opinion is not hopeful of a successful outcome. The Commercial Attaché concurs with me in this.

STETSON

660c.11212/3 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, September 24, 1928—11 a. m.

55. Department approves course of action outlined in last paragraph of Legation's No. 61, September 15, 11 a. m.

KELLOGG

660c.11212/36 Supp. : Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, October 4, 1928—7 p. m.

57. Department's 55, September 24, 11 a. m. Counselor of Polish Legation, Washington, is leaving for Warsaw in an endeavor to induce the Polish Ministry of Commerce to accept our point of view in the matter of indirect trade. Department suggests that you defer the presentation of the note referred to in the second paragraph of your 61, September 11 [15], 11 a. m., until Mr. Lepkowski has discussed the matter with his Government.

KELLOGG

660c.113 Lard and Bacon/4 : Telegram

The Acting Secretary of State to the Minister in Poland (Stetson)

[Paraphrase]

WASHINGTON, October 20, 1928—4 p. m.

63. Legation's telegram No. 69, October 18, 5 p. m.¹⁰

(1) The issuance of the order of October 11, forbidding the application of lower duty to goods which even touch at ports of a third country, is manifestly unjust to the exporters concerned as it was after their shipments had gone forward. You should, therefore, make every proper effort in their behalf. However, the Department considers equally important that now when the question of indirect trade is under discussion, the Polish officials have seen fit to adopt measures raising to the ultimate extreme the difficulties with which our indirect trade is already burdened. The Department considers such action as indicative of the most regrettable attitude on the part of the Polish authorities, and it desires you to lodge a vigorous protest in the above sense unless you perceive some objection.

(2) The Department attaches great importance to the negotiations regarding indirect trade, and therefore desires you to continue to

¹⁰ Not printed.

press strongly the point of view set forth in its telegram No. 50, August 10, 4 p. m. The Department suggests that greater emphasis be placed upon the considerations indicated in paragraph 2 thereof. Although the case rests first upon the terms of the *modus vivendi*, which assures the United States freedom from discrimination, our case is the stronger because of the economic considerations set forth in the foregoing.

(3) The Department wishes to follow the negotiations very closely so as to be in a position to give any needed further instructions promptly. The Department desires direct and full reports from you so that the Department will not have to rely partly upon the reports of the Commercial Attaché to the Department of Commerce and transmitted by that Department. Since this negotiation which affects our relations with Poland must be kept in a single channel between the Department and the Legation, you will appreciate the Department's need for ample direct reports. The Department, of course, consults and fully informs the Department of Commerce.

CLARK

611.60c.31/83 : Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, October 21, 1928—5 p. m.

[Received 10:33 p. m.]

71. Economic committee of the Cabinet met October 19 and discussed our trade relations, but reached no decision. On October 25 the session will be continued. Have been informed that it is not so much the principles involved that cause opposition to our thesis as the application of the principles. Influential Ministers fear chiefly that if our thesis is accepted the necessary change in policy will cause increased importations, not so much from the United States as from other countries of Europe and that further detriment to the trade balance will result. Our thesis is being defended by Minister Zaleski.

I have been asked by Potocki and Lepkowski unofficially whether assistance in meeting the opposition could be rendered Zaleski. The latter is in need of assurance of our cooperation in combating for a certain period the unfavorable balance of trade. It is believed by Zaleski, although he does not commit himself, that consent can be obtained to principles allowing treaty negotiations in Washington to be resumed immediately provided his colleagues can be convinced that importations will not in consequence be materially altered. Inasmuch as other Ministers are greatly excited about the balance of trade, Zaleski desires that I vaguely assure him that the *status quo*

will be accepted by us until the matter can be studied in relation to the trade of Poland with other countries and new dispositions can be made.¹¹ If the consent of his colleagues can thus be obtained, the definite terms of a gentlemen's agreement, whereby present conditions would be accepted by us for about 4 months and American commerce would receive the most favorable consideration compatible with existing law, will then be officially discussed with me.

Although an agreement of this kind seems to me one-sided, it should be pointed out that Poland does not desire that other countries be placed in a position to demand the rights which would be conceded to us in the treaty until Poland's unfavorable balance of trade has been remedied. If, therefore, their suggestion is not acceded to and if an unfavorable opinion is rendered by the committee, a note to the Minister for Foreign Affairs is the next step. But in that event it is feared that excuses will be found to drag the matter along until improvement is shown in the balance of trade. In spite of the fact that further delay is involved in this proposal, no other alternative appears to offer so good a chance for progress as acquiescence therein. Please instruct me before October 25 whether the Department is willing to accept the delay and whether the vague unofficial assurance may be given before the meeting. There is already an understanding between us here that after October 25 I shall be free, as circumstances dictate, either to send a formal note or to set a definite period for the delay.

STETSON

611.60c31/83 : Telegram

The Secretary of State to the Minister in Poland (Stetson)

WASHINGTON, October 24, 1928—2 p. m.

65. Your 71, October 21, 5 p. m.

(1) In view of concern of the Polish Government by reason of adverse trade balance, the Government of the United States is disposed to refrain from pressing its point of view during the next 4 months but only on condition that a satisfactory *quid pro quo* is granted by Poland. Otherwise we could not refrain from pressing our case, in view of serious handicaps suffered by American commerce by reason of Polish discriminations. Accordingly you may state to the Polish authorities that the United States will refrain from pressing case during 4 months from this date on the following basis: (a) that Polish Government agrees to accept the principle of non-discrimination against indirect commerce; (b) that after the 4 months' period

¹¹ The original text of this sentence is not clear but this appears to be the meaning intended.

discrimination against indirect trade from the United States will completely cease.

Such an arrangement apparently will meet immediate difficulties confronting the Polish Government and while it would involve material sacrifice to American commerce, this Government is willing to show forbearance provided the matters in controversy can be definitely and satisfactorily settled on the basis stated.

(2) Any arrangement whereby our trade would be given most favorable treatment consistent with existing law should not be considered as acquiescence on our part in maintenance of extreme regulation of the kind recently adopted in connection with importations of bacon and lard whereby shipments which even touch at ports of third countries en route to Poland are subjected to customs discrimination. In view of inadequacy of direct sailings and consequent necessity of transshipping between carriers at European ports, such a regulation imposes serious and inescapable hardship upon American trade. It should also be understood that existing indirect shipment regulations would not be altered to our disadvantage during period agreed upon.

(3) [Paraphrase.] You may show the above to the authorities of Poland, and strongly reinforce your proposal with oral representations along the lines already made. Although the Department hopes that you can procure the acceptance of the arrangement set forth in paragraph (1), and it desires that you make every effort along these lines, you are authorized to say that you will report to your Government for its consideration any alternative arrangement proposed by Poland which involves material advantages to the commerce of the United States. [End paraphrase.]

KELLOGG

660c.113 Lard and Bacon/10: Telegram

The Minister in Poland (Stetson) to the Secretary of State

[Paraphrase]

WARSAW, October 31, 1928—5 p. m.

[Received October 31—3:15 p. m.]

75. Reference is made to Department's telegram No. 63, October 20, 4 p. m., paragraph (1).

Inasmuch as I have received no satisfaction from the Polish authorities except for the vague assurances which they have given in response to informal protests made by me, formal action in accordance with the Department's telegram No. 63 of October 20, 4 p. m., has been taken. I made a statement to the following effect:

It will be impossible for consideration to be given by my Government to the request for the delay in connection with the projected commercial treaty until it has been assured that Poland will not again take arbitrary and unwarranted action of this kind.

If the above assurance is not given, acquiescence in the delay which the Polish Government seeks would be unwise. Particularly is this true because the Polish Government is now disposed to overlook the justice of our representations in the lard case to the extent of proposing a settlement by compromise. The proposed strict compromise contemplates accepting over a period of 60 or 90 days, rather than within the 30 days following October 6, the shipments of lard which have been made in accordance with the decree of September 29. In spite of this promise of today, past experience causes me to hesitate in pronouncing the matter definitely closed until the promises made have been confirmed in writing and until I know that the Polish authorities have actually issued the permits for shipments now lying in Danzig.

STETSON

611.60c31/89

The Minister in Poland (Stetson) to the Secretary of State

No. 2030

WARSAW, November 21, 1928.

[Received December 11.]

SIR: Adverting to the Legation's previous correspondence with the Department relative to the question of indirect trade between the United States and Poland, I now have the honor to transmit herewith copy of a memorandum which was delivered by Mr. Biega, of the Polish Ministry of Foreign Affairs, to Mr. Werlich, of this Legation, under date of October 31 [30], 1928.

The memorandum in question includes a decision of the Economic Council of Ministers relative to the policy to be adopted by the Polish Government in the negotiations for a commercial treaty with the United States.

I have been advised by Count Potocki, of the Ministry of Foreign Affairs, that the decision of the Economic Council of Ministers has already been communicated to Mr. Ciechanowski, the Polish Minister in Washington, for his information and for his guidance in any negotiations that may take place in Washington between representatives of the Polish and the American Governments, with a view to concluding a commercial treaty.

I have [etc.]

JOHN B. STETSON, JR.

[Enclosure—Memorandum]

The Polish Ministry for Foreign Affairs to the American Legation

By their decision of 28th October the Council of Ministers have agreed to admit in the now being negotiated commercial treaty between Poland and the U. S. A. the principle of equal treatment of all merchandise without discrimination whether it is shipped directly or indirectly to the Polish custom frontier on the condition however, that:

a) The Polish Government will receive the consent of the Government of the U. S. A. that the above principle will come into application simultaneously with the treaty itself and that the Government of the U. S. A. will not press on the Polish Government the application of the same until the coming into force of the said treaty. Should the coming into force of the said treaty for some unforeseen reasons be unduly delayed it is understood that the above obligation on the part of the U. S. A. Government will be binding for a period of six months only.

b) The article in question will be worded in such a way (1) as to indicate beyond any doubt that this privilege of indirect importation is applicable only to the merchandise which on its way to Poland must at least partly be transported across the sea, (2) as to make impossible the substitution of the merchandise of other countries for American merchandise in the stores of the transit countries.

WARSAW, 30 October, 1928.

711.60C2/41

The Polish Minister (Ciechanowski) to the Secretary of State

WASHINGTON, January 21, 1929.

SIR: With reference to the decision of the Polish Government of October 31st 1928, concerning Article VII of the Treaty of Friendship, Commerce and Consular Rights between Poland and the United States of America under negotiation, of which decision I had the honor to inform you at the time, and with reference to the undertaking of the United States Government to refrain until April 30th 1929 from insisting on the application of the most favored nations clause of the existing *modus vivendi* now in force between Poland and the United States regarding indirectness of trade between the two countries;—I have now the honor to inform you that my Government have instructed me to communicate to you the following:

1. Should the conclusion of the Treaty of Friendship, Commerce and Consular Rights be delayed for some unforeseen reason beyond the

date of April 30th, 1929,—the Polish Government shall raise no objection to indirect trade between the two countries under the most favored nation clause of the *modus vivendi* from that date.

2. Until the 30th April 1929 the Polish Government shall not introduce any new restrictions relating to indirect trade between the United States of America and Poland.

The decision of the Polish Government of the 31st of October 1928 as well as the above stated undertakings of my Government have been given on the understanding that they would be materially instrumental in eliminating any further delay in the conclusion of the said Treaty of Friendship, Commerce and Consular Rights, and in the hope that the conclusion of the said Treaty would take place before April 30th 1929. My Government are convinced that such a prompt conclusion of the Treaty is likewise the aim of the Government of the United States of America.

You have kindly assured me that every effort will be made by the Department of State to expedite the Treaty negotiations, and I can once more assure you that I shall likewise make every effort to achieve the conclusion of the Treaty before April 30th 1929.

However, should it prove impossible for technical reasons to conclude the said Treaty before April 30th 1929, my Government understand that in such a case, the Government of the United States will agree to an extension of the 'status quo' obtaining until April 30th 1929 for the period of time indispensable to the conclusion of the said Treaty of Friendship, Commerce and Consular Rights.

Accept [etc.]

JAN CIECHANOWSKI

711.60C2/41

The Secretary of State to the Polish Minister (Ciechanowski)

[WASHINGTON,] January 21, 1929.

SIR: I have the honor to acknowledge the receipt of your note of January 21, 1929, stating that the Polish Government, in consideration of the undertaking of this Government to refrain until April 30, 1929, from urging, on the basis of the *modus vivendi*, the abolition of the distinctions now made between American direct and indirect shipments to the detriment of American trade with Poland, agrees not to introduce any new restrictions on indirect trade between the United States and Poland. The Polish Government further agrees, in consideration of the above undertaking on the part of the United States, that, should the conclusion of the Treaty of Friendship, Commerce, and Consular Rights be delayed beyond April 30, 1929, it will nevertheless abolish from that date the distinctions heretofore made to the

disadvantage of American indirect as compared with direct shipments.

In view of the understanding above set forth, this Government is prepared immediately to resume treaty negotiations.¹² I may assure you that every effort will be made on the part of the Government of the United States to expedite the conclusion of the Treaty of Friendship, Commerce, and Consular Rights with Poland.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, JR.

Treaty Series No. 862

*Treaty Between the United States of America and Poland,
Signed at Washington, June 15, 1931*¹³

The United States of America and the Republic of Poland, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America, Henry L. Stimson, Secretary of State of the United States of America, and

The President of the Republic of Poland, Tytus Filipowicz, Ambassador Extraordinary and Plenipotentiary of Poland in Washington,

who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease

¹² Negotiations were conducted in Washington. The notes exchanged during 1929, 1930, and 1931 between the Department and the Polish Legation, largely technical discussions of the draft treaty, are not printed.

¹³ In English and Polish; Polish text not printed. Ratification advised by the Senate, April 5 (legislative day of April 4), 1932; ratified by the President, April 21, 1932; ratified by Poland, April 20, 1933; ratifications exchanged at Warsaw, June 9, 1933; proclaimed by the President, July 10, 1933.

and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice; and generally the said nationals shall be permitted, upon submitting themselves to all local laws and regulations duly established, to enjoy all of the foregoing privileges and to do anything incidental to or necessary for the enjoyment of those privileges, upon the same terms as nationals of the State of residence, except as otherwise provided by laws of either High Contracting Party in force at the time of the signature of this Treaty. In so far as the laws of either High Contracting Party in force at the time of the signature of this Treaty do not permit nationals of the other Party to enjoy any of the foregoing privileges upon the same terms as the nationals of the State of residence, they shall enjoy, on condition of reciprocity, as favorable treatment as nationals of the most favored nation.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to emigration or to immigration or the right of either of the High Contracting Parties to enact such statutes, provided, however, that nothing in this paragraph shall prevent the nationals of either High Contracting Party from entering, traveling and residing in the territories of the other Party in order to carry on international trade or to engage in any commercial activity related to or connected with the conduct of international trade on the same terms as nationals of the most favored nation.

Nothing contained in this Treaty is to be considered as interfering with the right of either party to enact or enforce statutes concerning the protection of national labor.

ARTICLE II

With respect to that form of protection granted by National, State, or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and injured within any of the territories of the other, shall, regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of, any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any persons holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such nationals shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the pay-

ment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose subject to the mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant life and health, or regulations for the enforcement of police or revenue laws, including laws prohibiting or restricting the importation or sale of alcoholic beverages or narcotics.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges, and no condition or prohibition on the importation of any article, the growth, produce, or manufacture of the territories of the other Party than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other country. Administrative orders effecting advances in duties or changes in regulations applicable to imports shall not be made operative until the elapse of sufficient time, after promulgation in the usual official manner, to afford reasonable notice of such advances or changes. The foregoing provision does not relate to orders made operative as required by provisions of law or judicial decisions, or to measures for the protection of human, animal or plant life or for the enforcement of police laws.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Neither High Contracting Party shall establish or maintain restrictions on imports from or exports to the territories of the other Party which are not applied to the import and export of any like article originating in or destined for any other country. Any withdrawal of an import or export restriction which is granted even temporarily by one of the Parties in favor of the articles of a third country shall be applied immediately and unconditionally to like articles originating in or destined for the other Contracting Party. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share in the allocation of the quantity of restricted goods which may be authorized for importation or exportation.

Any advantage concerning charges, duties, formalities and conditions of their application which either High Contracting Party may extend to any article, the growth, produce or manufacture of any other foreign country, shall simultaneously and unconditionally, without request and without compensation be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States of America or are or may be legally exported therefrom in vessels of the United States of America, may likewise be imported into these ports or exported therefrom in Polish vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States of America; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Poland or are or may be legally exported therefrom in Polish vessels, may likewise be imported into these ports or exported therefrom in vessels of the United States of America without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Polish vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks and other privileges of this nature, of whatever denomination, which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner

be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third state, whether such favored state shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third state shall simultaneously and unconditionally, without request and without compensation be extended to the other High Contracting Party for the benefit of itself, its nationals, vessels and goods.

No distinction shall be made by either High Contracting Party between direct and indirect importations of articles originating in the territories of the other Party from whatever place arriving. In so far as importations into Poland are concerned, the foregoing stipulation applies only in the case of goods which for a part of the way from the place of their origin to the place of their ultimate destination had to be carried across the ocean.

Either Contracting Party has the right to require that articles which are imported from the territories of the other Party and are entitled under the provisions of this Treaty to the benefit of the duties or charges accorded to the most favored nation, must be accompanied by such documentary proof of their origin as may be required in pursuance of the laws and regulations of the country into which they are imported, provided, however, that the requirements imposed for this purpose shall not be such as to constitute in fact a hindrance to indirect trade. The requirements for furnishing such proof of origin shall be agreed upon and made effective by exchanges of notes between the High Contracting Parties.

The stipulations of this article shall not extend :

(a) To the treatment which either High Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometers) wide on either side of its customs frontier.

(b) To the special privileges resulting to States in customs union with either High Contracting Party so long as such special privileges are not accorded to any other State.

(c) To the treatment which is accorded by the United States of America to the commerce of Cuba under the provisions of the commercial convention concluded by the United States of America and Cuba on December 11, 1902,¹⁴ or any other commercial convention which hereafter may be concluded by the United States of America

¹⁴ Malloy, *Treaties, Conventions, etc.*, 1776-1909, vol. I, p. 353.

with Cuba. Such stipulations, moreover do not extend to the treatment which is accorded to commerce between the United States of America and the Panama Canal Zone or any of the dependencies of the United States of America, or to the commerce of the dependencies of the United States of America with one another under existing and future laws.

(d) To the provisional customs regime in force between Polish and German parts of Upper Silesia laid down in the German-Polish Convention signed at Geneva on May 15, 1922.¹⁵

ARTICLE VII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, charges in respect to warehousing and other facilities.

ARTICLE VIII

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE IX

For the purposes of this Treaty, merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality, shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the

¹⁵ *British and Foreign State Papers*, vol. cxviii, p. 365.

same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to special privileges reserved by either High Contracting Party for the fishing and shipbuilding industries.

ARTICLE XI

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy freedom of access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by the consent of such Party as expressed in its National, State, or Provincial laws and regulations.

ARTICLE XII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations or associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with

respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, National, State or Provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party, shall, moreover, enjoy within the territories of the other, on condition of reciprocity, and upon compliance with the conditions there imposed, such rights and privileges as may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other. It is understood, however, that neither High Contracting Party shall be required by anything in this paragraph to grant any application for any such right or privilege if at the time such application is presented the granting of all similar applications shall have been suspended or discontinued.

ARTICLE XIII

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party shall deem necessary the presentation of an authentic document establishing the identity and authority of commercial travelers representing manufacturers, merchants or traders domiciled in the territories of the other Party in order that such commercial traveler may enjoy in its territories the privileges accorded under this Article, the High Contracting Parties will agree by exchange of notes on the form of such document and the authorities or persons by whom it shall be issued.

ARTICLE XIV

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the most convenient routes open for international transit, by rail, navi-

gable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons, their luggage and goods coming from, going to or passing through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories, or goods or luggage of which the importation may be prohibited by law. Persons, their luggage and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities or any other matter.

Goods in transit must be entered and cleared at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

Nothing in this Article shall affect the right of either of the High Contracting Parties to prohibit or restrict the transit of arms, munitions and military equipment in accordance with treaties or conventions that may have been or may hereafter be entered into by either Party with other countries.

ARTICLE XV

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be

permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this Treaty.

ARTICLE XVI

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at court by a consular officer as a witness may be demanded by the prosecution or defence. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the State which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his testimony in cases to which he is not a party shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at court whenever it is possible to do so without serious interference with his official duties.

ARTICLE XVII

Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other property intended for their personal use, accompanying the officer to his post; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation.

It is understood, however, that the privileges of this Article shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XVIII

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions, shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within, the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them, shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

The Government of each High Contracting Party shall have the right to acquire and own land and buildings required for diplomatic or consular premises in the territory of the other High Contracting Party and also to erect buildings in such territory for the purposes stated subject to local building regulations.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XIX

Consular officers may place over the outer door of their respective offices the coat of arms of their State with an appropriate inscription designating the official office, and they may place the coat of arms of their State on automobiles employed by them in the exercise of their consular functions. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The quarters where consular business is conducted and the archives of the consulates shall at all times be inviolable, and under no pretext shall any authorities of any character within the country make any examination or seizure of papers or other property deposited with the archives. When consular officers are engaged in business within the territory of the State where they are exercising their duties, the files and documents of the consulate shall be kept in a place entirely separate from the one where private or business papers are kept.

Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer, having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XX

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXI

Consular officers, in pursuance of the laws of their own country may (a) take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country; (b) draw up, attest, certify and authenticate unilateral acts, translations, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party; (c) authenticate signatures; (d) draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted, within the territories of the State by which they are appointed.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated by the consular officer, under his official seal, shall be received as evidence in the territories of the Contracting Parties as original documents or authenticated copies, as the

case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always, that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

A consular officer of either High Contracting Party shall within his district have the right to act personally or by delegate in all matters concerning claims of non-support of non-resident minor children against a father resident in the district of the consul's residence and a national of the country represented by the consul, without other authorization, providing that such procedure is not in conflict with local laws.

ARTICLE XXII

In case of the death of a national of either High Contracting Party in the territory of the other without having in the locality of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of the death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

In case of the death of a national of either of the High Contracting Parties without will or testament and without any known heirs resident in the country of his decease, the consular officer of the country of which the deceased was a national shall be appointed administrator of the estate of the deceased, provided the regulations of his own Government permit such appointment and provided such appointment is not in conflict with local law and the tribunal having jurisdiction has no special reasons for appointing someone else.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the

jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXIII

A consular officer of either High Contracting Party may, if this is not contrary to the local law, appear personally or by delegate on behalf of non-resident beneficiaries, nationals of the country represented by him before the proper authorities administering workmen's compensation laws and other like statutes, with the same effect as if he held the power of attorney of such beneficiaries to represent them unless such beneficiaries have themselves appeared either in person or by duly authorized representative.

Written notice of the death of their countrymen entitled to benefit by such laws should, whenever practicable, be given by the authorities administering the law to the appropriate consular officer of the country of which the deceased was a national.

A consular officer of either High Contracting Party may on behalf of his non-resident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called workmen's compensation laws or other like statutes provided he remits any funds so received through the appropriate agencies of his Government to the proper distributees.

ARTICLE XXIV

A consular officer of either High Contracting Party shall, within his district, have the right to appear personally or by delegate in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities for all such heirs or legatees in said estate, either minors or adults, as may be non-residents and nationals of the country represented by the said consular officer with the same effect as if he held their power of attorney to represent them unless such heirs or legatees themselves have appeared either in person or by duly authorized representative.

ARTICLE XXV

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall

also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the mer-

chandise saved. It is understood that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXVIII

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

ARTICLE XXIX

The Polish Government which is entrusted with the conduct of the foreign affairs of the Free City of Danzig under Article 104 of the Treaty of Versailles¹⁶ and Articles 2 and 6 of the Treaty signed in Paris on November 9, 1920, between Poland and the Free City of Danzig,¹⁷ reserves hereby the right to declare that the Free City of Danzig is a Contracting Party to this Treaty and that it assumes the obligations and acquires the rights laid down therein.

This reservation does not relate to those stipulations of the Treaty which the Republic of Poland has accepted with regard to the Free City in accordance with the Treaty rights conferred on Poland.

ARTICLE XXX

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Warsaw. The Treaty shall take effect in all its provisions thirty days from the date of the exchange of ratifications and shall remain in full force for the term of one year thereafter.

If within six months before the expiration of the aforesaid period of one year neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the Articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until six months from

¹⁶ *Treaties, Conventions, etc.*, 1910-1923, vol. III, pp. 3329, 3385.

¹⁷ *British and Foreign State Papers*, vol. cxiii, p. 965.

such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Treaty and have affixed their seals thereto.

DONE in duplicate, each in the English and Polish languages, both authentic, at Washington, this fifteenth day of June, one thousand nine hundred and thirty-one.

HENRY L STIMSON	[SEAL]
TYTUS FILIPOWICZ	[SEAL]

AGREEMENT CONCERNING PROOF OF THE ORIGIN OF IMPORTED MERCHANDISE EFFECTED BY EXCHANGE OF NOTES PROVIDED FOR IN THE TENTH PARAGRAPH OF ARTICLE VI OF THE TREATY

*The Secretary of State to the Polish Ambassador (Filipowicz)*¹⁸

WASHINGTON, June 15, 1931.

EXCELLENCY: I have the honor to communicate to Your Excellency my understanding of the agreement reached regarding the requirements for furnishing proof of the origin of imported merchandise entitled to the benefits of the treaty of friendship, commerce and consular rights signed this day on behalf of the United States of America and Poland.

In the event that proof of the origin of imported goods is required by either Party pursuant to the provisions of the tenth paragraph of Article VI of the treaty, it is agreed that

(1) A declaration by the shipper in the country of origin legalized by a consular representative of the country of final destination resident in the country of origin shall be accepted as satisfactory proof of the origin of the goods. As far as certificates of origin for importation into the Polish customs territory are concerned, the above-mentioned shipper's declaration before legalization by a consular representative of Poland, has to be certified by a competent Chamber of Commerce or similar organization, subject to the exceptions provided for in subparagraph (a) of paragraph (3) hereof.

(2) For indirect shipments an acceptable alternative to the certificate of origin obtained in the country of origin as provided in paragraph (1) shall be proof of origin obtainable in the intermediate country from which the goods are last shipped to the country of final destination. Such proof shall consist of a declaration by the consignor of the goods in the intermediate country before a consular officer of the country of origin resident in the intermediate country,

¹⁸ An identic note, No. 2241/31, from the Polish Ambassador (Filipowicz) was addressed to the Secretary of State, June 15, 1931.

certified by the latter and approved by a consular representative of the country of final destination resident in the intermediate country, it being understood that the consular representatives of the country of origin shall not certify the shipper's declaration for this purpose unless they are satisfied upon examination of documentary or other evidence that the statements made therein are true.

(3) The attached form of certificate of origin ¹⁹ for use in connection with direct shipments from the United States to Poland and the attached form for use in connection with indirect shipments from the United States to Poland through an intermediate country or countries, respectively, conform to the provisions above set forth, it being understood and agreed, however, that

(a) If the circumstances of any particular case render it impracticable for the shipper of the goods to obtain certification on a certificate of origin by a Chamber of Commerce or similar organization, the certificate of origin may be submitted for authentication directly to a Polish consular officer, and the fact that certification by a Chamber of Commerce or similar organization has not been obtained shall not be considered by such consular officer as of itself sufficient ground for refusing to authenticate the document.

(b) If at the time the certificate of origin is made out circumstances render it difficult or inconvenient for shippers to specify on such certificate the name of the vessel on which the goods are to be shipped, the necessities and convenience of shippers shall be taken into account either by waiving this requirement or by making such other provision as the circumstances of the case require.

(c) In exceptional cases in which doubt exists regarding the exact proportion of the value of any given article represented by the costs of the labor and raw material of the United States, or in which such proportion is less than fifty per centum, but the article, in view of the nature and extent of the processes to which it has been subjected, is distinctly an American product, no certification regarding such proportion on a certificate of origin shall be required.

Any article in which the raw material or the labor of the United States represents less than fifty per centum of the total value shall, nevertheless, be deemed to be a product of the United States if a like article from any third country representing less than fifty per centum in value the labor and raw material of such third country is deemed to be a product of that country.

(4) In the event that modification of the requirements outlined in the preceding paragraphs is at any time considered desirable from the viewpoint of either Party, it is agreed that its proposals to this end shall be given sympathetic consideration by the other Party.

I shall be glad to have your confirmation of the accord thus reached.

Accept [etc.]

HENRY L. STIMSON

¹⁹ Not printed.

INDEMNITY BY THE POLISH GOVERNMENT FOR MISTREATMENT OF
AN AMERICAN CITIZEN BY POLISH SOLDIERS

360c.1121 Fedoryszyn, Justyn/47

*The American Ambassador in Poland (Willys) to the Polish Minister
of Foreign Affairs (Zaleski)*²⁰

No. 135

WARSAW, January 9, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note No. P. II. 42.046/30 of December 10, 1930, in reply to the urgent Note of the Embassy, dated October 17, 1930,²¹ which requested that a thorough investigation be made as promptly as possible of a complaint formulated by Mr. Justyn Fedoryszyn, an American citizen, that he had been brutally beaten by uniformed soldiers of the Polish army at the Village of Sarniki on October 9.

I now am instructed by my Government to inform you that it has noted with astonishment the failure of the Polish Government to establish the fact that Mr. Fedoryszyn was the victim of an outrage at the hands of a detachment of Polish soldiers under the command of a responsible officer and to identify the persons who were responsible for the assault that was made upon him. Although the essential facts in this case were brought to the attention of the Polish Government as promptly as was possible, considering the physical condition of Mr. Fedoryszyn following the flogging that was administered to him and although these facts as presented in the Embassy's Note of October 17th clearly were sufficiently detailed to have enabled the Polish Government to establish the identity of the perpetrators of the outrage, Your Government has found it possible only to advance certain theories as to the manner in which Mr. Fedoryszyn may have received his injuries which are totally excluded by the results of the medical examination of Mr. Fedoryszyn which were communicated to Your Government in the Embassy's Note of October 17th. Information which has been obtained by the Government of the United States corroborates Mr. Fedoryszyn's statement that he was flogged by Polish soldiers under the command of their officers. My Government is of the opinion that the Polish Government should meet with no difficulty in obtaining similar corroboration.

With reference to the intimation in your communication of December 10th that Mr. Fedoryszyn's nationality was not known to the local authorities my Government has instructed me to point out that Mr. Fedoryszyn has submitted to the Department of State his American passport which bears an entry under date of June 4th, 1930, the

²⁰ Copy transmitted to the Department by the Ambassador as an enclosure to his despatch No. 490, January 13; received January 29.

²¹ Neither printed.

date of Mr. Fedoryszyn's arrival at the Village of Sarniki, signed and sealed by the Naczelnik of Sarniki, certifying that Mr. Fedoryszyn had that day reported his arrival to that official. Mr. Fedoryszyn has further submitted to the Department of State a certificate signed and sealed by the Starost at Bóbrka under date of August 4th, 1930, certifying that on that date Mr. Fedoryszyn had fulfilled the obligation of registration. In the certificate Mr. Fedoryszyn is described as an American citizen.

With reference to the specific allegations contained in your Note, Mr. Fedoryszyn denies that he negotiated for the purchase of a plot of ground in Poland and states that he had no intention of purchasing any property whatsoever in Poland. He further states he had no relations with any secret sabotage organizations in Poland, that he knew no member of any such organizations and that at no time did he engage in any political activity. Even had he been so engaged the flogging given him would not have been warranted or excused.

With regard to the reference in your Note to the circumstances that Mr. Fedoryszyn did not present a complaint to the Polish authorities, I believe that Your Excellency will agree that Mr. Fedoryszyn's attitude in this regard is not surprising, in view of the fact that the outrage perpetrated upon him was inflicted by agents of the Polish Government and that as is pointed out in Your Excellency's Note of December 10th the local authorities as well as a military detachment participated in the arrest of Mr. Fedoryszyn which immediately preceded the flogging that was administered to him. Mr. Fedoryszyn was unable to present himself at the Embassy at an earlier date for the reason that, as a result of the flogging, for four days he could scarcely move in his bed at his home in Sarniki.

Without entering at this time into a discussion of the propriety of the arrest of Mr. Fedoryszyn, I may state that in Mr. Fedoryszyn's circumstantial account of the events which took place upon the occasion of his arrest there is nothing that would indicate that his attitude toward the arresting soldiers was insulting. Your Excellency will, I am certain, agree that even had Mr. Fedoryszyn exhibited an insulting attitude toward the soldiers at the time of his arrest, that fact would not have offered the slightest ground for the flogging which was later administered to him.

To the best of Mr. Fedoryszyn's knowledge no fight occurred among the persons who were arrested with him, or between the soldiers and the arrested persons, either on the day of the arrests, or subsequently. I may here invite your attention to the circumstance that, as was pointed out in the Embassy's Note of October 17th, the two qualified physicians of the United States Public Health Service who examined

Mr. Fedoryszyn at Warsaw found that he had been systematically beaten with a blunt instrument. He bore no marks of spontaneous violence such as might have resulted from blows received in the course of a fight.

Mr. Fedoryszyn states that he was arrested on October 9th, 1930 at about 4:30 o'clock in the afternoon by two fully armed Polish soldiers. He was placed in a wagon which was under armed guard and which contained one other prisoner when he entered it. Subsequent to his arrest the wagon made three stops in Sarniki and three additional prisoners were taken. The wagon then proceeded to a barn situated in the village where nine other prisoners were held. All the prisoners were placed behind a partition in the barn and were called out singly by the officer in command of the detachment of soldiers and were flogged in another part of the building.

According to Mr. Fedoryszyn's statement the commanding officer was addressed by the enlisted men as "Lieutenant." When Mr. Fedoryszyn's name was called by this officer Mr. Fedoryszyn presented to him his American passport and his certificate of naturalization as an American citizen. The officer examined the documents, and without returning them to Mr. Fedoryszyn remarked that "we will beat you in the American fashion." Mr. Fedoryszyn then was stripped and flogged. He estimates that more than two hundred strokes were administered to him. His papers were not returned to him until two hours later. He, and the other prisoners were released at about two o'clock in the afternoon of the next day, after they had been held overnight without food in a cellar or pit near the barn. Mr. Fedoryszyn has no knowledge of a Captain Poznanski. He saw no officer of the rank of Captain.

Competent physicians who have examined Mr. Fedoryszyn have certified that he suffered painful injuries. In addition to subcutaneous hemorrhages which cover an extensive area of the posterior surface of the buttocks and thighs he was certified to be suffering as long after the flogging as December 1st, 1930, from a bronchitis which on October 15th, 1930 was acute. This condition he states resulted from exposure in the cellar or pit in which he was compelled to remain overnight subsequent to the flogging.

On the basis of the facts as they appear in this case, a wanton and unprovoked outrage was committed by uniformed soldiers of the Polish army on the person of an American citizen, resulting in serious injuries and illness to him. My Government is confident that the Government of Poland will not condone in any way this unjustified and premeditated assault committed under the command and supervision of a responsible military officer, upon the national of a friendly

country, but that, on the contrary, it will promptly disavow this act, punish those responsible, and pay to Mr. Fedoryszyn a suitable indemnity for the injuries inflicted upon him.

I am instructed to request that adequate compensation be paid to Mr. Fedoryszyn and that the persons responsible for the assault upon him be punished with the degree of severity that befits their offense.

I avail myself [etc.]

JOHN N. WILLYS

360c.1121 Fedoryszyn, Justyn/50

Memorandum by the Assistant Chief of the Division of Eastern European Affairs. (Packer)

[WASHINGTON,] February 5, 1931.

The Counselor of the Polish Embassy, Mr. Lepkowski, telephoned this afternoon to say that he had just received a telegram from the Foreign Office at Warsaw in which it was stated that the demands of the American Government in the Fedoryszyn case had been acceded to and that the lieutenant in question was being court-martialed. Mr. Lepkowski said that it was appreciated that no publicity had been given to this matter and hoped that no publicity would be given to it. I told him that I thought it unlikely that publicity would be given to the case, but that the matter was, of course, one in which the Secretary himself had taken a personal interest and was for his ultimate decision. Mr. Lepkowski expressed the hope that the Secretary might be informed of the Embassy's interest in this matter.

E. L. P[ACKER]

360c.1121 Fedoryszyn, Justyn/90 : Telegram

The Ambassador in Poland (Willys) to the Secretary of State

WARSAW, May 11, 1931—4 p. m.

[Received 6:12 p. m.]

52. My telegram No. 49, May 4, 1 p. m.²² I have just received a note of today's date from the Foreign Minister which reads in translation as follows:

"With reference to my note dated February 4²² of this year, I have the honor to inform Your Excellency that the military tribunal of Lublin rendered on May 2 of this year a sentence executed the 5th of May of this year against the sub-lieutenant Zbigniew Halkilwicz, condemning him to 3 months and 2 weeks in a fortress for having been responsible for a bodily injury inflicted upon Mr. Justyn Fedoryszyn and for the illegal detention of the latter from October 9 to 10, 1930.

²² Not printed.

In view of the above-mentioned verdict, of which I attach a copy, I am anxious express to Your Excellency the very keen regret of the Polish Government for an incident of which an American citizen has been the victim, and to beg you to please communicate this sentiment of the Polish Government to the Government of the United States.

I desire to add that the Polish Ambassador at Washington has already informed the Secretary of State Mr. Stimson of the tenor of the sentence and is in communication with him upon the subject of the indemnification of Mr. Fedoryszyn.

Please accept Mr. Ambassador the assurances of highest consideration. Signed Augusto Zaleski."

The Foreign Office states that the official copy of the verdict sent with the note constitutes the full documentation of the trial furnished to it. This verdict recites the composition of the court, the offense and the sentence. Copy and translation will be forwarded in this week's pouch.²³

WILLYS

360c.1121 Fedoryszyn, Justyn/97

The Secretary of State to the Polish Ambassador (Filipowicz)

WASHINGTON, June 18, 1931.

EXCELLENCY: I have the honor to inform Your Excellency that, in a communication dated February 4, 1931, the Minister of Foreign Affairs of Poland informed the American Ambassador at Warsaw that the Government of Poland was prepared to pay to Mr. Justyn Fedoryszyn, an American citizen who was the victim of an assault committed by Polish soldiers on October 9, 1930, in the village of Sarniki, an indemnity in the sum of 10,000 zlotys as soon as sentence should have been passed on the person responsible for the assault.

By a note dated May 11, 1931,²⁴ the Minister of Foreign Affairs informed the Ambassador of the sentence that was imposed on May 2, 1931, by the Military Tribunal of Lublin on the Polish officer who had been found guilty of responsibility for the bodily injuries that were inflicted upon Mr. Fedoryszyn, and for the illegal detention of this American citizen. In the same communication, the Minister of Foreign Affairs indicated that you had been authorized to communicate with the Department with regard to the indemnification of Mr. Fedoryszyn.

The Government of the United States has noted with gratification the keen regret that has been expressed by the Government of Poland for the assault that was made on Mr. Fedoryszyn, and the proceedings in Poland that resulted in the trial, conviction, and punishment of the officer who was responsible for the assault and for the illegal de-

²³ Not printed.

²⁴ See telegram No. 52, May 11, from the Ambassador in Poland, *supra*.

tention of Mr. Fedoryszyn. It is not of the opinion, however, that the sum of 10,000 zlotys constitutes an adequate indemnification for Mr. Fedoryszyn.

In Mr. Zaleski's note of February 4, 1931, to Mr. Willys, the sum of 10,000 zlotys was offered to Mr. Fedoryszyn an indemnification "for the hardships incurred by him in connection with his detention." I desire to point out that, in a determination of the sum to be paid to Mr. Fedoryszyn, consideration should be given not only to the hardships that were suffered by him in connection with his detention, but also to the brutal nature of the assault upon him, the physical and mental sufferings endured by him long after the detention ceased, the expenses incurred by him in connection with the treatment of his injuries, and the time lost by him from his usual employment, with the attendant loss of earning power, as a result of the physical incapacity arising from those injuries.

After having given most careful consideration to these circumstances, this Government has arrived at the conclusion that the sum of four thousand dollars is the minimum amount that reasonably could be regarded as adequate compensation for Mr. Fedoryszyn. I therefore ask that you be good enough to inform your Government that the Government of the United States requests that this sum be paid for the indemnification of Mr. Fedoryszyn.

Accept [etc.]

HENRY L. STIMSON

360c.1121 Fedoryszyn, Justyn/106

Memorandum by the Secretary of State of a Conversation With the Polish Chargé (Sokolowski)

[WASHINGTON,] September 17, 1931.

The Polish Chargé brought up the Fedoryszyn case. He told me he was glad to inform me that his government was ready to pay the indemnity in accordance with the proposal of the American State Department. He said though that they would probably want a release from any further claims by Fedoryszyn. I said I had been told of this request and I saw no objection to such a release.

H[ENRY] L. S[TIMSON]

360c.1121 Fedoryszyn, Justyn/111

The Polish Ambassador (Filipowicz) to the Secretary of State

No. 327/T/31

WASHINGTON, December 11, 1931.

SIR: In compliance with instructions received from my Government, I have the honor to enclose herewith a check for \$4000 (Four thousand

Dollars), this sum constituting the indemnity with respect to the claim of Mr. Justyn Fedoryszyn, paid on his behalf to the United States Government in full settlement of this case.

Accept [etc.]

T. FILIPOWICZ

360c.1121 Fedoryszyn, Justyn/112

The Secretary of State to the Polish Ambassador (Filipowicz)

WASHINGTON, December 15, 1931.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 11, 1931, with which was transmitted a check for \$4000 in settlement of the claim of Mr. Justyn Fedoryszyn.

There is attached hereto a receipt in duplicate for this payment and an acknowledgment that it has been received by the Government of the United States in full settlement of the claim.

Accept [etc.]

HENRY L. STIMSON

PORTUGAL

DECISION OF THE AMERICAN GOVERNMENT NOT TO BE A PARTY TO MEDIATION BETWEEN THE PORTUGUESE GOVERNMENT AND INSURGENT FORCES IN MADEIRA

853.00 Revolution 1931/1 : Telegram

The Minister in Portugal (South) to the Secretary of State

LISBON, April 6, 1931—4 p. m.

[Received 5:15 p. m.]

4. I am reliably informed Funchal, Madeira, in the hands of rebels. Have not heard from Consul Huddleston. Two gunboats with troops leaving Lisbon today for Madeira.

SOUTH

853.00 Revolution 1931/5 : Telegram

The Minister in Portugal (South) to the Secretary of State

LISBON, April 8, 1931—6 p. m.

[Received 8:18 p. m.]

7. Referring to my telegram No. 4, April 7 [6], 4 p. m., Consul at Funchal has telegraphed Legation that leaders revolutionary forces have agreed to meet representatives Central Government forces to discuss situation and Consul suggests American Consulate as meeting place, requesting Legation to endeavor to arrange as above through Foreign Office.

I have discussed informally matter with Foreign Minister as to Central Government's wishes and indicated to him that I would request Department to authorize Consul to lend his good offices to extent he requests.

Foreign Minister expressed great appreciation and said that he would inform me of his Government's wishes after a Cabinet meeting tonight and confidentially informed me British Ambassador had made same proposal for British Consul, Funchal, except the meeting place proposed is British cruiser due at Funchal tonight. Will appreciate Department's rushing instructions to the Legation.

SOUTH

853.00 Revolution 1931/5 : Telegram

The Secretary of State to the Minister in Portugal (South)

WASHINGTON, April 9, 1931—11 a. m.

8. Your telegram No. 7, April 8, 6 p. m. While this Government is happy to note the efforts which are being made toward a peaceful

settlement and earnestly hopes that bloodshed may be averted, in view of this Government's well-established policy of non-interference in European affairs, I believe it would be unwise for the American Government even to aid in mediation as you suggest, since, with a similar offer by the British, a controversy between the Portuguese Government and the revolutionary forces might immediately arise as to which of these two offers should be accepted and there would be inevitable taking of sides on that subject, with the consequent identification of the American Government with one side or the other.

Repeated to Consul Funchal.

STIMSON

853.00 Revolution 1931/9 : Telegram

The Consul at Funchal (Huddleston) to the Secretary of State

FUNCHAL, April 10, 1931—4 p. m.

[Received April 10—3:40 p. m.]

I regret if plan has caused Department embarrassment. Will relieve Department and Minister Lisbon of any and all responsibility and will make full apologies in accordance with any instructions to be received from Department.

HUDDLESTON

853.00 Revolution 1931/9 : Telegram

The Secretary of State to the Consul at Funchal (Huddleston)

WASHINGTON, April 11, 1931—2 p. m.

Your telegram April 10, 4 p. m. The Department has been caused no embarrassment of which it is aware and perceives no reason why an apology should be necessary.

STIMSON

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS¹

653.116/80

The Minister in Portugal (South) to the Secretary of State

No. 294

LISBON, February 7, 1931.

[Received February 25.]

SIR: With reference to my despatch No. 105 of July 10 [11], 1930, enclosing a copy and translation of a note from the Minister for Foreign Affairs, dated July 8, 1930,² and to previous correspondence

¹ Continued from *Foreign Relations*, 1930, vol. III, pp. 777-785.

² For despatch and note, see *ibid.*, pp. 784-785.

on the subject of flag discrimination, I have the honor to enclose herewith a copy of the *Diário do Governo* of February 3, 1931, Series II [I], No. 28, containing the text of Decree No. 19,306 of January 30, 1931, (of which I also enclose a translation),⁵ whereby the Portuguese Government undertakes, prior to June 30, 1931, to extend national treatment in respect of maritime and port dues to foreign merchant vessels in the ports of Portugal and of the adjacent islands. This concession has been obtained primarily through the vigorous and tactful insistence of the British Ambassador, Sir Francis Lindley, acting under his Government's instructions. Unfortunately, the decree does not affect the other measures of discrimination complained of by the maritime Powers—the rebates on import duties granted to all goods imported into national ports, including those of the colonies, in Portuguese bottoms, and the inequality of treatment accorded to foreign merchant vessels in the ports of the colonies in respect of maritime and port dues. Despite our earnest representations and those of the other maritime Powers, the Portuguese Government has shown no inclination to do away with these discriminatory practices, with the result that it would now appear to be incumbent upon the aforesaid Powers to consult each other with a view to the adoption of effective retaliatory measures.

Respectfully yours,

J. G. SOUTH

853.84/12 : Telegram

The Chargé in Portugal (Magruder) to the Acting Secretary of State

LISBON, July 7, 1931—2 p. m.

[Received July 7—12:05 p. m.]

21. Decree of July 1st extends national treatment in respect of maritime and port dues to foreign merchant vessels but creates new tonnage dues of one escudo per gross registered ton thereby discriminating against all vessels other than those discharging or loading full cargoes to the manifest advantage of Portuguese bottoms. Text by mail.⁵ Please inform Commerce.

MAGRUDER

653.116/89

The Minister in Portugal (South) to the Secretary of State

No. 459

LISBON, September 21, 1931.

[Received October 5.]

SIR: With reference to the Legation's despatch No. 408 of July 10, 1931,⁵ and to previous correspondence on the subject of flag discrimi-

⁵ Not printed.

nation, I have the honor to enclose herewith a copy of the *Diário do Governo* of September 12, 1931, Series I, No. 211, containing the text of Decree No. 20,304 of September 12, 1931, whereby the Portuguese Government professes to abandon in principle the position it has maintained since 1921 in respect of flag discrimination and undertakes by means of successive reductions to do away with the rebate of ten per cent on import duties granted during the past ten years to all goods imported into national ports, including those of the adjacent islands, in Portuguese bottoms. The new decree provides for an initial reduction of from ten per cent to eight per cent in the aforesaid rebate, effective from October 15, 1931, to June 30, 1932, inclusive. However, care has been taken to avoid committing the Government in respect of the amounts of the subsequent reductions of which assurance has been given—this question having been left open for subsequent determination. A translation of the decree is also herewith enclosed.

Respectfully yours,

J. G. SOUTH

[Enclosure—Translation]

Decree No. 20,304 of the Portuguese Government

The customs differential system established by Decree No. 7,822, of November 21, 1927, (*sic*)⁶ affords protection to the national merchant marine, through the natural incentive which the consignee of the shipment has and which induces him to constrain the shipper, at the origin, to give preference to Portuguese vessels.

However, there have resulted therefrom substantial decreases in the public revenue, which the Government began to attenuate by Decrees Nos. 17,062 (tobacco), of June 3, 1929, and No. 17,823, of December 31, 1929 (corrected in the *Diário do Governo* No. 103, of May 6, 1930), as well as difficulties of external commercial policy, possibly accentuated by the present world crisis, which enhances the importance of the competition of national vessels, although in fact there is as yet question of a slight influence upon the volume of imports interesting to our Country. However, the Government does not wish, in the interest of a just balance in public administration, to maintain and permit to continue a cause for protests over inequalities in respect of navigation, which everywhere leads toward equal treatment, when such cause may, through reaction, prejudice other very important national economic interests.

And, in consideration of the foregoing, it abolishes in principle the aforesaid customs bonus on cargo transported in national vessels.

⁶ Decree No. 7,822 is dated November 22, 1921.

However, it must be borne in mind that an abrupt change of system might affect in an unanticipated manner a branch of activity in which thousands of Portuguese find a means of living and thus justly give rise to a reaction in internal politics, that which everyone, here and abroad, is in duty bound to understand and avoid, especially during the uncertain and difficult period through which the world is passing. Therefore, the elimination of the bonus must be gradual, possibly attending the creation of better means of work, which likewise cannot be attained immediately, in view of the circumstances of credit which temporarily render difficult the quick mobilization of the capital indispensable to the renovation of our long distance merchant fleet.

Under the authority which No. 2 of Article 2 of Decree No. 12,740 of November 26, 1926, confers upon me, by virtue of the provisions of Article 1 of Decree No. 15,331 of April 9, 1928, and in accordance with the recommendations of all the Ministers of State:

I deem fit to decree, with the force of law, the following:

Article 1. Beginning with the fiscal year 1931-1932, there shall be successively reduced, until abolished, the customs bonus established by No. 1 of Article 1 of Decree No. 7822, of November 22, 1921, in so far as it has not yet been revoked, the Government fixing each year the taxes which shall be levied.

Provided, however, that, during the present fiscal year, the bonus to which this article refers shall be fixed at 8 per cent on imports and at 16 per cent on exports to foreign ports. These new percentages shall be applied to merchandise shipped from October 15, 1931, inclusive.

Article 2. The increase in revenue accruing from the application of the foregoing article shall be devoted to subsidies for the reconstruction of the long distance merchant fleet.

Article 3. The provisions contained in this act shall apply exclusively to the continent and to the adjacent islands.

Article 4. Conflicting legislation is hereby revoked.

In consequence, let all the authorities concerned in the knowledge and execution of the present decree with the force of law comply therewith and cause it to be complied with and observed in its entirety.

Let all the Ministers of State cause this decree to be printed, published and distributed.

Given at the Palace of the Government of the Republic, September 12, 1931.

653.116/90

The British Chargé (Osborne) to the Secretary of State

No. 352

WASHINGTON, October 1, 1931.

SIR: I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that His Majesty's Government in the United Kingdom are anxious to secure

the cooperation of the United States Government with a view to effect the removal of the customs discrimination practised by the Portuguese Government in favour of Portuguese shipping—a discrimination which is contrary to general international practice (as embodied, for example, in the Maritime Ports Convention) and to the navigation policy of Great Britain and all other important maritime Powers.

I am informed that the Portuguese Government, as a result of long-sustained pressure from His Majesty's Government and other interested Governments, published on September 12th decree No. 20,304 providing for the elimination by stages of the customs discrimination in question.

Article 1. of this decree provides that customs bonds shall be reduced from ten per cent to eight per cent for imports carried in Portuguese bottoms and from twenty per cent to sixteen per cent for similar exports for foreign ports, these reductions to apply to all goods embarked on and after October 15th, 1931: secondly that thereafter bonds shall be "successively reduced until it is abolished". No dates are specified.

On September 26th His Majesty's Chargé d'Affaires at Lisbon addressed a note to the Portuguese Government expressing the disappointment of His Majesty's Government that the first reductions should be twenty per cent only and requesting assurances that there should be further rebates to five per cent and ten per cent respectively within six months with the prospect of total abolition within another eighteen months, i. e. by October 15th, 1933.

I am desired by the Marquess of Reading⁷ to express the earnest hope that the United States Government will instruct their representative at Lisbon to support the above-mentioned representations.

I have [etc.]

D. G. OSBORNE

653.116/90 : Telegram

The Secretary of State to the Minister in Portugal (South)

WASHINGTON, October 7, 1931—6 p. m.

23. Your mail despatch No. 459, September 21, 1931. The Department is in receipt of a note from the British Chargé d'Affaires ad interim here, stating that his Government is "anxious to secure the cooperation of the American Government with a view to effecting the removal of the customs discrimination practiced by the Portuguese Government in favor of Portuguese shippers". The communication describes the provisions of Decree No. 20,304 and states that on September 26 last the British Chargé d'Affaires at Lisbon addressed a

⁷ British Secretary of State for Foreign Affairs.

note to the Portuguese Government "expressing the disappointment of his Majesty's Government that the first reductions should be twenty percent only (i. e. from ten percent to eight on imports, and from twenty percent to sixteen on exports) and requesting assurances that there should be further rebates to five percent and ten percent respectively within six months with the prospect of total abolition within another eighteen months, i. e. by October 15, 1933".

Please comment by telegraph on this request, with particular reference to

- (1) your opinion as to the general desirability of representations on our part at this time;
- (2) prospects that they would be successful, and
- (3) in the event that you believe we should take action, the form in which you think it could be expressed most effectively.

STIMSON

653.116/91 : Telegram

The Minister in Portugal (South) to the Secretary of State

LISBON, October 9, 1931—noon.

[Received October 9—11: 22 a. m.]

35. Department's 23 October 7, 6 p. m.

1. I perceive no objection to making representations.

2. Success depends primarily on degree of pressure British Government is prepared to exercise.

3. The submission that Decree 20,304 is an inadequate and totally ineffectual remedy for the discrimination practiced against American shipping.

SOUTH

653.116/91 : Telegram

The Secretary of State to the Minister in Portugal (South)

WASHINGTON, October 16, 1931—6 p. m.

24. Your telegram No. 38 [35], October 9, noon. You are instructed to obtain an interview with the Minister for Foreign Affairs and to deliver a note making representations along the following lines:

You should state that while your Government, which is in entire sympathy with the desire of Portugal to foster the establishment and growth of a national merchant marine, is gratified at the decision of Portugal to abandon in principle the discriminatory duties, the American Government feels that it cannot but express most frankly its disappointment that the initial reductions in the differentials against foreign ships should have been so small, and that no definite assur-

ance has been given that further reductions, looking toward the total extinction of the discriminatory duties, will be made in the immediate future. The American Government is convinced that the regime of tariff rebates operates to the restriction of normal international trade, the unhampered pursuit of which is especially important in the present difficult economic period. The American Government would therefore earnestly appreciate receiving information from Portugal as to its plans for rendering effective in fact the abolition of discriminatory rates to which it is committed in principle. In the absence of such information, your Government would reluctantly be forced to the conclusion that the Decree in question appears to represent an inadequate remedy for the inequalities practiced.

When you deliver the note, you are authorized in your discretion to state orally to the Minister for Foreign Affairs that pressure has been brought to bear by American shipping organizations seeking the adoption of retaliatory measures against Portuguese products exported to the United States. While this Government has not desired to accede thereto so long as it appeared probable that the conditions complained of would be abolished by Portugal itself, nevertheless, in view of the small practical effect of the initial reductions, it is likely that this pressure will now be renewed.

STIMSON

653.116/97

The Minister in Portugal (South) to the Secretary of State

No. 484

LISBON, October 20, 1931.

[Received November 5.]

SIR: I have the honor to report that, in pursuance of the Department's telegraphic instruction No. 24 of October 16, 6 p. m., I obtained an interview with the Minister for Foreign Affairs this afternoon and delivered to him a note on the subject of flag discrimination in the sense of the Department's instruction to which I have made reference. At the same time, I made the verbal representations authorized by the Department.

Captain Branco,⁸ prefacing his remarks with the statement that he was speaking quite unofficially and with the utmost frankness, assured me that the matter would receive the serious consideration of his Government, but added that Portugal was in a difficult position inasmuch as she felt obliged to find the ways and means of substituting other assistance for the aid in the form of tariff rebates now extended to her national merchant marine—that which was no easy matter

⁸ Fernando Branco, Minister for Foreign Affairs.

at a time when the Country was beset by so many grave financial problems. He hoped that the United States and the other interested Powers would be forbearing in view of the present economic crisis.

Respectfully yours,

J. G. SOUTH

653.116/99

The Minister in Portugal (South) to the Secretary of State

No. 496

LISBON, November 7, 1931.

[Received November 25.]

SIR: With reference to my despatch No. 484 of October 20, 1931, reporting that I had delivered to the Minister for Foreign Affairs a note on the subject of flag discrimination in the sense of the Department's telegraphic instruction No. 24 of October 16, 6 P. M., I have the honor to enclose herewith a copy and translation of Captain Branco's reply to the aforesaid note—a reply as untenable . . . as is evident from the considerations hereinbelow set forth:

By Decree No. 19,306 of January 30, 1931, (see Legation's despatch No. 294 of February 7, 1931), the Portuguese Government, as the result of representations made by the interested Maritime Powers, undertook to extend, prior to June 30, 1931, national treatment in respect of maritime and port dues to foreign merchant vessels;

Notwithstanding this commitment, no action was taken in the matter until July 1, 1931, when, by Decree No. 19,989, (see Legation's despatch No. 408 of July 10, 1931^a), the Portuguese Government extended national treatment in respect of maritime and port dues to foreign merchant vessels, but simultaneously created new tonnage dues of one escudo per gross registered ton, thereby discriminating in effect against foreign bottoms;

By Decree No. 20,304 of September 12, 1931, (see Legation's despatch No. 459 of September 21, 1931), the Portuguese Government professed to abandon in principle discriminatory duties and undertook to effect the total extinction thereof by means of gradual reductions. However, aside from making an inadequate initial reduction, which in itself can have no effect, the Portuguese Government took care to avoid committing itself in respect of any and all further reductions;

Furthermore, under Decree No. 14,833 of December 31, 1927, (see Consulate General's report No. 433 of February 6, 1928^a), foreign shipping in the port of Lisbon is charged from 10% to over 600% more than Portuguese shipping is charged for the same services;

Finally, under Section 5 of Decree No. 20,253 of August 25, 1931, (see Legation's despatch No. 450 of August 31, 1931^a), Portuguese vessels are charged a fee of 0.50 escudo per net registered ton for the authentication of manifests and bills of lading, whereas for the same

^a Not printed.

service, foreign vessels are charged 1.00 escudo per net registered ton—that which is in effect a discriminatory tax in the guise of a consular fee.

The foregoing, I submit, is palpable evidence that it is the established policy of the Portuguese Government to discriminate in every possible manner against foreign shipping . . .

Respectfully yours,

J. G. SOUTH

[Enclosure—Translation]

*The Portuguese Minister for Foreign Affairs (Branco) to the
American Minister (South)*

No. 78/27

LISBON, November 4, 1931.

MR. MINISTER: With reference to the Legation's note No. 260 of October 19, last, I have the honor to inform you that the Government of the Republic, faithful to the principle expressed in Decree No. 20,304, is endeavoring to adopt all measures for the early extinction of the customs bonus by which the Merchant Marine has been benefited and under which there has been created a state of affairs the immediate suppression of which would gravely affect national economics.

In the very interest of the principle decreed, ensuring the complete effectiveness thereof, choice was made of gradual execution in preference to an abrupt act which, while alarming public opinion, would give rise to obstacles, to the unavoidable prejudice of the new policy adopted. There was thus created a period of transition during which, by means of successive measures, an endeavor will be made to bring about the conditions which, aside from fiscal equality, should form the basis of the maritime commerce system.

An equitable view of the problem cannot confine itself, in solving the matter, to the pure and simple suppression of the customs bonus, under penalty of the prevalence of an inequality to the detriment of the national merchant marine which, operating old and uneconomic vessels, without benefiting as do its competitors from credits at low interest, from fuel at reduced prices and from indirect and even preferential measures of protection, found in the customs differential a mere counterbalance to these disadvantages.

There are even at this moment, after the publication of Decree No. 20,304, of September 12, idle vessels. Should we hasten to the reduction of the customs bonus before the Portuguese fleet enjoys operating conditions approximating more closely those from which other fleets benefit, the number of vessels tied up in the ports would increase suddenly, with the consequent unemployment and distress of the crews, thus aggravating the difficulties of the moment by a new

crisis which, owing to the necessity of looking after those affected, might lead the Government back to the position it had deliberately abandoned.

The creation of the circumstances rendering possible the future reductions of the customs bonus is provided for by projects already approved, relating to credits which, while benefiting the merchant marine, will prepare public opinion—to which the Government must give every heed—for the acceptance of the definitive renouncement of a system which has brought a measure of freight to the ships which call at the ports of northern Europe and of the Mediterranean.

The good faith of the Portuguese Government thus becomes evident from the conciliation of all points of view and interests to the extent which is just and reasonable. And under such a criterion, doubt cannot be cast upon the efforts employed for the rapid realization of a complete plan of protection of the national merchant marine (Decree Nos. 20,321, of September 18, 1931, 20,333, of September 22, 1931, and others under consideration) which through its effects may render possible the gradual suppression of the customs bonus in harmony with the general provisions set forth in Decree No. 20,304. It is unfortunate that these and other efforts and in general all those which the Government has employed for the financial and economic reconstitution of the Country should be seriously hampered by the atmosphere of uncertainty which the economic situation of Europe is creating. Were the situation otherwise, perhaps the Government of the Republic could fix, within a due period of delay, a date for the extinction of the customs bonus so as to be able to bring about the most rigid transformation of the present conditions of the national merchant marine and to conform at the same time to the desire of Your Government to have abolished within a short period that part of the percentage of the bonus which in effect gives rise to the advantage derived from shipping merchandise by Portuguese vessels.

I avail myself [etc.]

FERNANDO AUGUSTO BRANCO

RUSSIA

CITIZENSHIP STATUS OF AMERICAN NATIONALS EXERCISING POLITICAL RIGHTS IN RUSSIA

861.00/11457

The Minister in Latvia (Coleman) to the Secretary of State

No. 7469

RIGA, February 4, 1931.
[Received February 19.]

SIR: I have the honor to refer to this Legation's despatch No. 7462, of February 3, 1931,¹ in which I reported that according to news report in the Moscow *Pravda*, seven Americans had been elected members to "a Soviet", from the Stalingrad Tractor Works. I would respectfully request the Department to give this Legation an expression of its views in regard to the effect participation in an election and acceptance of an elective office in a foreign government might have on these men's citizenship.

Respectfully yours,

F. W. B. COLEMAN

861.00/11457

*The Secretary of State to the Minister in Latvia (Coleman)*²

No. 824

WASHINGTON, May 5, 1931.

SIR: The receipt is acknowledged of your despatch No. 7469 of February 4, 1931, inquiring with respect to the citizenship status of certain American nationals who, during the recent elections held at the Stalingrad tractor plant, were elected to membership in rayon and city soviets.

In reply you are informed that in the opinion of the Department the acceptance by these American citizens of membership in such soviets would not result in the loss of their American citizenship unless such acceptance should constitute naturalization or involve the taking of an oath or affirmation of allegiance to a foreign State. Any information which may come into the possession of the Legation indicating

¹ Not printed.

² Copies to the Embassy at Berlin, the Consulate General at Berlin, the Embassy at Warsaw and the Legation at Helsingfors.

that these persons have taken steps to become citizens of another State, or have taken an oath or affirmation of allegiance to another State, or have renounced their allegiance to the United States should be transmitted to the Department.

The question of the right while in Russia of an American national who has become a member of such a soviet in circumstances not affecting his American citizenship to the protection customarily extended by American diplomatic or consular representatives to American nationals abroad does not arise in this instance, since at the present time there are no American diplomatic or consular officers in Russia.

It would appear, however, that an American national who has assumed such an office in the circumstances referred to above, should, while outside of Russia, be recognized as an American citizen and accorded protection as such unless the particular facts in his case would not warrant this action. Of course, each case of an American national abroad desiring to obtain protection or recognition as an American citizen should be decided upon its peculiar merits. In this connection, reference is made to Section 137, Note 2, and Section 147 of the Consular Regulations.³

A full report should be submitted to the Department concerning each case coming to the Legation's attention involving the acceptance by an American national of public office in Russia. The Legation should also keep the Department informed in so far as it is able regarding the qualifications which persons must have in order to accept the various public offices held by American nationals in Russia, as well as the formalities which they must undergo in being inducted into such offices and the duties and privileges connected with the holding of such offices.

For the information of the Legation it may be stated that the records of the Department disclose that passports were issued in 1930 to the persons listed in the enclosure attached hereto,⁴ who are believed to be among those persons referred to in the Soviet press as having been elected to soviets. It will be observed that three of these persons are naturalized American citizens. Should these persons continue to reside in Russia for a period sufficient to bring upon them the presumption that they have ceased to be American citizens under the provisions of the second paragraph of Section 2 of the Act of March 2, 1907,⁵ and should they apply for a renewal of their passports, their applications should be submitted for the consideration of the Department, accompanied by Form 213, in which should be set

³ Not printed.

⁴ Not printed; five persons are listed.

⁵ 34 Stat. 1228.

forth fully the reasons for their protracted foreign residence as provided for in Section 144B of the Consular Regulations.

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

ISSUANCE OF NON-IMMIGRATION VISAS FOR ENTRY INTO THE
UNITED STATES OF PERSONS COMING FROM RUSSIA

150.01/1843d

*The Acting Secretary of State to the Consul General at Berlin
(Messersmith)*

WASHINGTON, July 18, 1931.

SIR: Reference is made to the Department's circular instruction of July 18, 1931, entitled "Changes in Consular Regulations and Notes No. 73,"⁶ and to the Department's circular instruction of July 18, 1931, entitled "Application of the Act of October 16, 1918, as Amended by the Act of June 5, 1920."⁷

As indicated in the instructions in question, visas are to be refused all aliens who are excluded from the United States by the terms of the Act of October 16, 1918,⁸ as amended by the Act of June 5, 1920,⁹ and those provisions of Section 3 of the Immigration Act of 1917¹⁰ regarding the exclusion of politically undesirable aliens. The Department, however, recognizes that there will be cases in which the entry to the United States of particular aliens who are found to be inadmissible under the provisions of law mentioned would not be a menace to the public safety, but would, on the contrary, be to the advantage of the public and economic interests of the United States. Such cases would, as a rule, involve for example persons coming from Russia whose visit to the United States is solely in the interest of the carrying on of trade and commerce between the United States and Russia.

In such cases, that is, cases in which you are of the opinion that the temporary admission to the United States of a particular alien who is found to be inadmissible under the provisions of law mentioned, would be to the advantage of the public or economic interests of the United States, a full report, including the basis for your opinion and recommendation should be submitted to the Department confidentially by telegraph and final action on the case suspended pending the receipt of the Department's instructions. Upon the receipt of such a recommendation the Department will forward it, together with such other

⁶ *Infra.*

⁷ *Post.*, p. 980.

⁸ 40 Stat. 1012.

⁹ 41 Stat. 1008.

¹⁰ 39 Stat. 875.

information as may be in its possession regarding the purpose of the alien's visit to the United States, to the Secretary of Labor for possible action under the 9th Proviso to Section 3 of the Immigration Act of 1917, which reads as follows:

"The Commissioner General of Immigration, with the approval of the Secretary of Labor, shall issue rules and prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission."

Upon the receipt of the Secretary of Labor's decision it will be transmitted by the Department to you for appropriate action.

The foregoing procedure is not to be followed and visas are to be refused by you without reference to the Department in the case of any alien, irrespective of the purpose of his proposed visit to the United States, whose inadmissibility arises (1) through affiliation with any of the organizations mentioned in III (2) of the Department's instruction of July 18, 1931, or (2) by reason of his implication in any action directed specifically against the Government of the United States.

The procedure just outlined is, of course, applicable only to applicants for passport visas since under Section 2 (f) of the Immigration Act of 1924 a consular officer must refuse to issue an immigration visa to an alien inadmissible under the immigration laws and the discretion contained in the 9th Proviso of Section 3 of the Act of 1917 can only be exercised in the case of a non-immigrant.

The procedure outlined in this instruction is to be disclosed only to those officers who are engaged in the issuance of visas at your office. Similar instructions are being sent only to the American Minister at Riga, the Consuls General at London and Paris, and the Consul at Riga.

Very truly yours,

W. R. CASTLE, JR.

122.21/346

The Acting Secretary of State to Diplomatic and Consular Officers

CHANGES IN CONSULAR REGULATIONS AND NOTES No. 73

Diplomatic Serial
No. 2024

WASHINGTON, July 18, 1931.

SIRS: Note 70 to Section 361 of the Consular Regulations is hereby amended to read as follows:

"Section 3 of the Immigration Act of 1917 (39 Stat. 874) among others, prohibits the entry to the United States of the following classes of aliens:

"Anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United

States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property;

"Section 1 of the Act of October 16, 1918 (40 Stat. 1012) as amended by the Act of June 5, 1920 (41 Stat. 1008) prohibits the entry to the United States of the following persons;

"(a) Aliens who are anarchists;

"(b) Aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government;

"(c) Aliens who believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States, or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

"(d) Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter advising, advocating, or teaching, opposition to all organized government, or advising, advocating, or teaching: (1) The overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage;

"(e) Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (d).

"For the purpose of this section: (1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation.

"Consular officers shall exercise the strictest vigilance and shall adopt every possible means at their disposal in endeavoring to ascertain whether a visa applicant falls within one of the categories set forth in the above cited provisions of law and a passport visa shall be refused when the circumstances of a particular alien's case give rise to a reasonable inference that he belongs to one of the excluded classes mentioned. It is not necessary for the consular officer conclusively to prove that the alien falls within one of the categories set forth, the burden under the Act being placed upon the alien to present proof satisfactory to the consul to show that he is not inadmissible to the United States under any of the provisions of the immigration laws.

"Particular attention is invited to Subdivision (e) of Section 1 of the Act of October 16, 1918, as amended, which while partially defining the word "affiliation" as used in that Act, further provides that such definition shall not be taken as an exclusive definition of the word "affiliation". The Department considers that the word "affiliation" as used in the act mentioned may therefore be understood to have the meaning, among others, of a connection with an organization, amounting to less than actual membership, which involves a sympathetic alliance with, or support, financial or otherwise, or espousal of, the aims and purposes of that organization. Mere employment for professional or other service may, but need not necessarily in itself, involve affiliation with an organization.

"The refusal of a visa under the provisions of law cited should promptly be reported to the Department by telegraph."

Very truly yours,

W. R. CASTLE, JR.

150.01/1843a

The Acting Secretary of State to Diplomatic and Consular Officers

APPLICATION OF THE ACT OF OCTOBER 16, 1918, AS AMENDED BY THE
ACT OF JUNE 5, 1920

Diplomatic Serial
No. 2023

WASHINGTON, July 18, 1931.

SIRS: With reference to Note 70, Section 361, Consular Regulations, as amended by the Department's circular instruction of July 18, 1931 entitled "Changes in Consular Regulations and Notes No. 73," there have been prepared for your guidance the following explanatory notes on the Act of October 16, 1918, as amended by the

Act of June 5, 1920, which are applicable in the case of all aliens desiring to come to the United States.

I. Subdivisions (a) and (b) of Section 1 of the Act debar from the United States "aliens who are anarchists" and "aliens who advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group, that advises, advocates, or teaches, opposition to all organized government."

II. That portion of Subdivision (c) which debars from the United States "aliens who believe in, advise, advocate, or teach, . . . (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States, or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury, or destruction of property, or (4) sabotage," may be taken to refer, among others, to the following categories of persons:

(1) Members of Communist Parties which are sections of the Communist International.

(2) Members of Communist Unions of Youth which are sections of the Communist International of Youth.

(3) Persons who believe in, advise, advocate, or teach, the doctrines mentioned but who are not actual members of the two organizations mentioned in (1) and (2).

III. That portion of Subdivision (c) which debars from the United States "aliens . . . who are members of or affiliated with any organization, association, society, or group, that believes in, advises, advocates, or teaches, . . . (1) the overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States, or of any other organized government, because of his or their official character, or (3) the unlawful damage, injury, or destruction of property, or (4) sabotage," may be taken to include, among others, the following categories of persons:

(1) Members of the following organizations:

(a) Communist Parties which are sections of the Communist International.

(b) Communist Unions of Youth which are sections of the Communist International of Youth.

(c) Other organizations which believe in, advise, advocate or teach the overthrow by force or violence of the Government of the United States.

(2) Persons affiliated with the following organizations (including

subsidiary organizations), that is to say, persons who have taken part in meetings of these organizations (Congresses, Conferences, et cetera), who have been or are members of the executive organs (Executive Committees, Departments or Sections of Executive Committees, Central Committees, Presidia, Secretariats, et cetera), of these organizations, or who have participated or are participating in any capacity in the work of these organizations, and so forth:

- (a) Communist International.
- (b) Communist International of Youth.
- (c) Red International Labor Unions.
 - Subsidiary and affiliated organizations:
 - Pan-Pacific Secretariat of Labor Unions.
 - Latin-American Federation of Labor Unions.
 - International Propaganda and Action Committees, such as:
 - Miners International Committee for Propaganda and Action.
 - International Associations of Separate Trades and Industries, such as:
 - International of Educational Workers.
 - International of Seamen and Harbor Workers.
- (d) Peasant International.
- (e) Red Sport International.
- (f) International Organization for Aid to Fighters for the Revolution (MOPR).
- (g) International Organization of Workers Relief (MEZH-RABPROM).
- (h) Communist University of National Minorities of the West in the Name of Markhlevsky at Moscow.
- (i) Communist University of the Workers of the East in the Name of Stalin at Moscow.
- (j) Communist University of Workers of China in the Name of Sun Yat Sen at Moscow.
- (k) Lenin School at Moscow.
- (l) Other organizations which believe in, advise, advocate, or teach . . . the overthrow by force or violence of the Government of the United States, et cetera.

IV. Subdivision (d) debars from the United States "Aliens who write, publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, distribution, publication, or display, any written or printed matter, advising, advocating, or teaching, opposition to all organized government, or advising, advocating, or teaching: (1) The overthrow by force or violence of the Government of the United States or of all forms of law, or (2) the duty, necessity or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any

other organized government, or (3) the unlawful damage, injury or destruction of property, or (4) sabotage."

[NOTE.] The terms of the statute are self-explanatory.

V. Subdivision (e) which debars from the United States "Aliens who are members of or affiliated with any organization, association, society, or group, that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (d)," may be taken to refer, among others, to the following category of persons:

(1) Persons who are members of or affiliated with the organizations listed in III above.

(2) Persons who are members of or affiliated with, any other organization, association, society, or group, that may be involved in one of the acts enumerated.

VI. Subdivision (f) defines "advising", "advocacy", "teaching" or "affiliation" as follows:

"For the purpose of this section: (1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation."

[NOTE.] For a further definition of affiliation see Note 70, Section 361, Consular Regulations.

The list of organizations named in this instruction while believed to contain the names of the principal organizations membership in or affiliation with which renders an alien inadmissible to the United States, is not to be taken, however, as an inclusive list of such organizations and may be added to from time to time.

Very truly yours,

W. R. CASTLE, JR.

150.01/1874

The Secretary of State to the Consul General at Berlin (Messersmith)

WASHINGTON, November 24, 1931.

SIR: Reference is made to the Department's strictly confidential instruction of July 18, 1931, to your office with regard to the procedure to be followed in the consideration of the visa applications of certain aliens, including persons coming from Russia, whose entry

into the United States would be to the advantage of the public and economic interests of the United States; and your attention is drawn particularly to the second paragraph on page three of that instruction, in which it is stated that you should refuse, without reference to the Department, the visa application of any alien whose inadmissibility arises through affiliation with any of the organizations mentioned in III (2) of the Department's circular instruction of July 18, 1931 (Diplomatic Serial No. 2023), or by reason of his implication in any action directed specifically against the Government of the United States.

It has come to the Department's attention that a visa applicant has recently been refused a visa without reference of his case to the Department, on the ground of his membership in the branch in Russia of the organization mentioned under III (2) (f) of the Department's circular instruction of July 18, 1931 (Diplomatic Serial No. 2023). It was not the intention of the Department that membership alone in one of the organizations, or branches thereof, enumerated in III (2) of that instruction should be considered sufficient ground for refusal of a visa without reference to the Department. With a view to making clearer the Department's intention in this respect, the second paragraph on page three of the strictly confidential instruction of July 18, 1931 is amended to read as follows:

"The foregoing procedure is not to be followed and visas are to be refused by you without reference to the Department in the case of any alien, irrespective of the purpose of his proposed visit to the United States, whose inadmissibility arises (a) by virtue of the fact that he has been or is active in the work of one of the organizations mentioned in III (2) of the Department's instruction of July 18, 1931 (Diplomatic Serial 2023), that is, has taken part in a meeting of such an organization, has been or is a member of any organ of such an organization, or has participated or is participating in any capacity in the work of such an organization, or (b) by reason of his implication in any action directed specifically against the Government of the United States."

Similar instructions are being sent to the Consulates General at London and Paris and to the Consulate at Riga, and a copy of the latter is being sent to the American Minister at Riga. The injunction as to secrecy contained in the strictly confidential instruction of July 18, 1931 applies, of course, to this instruction.

Very truly yours,

For the Secretary of State:
WILBUR J. CARR

SPAIN

RECOGNITION BY THE UNITED STATES OF THE PROVISIONAL GOVERNMENT OF SPAIN

852.00/1848

The Spanish Embassy to the Department of State

[Translation]

No. 22/87

NOTE VERBALE

The Embassy of Spain at Washington has the honor to advise the Department of State of the United States that it has received a cablegram from the Minister of State to the provisional Government of Spain, stating that the Republic has been proclaimed throughout the country with delirious enthusiasm, the said Government being constituted as follows:

Presidency:	Mr. Aniceto Alcalá Zamora.
Gobernación:	Mr. Miguel Maura,
Treasury:	Mr. Indalecio Prieto,
Fomento:	Mr. Alvaro de Albornoz,
Grace and Justice:	Mr. Fernando de los Ríos,
Labor:	Mr. Francisco Largo Caballero,
Marine:	Mr. Casares Quiroga,
Public Instruction:	Mr. Marcelino Domingo,
Army:	Mr. Manuel Azaña,
State:	Mr. Alejandro Lerroux.

The said cablegram states, further, that perfect order prevails throughout the nation, and gives instructions to inform the Government of the United States of the foregoing.

WASHINGTON, April 16, 1931.

852.00/1818 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, April 16, 1931—11 a. m.

[Received 12:40 p. m.]

21. The majority which the Republicans unexpectedly received in the usually unimportant municipal elections was apparently the cause for the events of this week. Since the gain was only in the larger

cities the effect is unwarranted. For the entire country, the total number returned is, however, monarchical.

Surprised fright was the initial reaction of the Royal Government and the advisers and attendants of the King. The latter was insistently urged by the entire Cabinet, with one exception, to leave the country. The King finally concluded that by remaining a condition of civil war would be brought about. Consequently his sense of duty to his people obliged him to go. The King was surrounded by incompetent, selfish, and ignorant political personages and an obscurantist aristocracy. He and the Spanish people are the victims of this accumulation of evils.

There are elements of the gravest nature in the resulting conditions. Communistic falsities have captivated the seventeenth century-minded Spanish people. All at once they see a promised land which does not exist. Ultimately they will be disillusioned. Then they will grasp at anything within their reach. Should the weak restraints of this newborn regime collapse, they will easily be captured by the widespread Bolshevistic influences.

I do not believe immediate recognition of this regime is advisable. Nevertheless, unless the Department regularly accredits me to it, some sort of *modus vivendi* will be necessary in order to deal with it.

LAUGHLIN

852.00/1819 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, April 16, 1931—5 p. m.

[Received April 16—3:15 p. m.]

22. In a document which he gave to Count Romanones,¹ the King defined his position. The paper was to be published after the Monarch had quit Spain. I have a copy of this important statement.

Press correspondents have informed me that the document has been published in the United States. Consequently, unless otherwise instructed, I shall not telegraph it but send it by the next pouch. It is clear from the King's definition of his position that he has not "abdicated". The Provisional Government obviously desires to suppress it here. The Spanish press makes no mention of it but, on the contrary, makes repeated references to the King's "abdication".

LAUGHLIN

¹ Conde de Romanones (Alvaro Figueroa y Torres), Minister of Foreign Affairs in the last Cabinet under King Alfonso XIII.

852.01/17 : Telegram

The Secretary of State to the Ambassador in Spain (Laughlin)

[Paraphrase]

WASHINGTON, April 16, 1931—7 p. m.

10. Embassy's 20 of April 15, 7 p. m.² Information and comment on the points listed below are desired. The data and remarks will facilitate the Department's decision on whether or not recognition should be extended to the Provisional Government.

1. From newspaper sources we learn that the King has not abdicated but has merely left Spain, thereby "suspending the exercise of the Royal Powers." Consequently, we are concerned with the question of the legal status of the monarchy and of the Provisional Government.

2. Moreover, we are interested in the responsible character and apparent stability of the Provisional Government.

3. The Department would like to know, too, the policy which the several European Governments, especially those of Germany, Great Britain, Italy and France, intend to pursue with regard to the recognition of the Provisional Government.

In our opinion, recognition of the Provisional Government by the United States ought not to precede the extension of such by the chief powers of Europe with which Spain has much closer relations.

Your handling of this current business should be governed, I believe, by the attitude which the representatives of the aforementioned Governments take.

Following that there are two alternatives.

1. You might see the Provisional President and tell him that, although you have received no instructions with regard to recognition of his regime, it is your hope that the amicable relations between Spain and the United States will not be interrupted; that you are ready to continue to deal informally with the Foreign Office.

2. You might proceed as heretofore in relations with the Foreign Office on current business matters.

STIMSON

852.01/24 : Telegram

*The Secretary of State to the Ambassador in France (Edge)*³

[Paraphrase]

WASHINGTON, April 17, 1931—5 p. m.

145. Embassy's 173, 17th of April, 1 p. m.² We would be pleased to have you continue your observations on local reaction toward the sit-

² Not printed.

³ Substantially the same message was sent as a circular telegram to the Embassies in Germany, Great Britain, and Italy.

uation in Spain. By discreet inquiry, determine and let me know, if possible in advance, what decision the Government to which you are accredited has taken with respect to recognition of the Provisional Government.

STIMSON

852.01/19 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, April 17, 1931—5 p. m.

[Received 5:22 p. m.]

24. Department's No. 10, 16th of April, 7 p. m. I believe that the first point to which you refer was included in the Embassy's telegram No. 22 of April 16th, 5 p. m.

Your instructions as to procedure have been carefully noted. After having consulted with my ambassadorial colleagues here I shall reply to your second and third points.

I considered it advisable to follow the first of the alternative instructions with which you concluded your telegram. I spoke with the Provisional President along this line at 1 o'clock today with the intention of preparing him for postponement in the Department's action. In this manner, I thought the only available protection against chaos would be strengthened. I was received most cordially by President Zamora, who agreed at once to what I made appear a personal suggestion without any reference to the Department's instructions in the matter.

In my opinion, Zamora is very confident, perhaps too much so, that his Government is strong enough to handle whatever danger the future may have in store for it.

LAUGHLIN

852.01/26 : Telegram

The Ambassador in France (Edge) to the Secretary of State

PARIS, April 18, 1931—10 a. m.

[Received April 18—9:40 a. m.]

180. Department's 145, April 17, 5 p. m. A communiqué was issued by the Foreign Office last night at 8 o'clock to the effect that the French Government had recognized the Spanish Republic.

I have confirmed this this morning from the Foreign Office which states that the formal written reply to the note from the Spanish Chargé d'Affaires here (see my telegram number 173, April 17, 1 p. m.⁶) in which the latter had announced the establishment of the

⁶ Not printed.

Provisional Government of the Republic in Spain, took note of this fact and added that the French Government accorded its recognition to the new Spanish Government.

EDGE

852.01/28 : Telegram

The Ambassador in Germany (Sackett) to the Secretary of State

BERLIN, April 18, 1931—noon.

[Received 12:40 p. m.]

50. Reference Department circular April 17, 5 p. m.,⁶ German comment, press and otherwise, has on the whole up to date been somewhat colorless. The overthrow of the Spanish Monarchy is regarded as an inevitable historical development. Good wishes for the new Republic which are widespread extending even throughout conservative circles are tempered by sympathy for the person of the King and gratitude for his friendliness to Germany as well [as] by the hope that the French influence may not now prove permanently paramount in Spain.

There are the to-be-expected insinuations that France had a hand in bringing about present developments and a tendency to characterize them as a French success.

A certain amount of skepticism is shown as to the ability and durability of the present Cabinet and some apprehension is voiced as to the situation soon becoming further out of hand.

[Paraphrase.] The following information for the Department comes from Von Bülow, the Under Secretary of State for Foreign Affairs. He gave it to me in confidence. My colleagues are not to be informed. The German Government is not disposed to rush recognition of the Spanish Provisional Government as the stability of the new regime is questioned here. Should the other powers extend recognition, however, the Germans will consider it advisable to follow suit. In any event, they do not consider it necessary to be in the vanguard. They are hopeful that a delay of several days may be possible. Von Hindenburg has personal aversion to the granting of recognition, as he feels the new regime is the result of the pernicious activities of *émigrés*. However, the President's opposition will be set aside, if, as stated in the foregoing, the Germans consider that they must follow example, should other Governments accord recognition. [End paraphrase.]

SACKETT

⁶ See footnote 3, p. 987.

852.01/31 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, April 18, 1931—noon.

[Received 2:10 p. m.]

25. I have just received from the new Minister for Foreign Affairs Lerroux a note dated yesterday addressed to me as Ambassador of which the following is the text in translation.

"By a spontaneous act of respect for the people's will the sovereign power represented in Spain by Don Alfonso XIII has yielded to national sovereignty, the King ceased to be a sovereign voluntarily abandoning the throne and the country to establish his residence abroad.

The nation which has plainly expressed its state of mind by universal suffrage in the municipal elections held on the twelfth instant on finding itself master of its own destinies and without a government to rule them has proclaimed the Republic.

In representation of the people who exercised their rights as citizens at the polls with insuperable vigor and enthusiasm and have publicly manifested their will with a discipline and unanimity undisturbed by any excess whatsoever and without encountering opposition or resistance, effective possession of authority has been taken over by a government in which the entire national democracy is unitedly represented under the presidency of the illustrious patrician Don Aniceto Alcalá Zamora.

The fundamental principles which will inspire the policy of the new regime under the government which it is initiating are stated in the informal note given out for publication and of which a copy is attached.

In informing Your Excellency of these well known facts which constitute an unexampled event in the political evolutions of nations I am discharging a duty imposed upon me by official courtesy together with the regard with which our respective countries have maintained their traditional relations of cordial confraternity as is appropriate for the two nations and which have jointly contributed to the prosperity of its representatives and the peace of the world. With the ardent desire that in these relations there should arise no other interruption than is necessitated by the execution of these reciprocal obligations I earnestly address to Your Excellency the fervent request that in transmitting this communication to the Honorable Government you represent you will find it appropriate to recommend the desirability of recognizing with the greatest urgency this new form of government as applied by the Spanish nation in the exercise of its sovereignty, exalting, in an exemplary manner as a demonstration to the entire world of its eminent capacity, the procedure most in accord with the moral and juridic progress of civilized nations."

LAUGHLIN

852.01/25 : Telegram

The Ambassador in Great Britain (Dawes) to the Secretary of State

[Paraphrase]

LONDON, April 18, 1931—1 p. m.

[Received April 18—9:20 a. m.]

113. Department's circular of April 17th, 5 p. m.⁷ The British Ambassador in France notified the Foreign Office last night that, during the night, the "Provisional Government of Spain" would be recognized by the French. According to the morning press reports France has extended this recognition. Although the Foreign Office has received no confirmation as yet, official word is expected at any time. I have learned from the Foreign Office that the intention of the British Government to extend recognition has been cabled to the Dominion Governments; that confirmation from the Dominions has been requested. It is improbable that all replies will be received before Monday. By that date at the latest, the Foreign Office states that the Provisional Government of Spain will be recognized by the British. The use of the term "Provisional Government of Spain" is considered important. Following the French form, the British note of recognition will contain that designation. The suggestion of Vansittart is that Laughlin in Spain might conveniently consult with his British colleague there as to the form we intend to use. He agreed with me, however, that it would not be wise to allow any appearance of concurrent action. With reference to Vansittart's suggestion, I asked him whether he had made it because of the importance he gave to the order in which his Government and that of the United States notified the Spanish Provisional Government of their recognition. The time when other Governments communicated their notification of recognition was now a matter of indifference to his Government, he replied, since the French had already been the first to do so. If, in your opinion immediate action is desirable, you need not delay because of anything here.

DAWES

852.01/27 : Telegram

The Ambassador in Italy (Garrett) to the Secretary of State

[Paraphrase]

ROME, April 18, 1931—1 p. m.

[Received April 18—9:25 a. m.]

58. Your circular telegram of April 17th, 5 p. m.⁷ The Italian press has reported the Spanish situation in great detail. No conclusions

⁷ See footnote 3, p. 987.

are drawn in the various accompanying editorials which have merely emphasized the uncertainty of the situation. Several days ago *Le Journal* of Paris attributed anti-Italian statements to Indalecio Prieto, the new Spanish Minister of the Treasury. Some feeling was precipitated here by the alleged declarations. However, what might have been an incident was definitely closed, according to press of this morning, by a denial from Prieto, and reassurances from Lerroux, the Minister of State. Up to the present time, there have been no announcements in the press relative to Italy's recognition of the new Spanish Government. Insofar as I am able to determine the Italian Foreign Office has not yet arrived at a decision.

GARRETT

852.01/30 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, April 18, 1931—6 p. m.

[Received 6:40 p. m.]

26. Embassy's 24, 17th of April, 5 p. m., and the Department's No. 10, April 16th, 7 p. m. The Spanish Provisional Government has been recognized by France, Czechoslovakia, Mexico, Uruguay, and Chile. I am assured by the Italian and German Ambassadors that their Governments have not yet informed them in the matter. According to the British Ambassador his Government will make its reply after hearing from the Dominions.

On the surface, the Provisional Government appears to be stable. As yet, however, the state of affairs in Catalonia has presented no difficulties; at this moment, the authorities in Madrid appear to be successful in their management of that situation. In general, surprisingly good order prevails. To my knowledge there are, at present, no active disturbing elements, but such forces are certainly latent. The ability of the Provisional Government to resist such elements would undoubtedly be strengthened by recognition from the great powers. Not enough time to make a fair evaluation of the Government has elapsed since it came into power. During its brief existence, the regime has created a good impression. The men composing it, however, are not credited with distinctive ability.

LAUGHLIN

852.01/30 : Telegram

The Secretary of State to the Ambassador in Spain (Laughlin)

[Paraphrase]

WASHINGTON, April 19, 1931—2 p. m.

11. Embassy's No. 25, 18th of April, noon, and No. 26, April 18, 6 p. m. I understand that, with the exception of Catalonia, the Provisional Government is by popular consent in complete control of Spain; that with regard to Catalonia there is an agreement upon the ultimate relationship.

1. Is this understanding of mine correct?

2. In your opinion, is public order now being maintained by the Provisional Government, and does the latter have the strength to preserve it?

3. Have the financial and other obligations of Spain been recognized by the Provisional Government?

4. If you recommend immediate recognition, on what day and upon what terms should it be extended?

We have no desire to be participants in a recognition race. After the other great powers have extended recognition, however, we have no desire to be conspicuous by our withholding it. In my opinion, the situation in Spain is primarily the concern of the several European Governments. Therefore, I feel that our motive for extending or withholding recognition would not necessarily correspond to theirs. We would be pleased to have your opinion of the situation.

STIMSON

852.01/33 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, April 20, 1931—6 p. m.

[Received 9 p. m.]

27. Department's No. 11, 19th of April, 2 p. m. Your questions are answered *seriatim*.

1. Affirmative.

2. The third, fourth, and fifth sentences in paragraph 2 of the Embassy's telegram 26, 18th of April, 6 p.m., contain all the information which I can possibly give at present.

3. Prieto, the Finance Minister positively avers that the financial obligations incurred by the Monarchy will be respected by the present regime. That this will be done is the opinion which prevails among

American interests concerned, and with whom I have consulted, especially the International Telephone and Telegraph Company. Furthermore, in one of the decrees just pronounced, there is a provision which continues the guarantee by law of private property.

4. Yes, because a further shift to the extreme left can best be halted and effectively so by immediate recognition and also, because, with good argument to support my opinion, I believe it is what not only the Provisional Government wish but the Monarchists as well. Your reference to a recognition race is fully understandable to me. Since recognition has been extended by so many powers, however, including France, that is a matter no longer to be considered. Cuba and Argentina, I learned today, have recognized the new regime. I deferentially suggest that the Department now give me authorization to extend recognition immediately upon my learning of such extension by Italy, Germany, or England. The statement of recognition should refer to "the Provisional Government of the Spanish Republic." I have consulted with all of my colleagues. In their opinion, early recognition in the interest of world order is highly important.

LAUGHLIN

852.01/33 : Telegram

The Secretary of State to the Ambassador in Spain (Laughlin)

WASHINGTON, April 21, 1931—4 p. m.

12. Your telegram No. 27, April 20, 6 p. m. As soon as you have ascertained that your British colleague has taken action, you should deliver a note to the Minister for Foreign Affairs (acknowledging his communication of April 17, quoted in your telegram No. 25, April 18, noon) and stating that "the Government of the United States of America takes pleasure in according recognition to the Provisional Government of Spain."

[Paraphrase.] In view of the fact that there may be some question regarding the status of the King, your employment of the term "Spanish Republic" would be contrary to our desire. This Government does not wish to give the appearance of prejudging events. Apparently the status of the new regime is awaiting settlement, possibly by the electorate. [End paraphrase.]

If possible inform the Department as soon as possible in advance of the hour at which you will deliver your note, in order that the news may be released to the press here.

STIMSON

852.01/36 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, April 22, 1931—1 p. m.
[Received April 22—11:30 a. m.]

28. Your number 12, April 21, 4 p. m. British colleague took action 12:30 today. Minister of Foreign Affairs will receive me at 4:30 this afternoon for delivery of note authorized by you.

LAUGHLIN

852.01/41 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, April 22, 1931—5 p. m.
[Received April 22—4:55 p. m.]

30. Have just come from interview with Ministry of State where I carried out exactly instructions in your telegram No. 12, April 21, 4 p. m. He asked me to convey deeply appreciative thanks.

LAUGHLIN

EFFORTS TO REMOVE SPANISH TARIFF DISCRIMINATIONS HANDICAPPING AMERICAN TRADE

651.5231/57 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, November 10, 1931—8 p. m.
[Received 8:50 p. m.]

92. Reference my No. 89, October 24, 2 p. m.,⁹ Franco-Spanish commercial agreement¹⁰ went into effect today. Article 5 declares a reduction in the tariff rates established last July with regard to certain articles. Government decided at noon today that reduction in rates accorded France by the agreement in respect of automobiles, tires, and tubes, films, motorcycles and artificial silk, et cetera, are not to be applied to the United States basing this stand on the provisions of the Royal Order of May 25, 1927,¹¹ which, while continuing in force, they contend does not give these privileges to us because of the subsequent abolition of the consolidated rates then existing. Calderon, chief of the Commercial Bureau of the Foreign Office in charge of this matter, states quite frankly that his Government is willing to reconsider plac-

⁹ Not printed.

¹⁰ Text printed in *Journal Officiel de la République Française* (Lois et Décrets), November 10, 1931, p. 11672.

¹¹ i. e., Royal Decree No. 958, *Foreign Relations*, 1927, vol. III, p. 729.

ing us in most-favored-nation position if we give them something in return. He said that they did not expect tariff reductions from us but a simplification of the administrative regulations affecting entrance of the preserves, grapes and oranges, short firearms and garlic. He also mentioned in strict confidence that not all countries would benefit by the tariff reductions accorded France and that a bargaining proposition had been offered Italy which she must accept tonight in order to enjoy them.

Pending your considered instructions I intend to see Lerroux himself tomorrow in an attempt to modify the Spanish stand.

LAUGHLIN

611.5231/603 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, November 11, 1931—6 p. m.
[Received November 11—5:14 p. m.]

93. My telegram No. 92, November 10, 8 p. m., regarding Franco-Spanish commercial arrangement. I saw Lerroux this morning to urge reconsideration of Spanish decision not to give us reduction of rates accorded France by new arrangement. In the course of the conversation he reflected Calderon's attitude about "concessions" on our part and the staggering balance of trade against Spain in the United States which he said they must find some means to correct.

When it became clear to me that the Spanish Government is bent on bargaining I asked for a suspension of their decision to give you time to consider my reports and possibly make concrete propositions. I think some concessions in the administrative regulations mentioned in my No. 92 would go a long way toward a satisfactory settlement. I urged that the delay I asked for would be in the interests of Spain as much as ourselves since it would leave you free from any outcry of exporters which might force your hand and oblige the President to use his retaliatory powers. I made it quite clear that such retaliation was possible.

Lerroux seemed impressed by my argument especially when I stated that the Minister of National Economy had promised the Commercial Attaché that the new rates would automatically become applicable to us. In the end he said he could not give me an immediate answer to my request for delay since he would have to take advice on that point; but he promised to send me his answer this afternoon. Since it has not reached me up to this hour I despatched this telegram without waiting longer and shall include it in a later message.

LAUGHLIN

611.5231/606 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, November 13, 1931—noon.

[Received 3:55 p. m.]

94. Embassy's 93, 11th of November, 6 p. m. Lerroux leaves to-night for a meeting of the League of Nations in Paris. I have learned from him, however, that the Spanish Government cannot give us the postponement which we requested. His argument was based on the points already presented by himself and Calderon. Within the past 24 hours, he added, his Government had opened negotiations with other Governments with the object of granting them the same tariff reductions as France. He went on to say that if these countries expected to receive the advantages accorded France they must offer something in return. The United States was not to be excepted from this rule.

Upon reviewing this matter you may conclude that we cannot make any concessions. In that case you may be ready to resort to the extreme of retaliatory measures. If not, my opinion is that any protest by the United States would only result in a protracted exchange of notes over the legal features of the problem.

I have Calderon's promise that he will let me know today just what his Government wants from the United States. This information I shall include in a later communication.

LAUGHLIN

611.5231/605

Memorandum by the Under Secretary of State

[WASHINGTON,] November 13, 1931.

The Spanish Chargé d'Affaires came in to see me with a memorandum as to the attitude of his Government toward the commercial *modus vivendi* with this country¹² in its relation to the newly signed commercial agreement with France. He said that his Government showed its generosity and friendly feeling toward the United States in offering to give us the benefit of the second column of tariffs and to give us the benefit of the French figures on condition that we made certain administrative arrangements which, as I suspected, was to admit arms and grapes. I told him that I could not see either any generosity or particular friendliness on the part of Spain in refusing to live up to the *modus vivendi* under which the two nations gave each

¹² For previous correspondence concerning the commercial *modus vivendi*, see *Foreign Relations*, 1927, vol. III, pp. 729 ff.

other most-favored-nation treatment, and to give us the benefit of the second column was obviously not in accord with the signed agreement.

I told him also that it was very unusual to demand such so-called administrative changes as a reason why Spain should live up to its agreement. I said, further, that the whole matter was being carefully studied by the experts, and sent him to the Western European Division.

W[ILLIAM] R. C[ASTLE, JR.]

611.5231/601 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

MADRID, November 13, 1931—3 p. m.

[Received 4:09 p. m.]

95. My No. 94, November 13, noon. I telegraph for your assistance in considering this question, translation [of] a memorandum handed me at the Foreign Office.

"By the commercial arrangement of August 1, 1906,¹³ there was conceded to the United States the enjoyment of the customs tariffs then established in our second column.

By the exchange of notes of December 20, 1906,¹⁴ this treatment was explained in the sense that reductions which might be conceded to a third power would be applied also to the United States.

By the exchange of notes of October 6 and 21 [22], 1923,¹⁵ there was conceded to the United States treatment provided by the agreement of August 1, 1906; but not the benefits which Spain in the future should grant to a third power, thus modifying in this sense the agreement of August 1, 1906 and the exchange of notes of December 20, 1906.

By the Royal Decree of May 25, 1927 the Government of Spain conceded (a unilateral measure) to the United States the treatment of greatest favor resulting from the application of the commercial treaties which at that time embodied consolidated tariffs and as long as those consolidations should prevail. This treatment was granted for a maximum period of 6 months.

By an order of the Ministry of State dated November 7, 1927¹⁶ the Royal Decree of May 25, 1927 was extended provisionally.

SUMMARY. Consequently as far as Spain is concerned the Royal Decree of May 25, 1927 continues in force. Should the decree of May 25, 1927 be annulled the commercial regime of both countries would again become that which was agreed upon by both parties in the exchange of notes of October 6 and 22, 1923."

The summary should be read with the fact in mind that the consolidations were abolished by decree of December 30 [28], 1928.¹⁷

LAUGHLIN

¹³ *Foreign Relations*, 1906, pt. 2, p. 1342.

¹⁴ Malloy, *Treaties, Conventions, etc.*, 1776-1909, vol. II, p. 1719.

¹⁵ *Foreign Relations*, 1923, vol. II, p. 873.

¹⁶ *Ibid.*, 1927, vol. III, p. 733.

¹⁷ *Gaceta de Madrid*, vol. IV, p. 2073.

652.113 Auto/35 : Telegram

The Secretary of State to the Ambassador in Spain (Laughlin)

WASHINGTON, November 14, 1931—noon.

63. Your telegrams 92 to 95 inclusive. The Spanish Chargé d'Affaires called Friday to leave a memorandum¹⁸ stating in substance that the tariff concessions granted to France do not contravene the *modus vivendi*, as contained in Royal Decree No. 958 and the note from the Spanish Minister of State of November 7, 1927,¹⁹ and offering to bargain for the extension to us of the French rates, on the basis outlined in the last sentence of paragraph 1 of your telegram No. 92.

The Department expressed no opinion on the relation of the Spanish action to the *modus vivendi*, but informed the Chargé d'Affaires that you were reporting on the entire situation and that any negotiations would continue to be handled between you and the Spanish Foreign Office.

The Department is gratified by your comprehensive reports and approves of your representations to date. In view of Spain's definite refusal at present to grant us the reduced rates, as stated in your telegram No. 94, I agree that there would appear to be no current advantage in your presenting a formal protest; certainly not before we have come to a decision as to whether or not there has been a contravention of the *modus vivendi*. The matter is being carefully studied and you will receive specific instructions as soon as possible.

Please comment as to your opinion of the validity of the Spanish contention that their action does not contravene the *modus vivendi*, and inform me when the Department may expect to receive the text of the Franco-Spanish Agreement. Unless very lengthy I think it would also be desirable to cable a translation of the provisions of the agreement granting the preferential rates (but not the tables of rates themselves).

The Department will be pleased to receive and will sympathetically consider any statement of Spanish desires which the Government may wish to submit (reference, last paragraph of your telegram No. 94). I do not believe, however, that discussions on your part with the Foreign Office regarding the "simplification of American administrative regulations" should give the impression of being on instructions from your Government, for the reason that any modifications would appear extremely remote if not out of the question. The following is for your information only: With respect to Almeria grapes and oranges, the Department of Agriculture states that it cannot reconsider its deci-

¹⁸ Not printed.

¹⁹ *Foreign Relations*, 1927, vol. III, p. 732.

sion of last year continuing the embargo.²⁰ Regarding preserves, I understand that there are no special requirements governing entry from Spain other than compliance with the general pure food laws and regulations which are applicable alike to domestic and foreign products. Regarding garlic, the Department of Agriculture informs me that a permit must be obtained for importation (this also applies to onions), but that the permit is available to anyone, on application. The Department has no record of correspondence regarding revolvers since 1928 [1929], and understands from the Tariff Commission and the Treasury Department that Spanish firearms are freely admitted provided that they do not simulate patented American models.

The press has been informed, in response to inquiries, merely of the available known facts concerning the Franco-Spanish agreement, of the Spanish refusal to grant us the reduced rates, and of the fact of the receipt by the Department of a protest from the National Automobile Chamber of Commerce.

STIMSON

652.113 Auto/36 : Telegram

The Ambassador in Spain (Laughlin) to the Secretary of State

[Paraphrase]

MADRID, November 17, 1931—9 a.m.

[Received 11:55 a.m.]

98. Relative to paragraph 4 of the Department's 63, noon, 14th of November. The Spanish authorities contend that the *modus vivendi* is not contravened by their action. In my opinion, their argument is technically sound. For us the chief value of the *modus vivendi* lies in the fact that it serves to place the United States among the "países-convenios" which by the unrepealed decree of December 30, 1928, are entitled to second-column treatment. Rather than attempt to show a violation of the *modus vivendi*, our interests would be better served by an insistence that we accord the most favored treatment to Spain; therefore, we have the right to anticipate the same treatment from that Government. Without stating so in fact, the Franco-Spanish agreement really establishes a third tariff column which incorporates therein the annexed list (B?). No alteration of the two-column tariff system created by the decree of December 30, 1928, has been declared by Spain. Our argument might follow the line that inasmuch as that decree is still effective, the recent changes in the tariff should not be

²⁰ For previous correspondence concerning the American embargo against Spanish fruits and vegetables affected by the Mediterranean fruit fly, see *Foreign Relations*, 1925, vol. II, pp. 714 ff.; *ibid.*, 1927, vol. III, pp. 733 ff.; *ibid.*, 1930, vol. III, pp. 813 ff.

construed to mean the establishment of another tariff column but the replacement of the present rates by different ones in the second column.

LAUGHLIN

611.5231/610

The Chargé in Spain (Benton) to the Secretary of State

No. 527

MADRID, November 17, 1931.

[Received November 30.]

SIR: In confirmation of the Ambassador's telegraphic despatch No. 94 of November 13th (12 noon), I have the honor to transmit herewith the copy of a Memorandum furnished the Embassy by Señor Calderon, the Chief of the Commercial Section in the Ministry of State, containing a list of what he terms Spain's "trade grievances" against us, which, in the opinion of his Government, must be attended to before we can realize the advantages of the tariff reductions accorded France by the recent Franco-Spanish Commercial Agreement. A translation of the Memorandum is also enclosed.

Respectfully yours,

J. WEBB BENTON

[Enclosure—Translation]

CUSTOMS DUTIES AND RESTRICTIVE MEASURES THAT HAVE SERIOUSLY AFFECTED THE EXPORTATION OF SPANISH PRODUCTS TO THE UNITED STATES

a). *Fresh Fruits.* Of especial interest is the raising of the embargo on the entry of fresh fruits, notably grapes, which might be adjusted by the substitution of certificates issued by Spanish offices of vegetable pathology, to the effect that the shipments are exempt from the pest generally known as the Mediterranean fly, and said certificates to be visaed by the North American Consul should the Washington Government so require.

b). *Cork Manufactures.* Customs duties on these products are so high that Spanish exports of these manufactures decreased by 195,283 metric quintals with a value of 38,770,926 pesetas in the six months of 1930 as compared with the corresponding period of 1929.

c). *Insulation Cork.* This product has also suffered a decided decline since the entry into effect of the present North American tariff.

d). *Stoppers.* One of the most serious impediments that Spanish cork manufacturers encounter on their entry into the United States is the necessity for each cork to be stamped with the words "Made in Spain," the suppression of which with the substitution therefor of a stamp on the package is of great importance.

e). *Mineral Waters*. Annulment of the measures that at present render impossible their entry into the United States.

f). *Canned Goods*. Peppers constituting the principal item of Spanish export of this class of products to the United States. The suppression of the sanitation methods adopted by the North American authorities is of importance, being based on their belonging to the "non-acid" class, whereas it is well-known and scientifically demonstrable that they belong to the "acid" group.

g). Removal of the obstacles imposed to our tinned-fish and reduction of the sanitary measures exclusively to glaring cases proven before the Spanish exporters or technicians appointed by them or before the Spanish Consular representatives.

h). *Firearms*. More favorable treatment for the entry of them and their parts would be desirable.

i). *Garlic*. Suppression of the sanitary measures that consist in determining that the straw of the "string" may contain germs harmful to stock, and when this is replaced by other vegetable fibers, the existence of other germs injurious to stock, is alleged.

j). *Canary Island Potatoes*. Permission for the entry of these tubercles packed in sawdust or cork as is done for fresh tomatoes from the Canaries; special importance being attached to this request.

k). Finally, it would be desirable that guaranty be given for prohibition in the United States of usage, in packing California-grapes and native onions, of such denominations as "Valencia" and "Almeria Grapes" which are freely employed on cards bearing the national Spanish colors and figures, in order that the consumer may believe that the said products come from Spain; against which usage the Spanish Government has repeatedly protested without any result whatsoever.

611.5231/617

The Secretary of State to the Ambassador in Spain (Laughlin)

No. 229

WASHINGTON, December 31, 1931.

SIR: Reference is made to the general question of Spanish tariff discrimination and to your despatch No. 527 of November 17, 1931, under cover of which you transmitted the text of the memorandum of Spanish "trade grievances" given to you on November 13, 1931, by Señor Calderon of the Ministry of State. The Department submitted translations of the memorandum to the various branches of the American Government concerned in administering the regulations, provisions, et cetera, complained of, and on the basis of their replies it has drafted the following memorandum which you should personally hand to the

Minister of State, as promptly as an interview can be arranged and if possible in the presence of Señor Calderon.

"The American Government has made a careful and sympathetic examination of the points set forth in the memorandum submitted to the American Ambassador in Madrid on November 13, 1931, and has instructed the Ambassador to present the following memorandum in reply.

"It is noted that the Spanish communication consisted of eleven points which, for convenience in reference, are grouped in three categories as follows: (The letters are those appearing in the Spanish memorandum)

"Category 1. Administrative application of American sanitary or customs provisions.

This category includes items A (Fresh Fruits), E (Mineral Waters), F (Canned Goods other than canned fish), G (canned fish), I (garlic and onions) and J (Canary Island Potatoes), all of which are under the administration of the Department of Agriculture; and items D (Cork Stoppers) and H (Firearms) regarding which the provisions complained of are under the jurisdiction of the Treasury Department.

"As a matter of general comment it may be said that the regulations or restrictions imposed are uniformly applied, without any discrimination whatever. In the case of products subject to the Food and Drugs Act, Department of Agriculture, the requirements in import consignments are in all instances similar to those applied in American domestic commerce. The same is true of the application of quarantine laws (Department of Agriculture), if or whenever there is an outbreak in the United States of the pests or diseases the introduction or spread of which the particular quarantine indicated was designed to prevent. It is felt, however, that a more thorough understanding of these regulations by Spanish exporters, and perhaps a more careful compliance therewith, would materially reduce difficulties and subsequent complaints concerning importation into this country. The Department of State would therefore be glad to propose that the Spanish Government designate a representative of the Spanish Embassy in Washington to confer at the Department of State with appropriate officials of other Departments to the end that the existing regulations may be clarified and thoroughly understood. Any suggestions which the Spanish Government might desire to make could thus be considered directly by the officials of other branches of the American Government technically competent to deal with them.

"Brief summaries are given herewith of the items enumerated above:

A. *Fresh Fruits.* The Department of Agriculture regrets that, until the Mediterranean Fruit Fly shall have been eradicated from Spain, it would be unable to modify the position taken last year and outlined in detail to the Spanish Government in a note from the Secretary of State to the then Spanish Ambassador, dated June 24, 1930.²¹ The American Government is confident that the Spanish Government cannot fail fully to appreciate the attitude of the American Govern-

²¹ *Foreign Relations*, 1930, vol. III, p. 815.

ment in this matter when it learns that the American Government has already spent over seven million dollars in the control and eradication of this pest in the State of Florida.

E. Mineral Water. The Department of Agriculture states that the principal past difficulty has occurred in connection with one particular brand, certain shipments of which showed evidences of pollution. It added that attention in connection with the spring, and in the bottling operations, would readily render the product acceptable, and that recent shipments had been entirely satisfactory.

F. Canned Goods other than canned fish. The item of principal importance appears to be canned pimientos or peppers, and the Department of Agriculture states that during the last several years the major portion exported from Spain were entirely acceptable and that the recent records of the Department showed very few, if any, detentions. Where entry was restrained, this action was not taken because the product was 'acid' or 'non-acid', but because improper sterilization or partial spoilage had resulted in a non-sterile product, the bacteria in which constituted a potential health menace. In such cases sorting was permitted and the wholesome tins admitted. Precisely the same supervision is extended to all canned goods in the United States, whether of foreign or domestic origin.

G. Canned fish, principally anchovies, tuna (tunny) and sardines. There has been some difficulty in lack of, or improper, declarations as to weight of contents, but entries have usually been permitted after appropriate rebranding by the importer. In regard to tuna, there has been occasional misbranding, generally corrected in the same way, precisely as the Department of Agriculture requires in similar instances having to do with tuna packed in the United States. With reference to anchovies, the Department of Agriculture reports that out of the large amount imported, there have been a very few instances where the fish have shown evidence of spoilage or decomposition, and in such cases the anchovies have had to be reexported or destroyed.

I. Straw used in tying garlic or onions. The Department of Agriculture states that it has had correspondence with importers on this subject, and that straw may be used by Spanish shippers without rendering the product subject to restriction, provided the straw is disinfected prior to use, and that it is so certified. It adds that the pertinent regulations are being complied with by shippers from other countries, and that it believes that Spanish shippers will have no difficulty provided they use properly disinfected and certified straw.

J. Canary Island potatoes. It would appear that the difficulty in this connection does not relate to the use of any particular type of packing, but to the fact that Spain permits the importation into Spain and possessions of potatoes from countries where the potato wart is known to exist. Since 1922 the United States has prohibited the entry of potatoes from such countries, and it also prohibits the entry of potatoes from countries which have not established similar health measures. Should the situation in Spain not be as reported above, the Department of Agriculture would of course be willing to reconsider the matter.

D. Marking of individual cork stoppers. Reference is made to Section 304 of the Tariff Act²² which outlines the circumstances in

²² 1. e., Tariff Act of 1922; 42 Stat. 858, 986.

which the marking requirement may be waived. It is understood from the Treasury Department that although representations were made on this subject by the Spanish Embassy in Washington, no data was submitted in accordance with sub-section (a) of Section 304, on which the Treasury Department could act in compliance with the Spanish request. This matter can be reopened by request at any time through the submission of such data.

H. Firearms. It is assumed that the reference is to revolvers, and the Treasury Department refers to Treasury Decision No. 41655 of June 25, 1926, prohibiting the importation of revolvers simulating certain parts and movements of those patented and manufactured in the United States by Smith and Wesson. Provided they do not simulate a patented American product, Spanish revolvers are admitted, and the Treasury Department points out that in any case, admission of Spanish revolvers is on a basis of complete parity with those from other countries.

"Category 2. Protection of Spanish names, et cetera.

K. California Grapes and American Onions. The Department of Agriculture makes reference to previous correspondence between it and the Spanish Embassy, through the Department of State, concerning the use on California grapes of labels suggestive of Spanish origin, and calls attention to its report in April 1928 of the abandonment of this form of labelling as a result of the activities of the Food and Drug Administration. The Department of Agriculture states that prior to the receipt of a copy of the Spanish memorandum of November 13, 1931,²³ it had not previously been aware that Spain was similarly concerned over labels on American onions, and adds that if the Spanish Government will be so good as to furnish specimens or descriptions of the objectionable onion labels, and if they prove comparable to certain of those encountered with grapes, the Department of Agriculture will endeavor to have them abandoned. The Department of State for its part would be glad on request of the Spanish Government to bring any cases, respecting the labelling of either grapes or onions, to the attention of the Federal Trade Commission which deals with alleged unfair trade practices, in addition to that of the Department of Agriculture.

"Category 3. American Tariff Rates.

Items B (Cork Manufactures) and C (Insulation Cork). It is assumed that the Spanish Government is familiar with the flexible provisions of the American Tariff Act, under which it is possible within certain considerable limits, and when investigation by the Tariff Commission has indicated to the President the desirability of so doing, to modify the rates applied to individual products. It is understood that such an investigation has been made in connection with insulation cork, but that no such application for a reduction in duty on cork manufactures has ever been received by the Tariff Commission. Incidentally it may be remarked that there is pending before the Tariff Commission at the present time application for reduction in duties in connection with another item in which Spain is reported to be in-

²³ *Ante*, p. 1001.

terested, namely fresh tomatoes, and that although both the Spanish Embassy and the attorney for the Canary Island tomato producers were present at the recent hearings, the latter did not submit a brief in the premises.

"Should the flexible features of the American tariff, and the provisions under which their application may be invoked, not be sufficiently clear, the Department of State would be willing at any time, on the request of the Spanish Government, to designate an official competent to discuss these matters with a representative of the Spanish Embassy."

In submitting the foregoing memorandum, I do not believe it would be desirable for you to make reference to the second Spanish memorandum referred to in your telegram No. 115²⁵ of December 22, 5 p. m., inasmuch as the text has not yet been received and you have indicated in the first paragraph of your telegram that it appears to contain little more than an amplification of the first. You should, however, orally emphasize the following points and be sure that they are positively understood.

1. Since the United States at present grants most favored nation treatment to Spain, and since its administrative requirements and provisions are applicable to all countries alike, with no discrimination whatever, any discussions such as are suggested variously in the memorandum must necessarily be limited, in cases where the requirements are not susceptible of modification, to better understanding and clarification of procedure, and, in cases where such modification is possible (such as in the flexible provisions of the tariff which would have to do with items B and C of the Spanish complaint for example, or of the marking requirement, complained of under item D), to explaining or clarifying to Spain the proper legal or administrative approach available to the Spanish Government, looking toward such modification.

2. If you believe it would be useful at this time to do so, you may also add that the United States stands ready and willing, as heretofore, to negotiate with Spain a commercial treaty providing for reciprocal unconditional most favored nation treatment, and that the American Government believes, moreover, that such an agreement would be of great benefit to the commerce of the two countries.

It is requested that upon the delivery of the memorandum you inform the Department by telegraph summarizing any statements which may have been made to you, and that you also endeavor to obtain an early reply the substance of which should likewise be telegraphed upon its receipt.

The Department is transmitting to you herewith for your consideration and comment a copy of a proposed note of protest²⁵ against Spanish tariff discrimination. This note should not be delivered except upon specific authorization of the Department of State, the

²⁵ Not printed.

extension of which will depend upon your own comments in regard thereto and developments in connection with the attitude of Spain toward the foregoing memorandum.

Should you be authorized to deliver the note of protest, and should you thereupon be questioned by the Minister of State regarding it, your remarks should be confined to stating that, while obviously you could not predict the course of your Government in the event of the receipt of a negative reply from Spain, you understand that the National Automobile Chamber of Commerce, one of the most important trade bodies in the United States, has recently petitioned the President to cease to extend to Spanish products most favored nation treatment and to apply against them our maximum scale of duties.²⁶ It may be added that you know that your Government is profoundly disturbed over the matter.

Very truly yours,

For the Secretary of State:
JAMES GRAFTON ROGERS

NEGOTIATIONS BETWEEN THE UNITED STATES AND SPAIN FOR THE
SETTLEMENT OF RECIPROCAL CLAIMS²⁷

452.11/282

Press Release Issued by the Department of State on April 13, 1931

By an exchange of various notes, an agreement has been concluded with the Government of Spain for the informal consideration by representatives of the United States and Spain of all outstanding diplomatic claims between the two governments. Mr. Luis Calderon, Commercial Counselor of the Spanish Embassy, has been delegated as the Spanish representative. Mr. Raymund T. Yingling, of the legal staff of the Department of State, is the American representative. Informal discussions of the claims will begin in the near future.

In accordance with the terms of the agreement, lists of claims have been exchanged by the two governments. Most of the Spanish claims arise from property damages alleged to have been caused by United States forces in East Florida in 1813. Other Spanish claims arise out of the Mexican War, the Civil War and the events following the Spanish American War. The claims of the United States are not readily classifiable but for the most part they concern alleged personal injuries, embargoes of property and damages to property in Cuba and other Spanish possessions. Most of the American claims are also very old and date from 1844 onward. Both governments

²⁶ Allusion to section 338 ("Discrimination by Foreign Countries") of the Tariff Act of 1930, 46 Stat. 704.

²⁷ For previous correspondence, see *Foreign Relations*, 1929, vol. III, pp. 796 ff.

are now approaching the subject of these claims in a spirit of friendly cooperation with a view to reaching such a general settlement as has for nearly a century proved impossible.

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[The departure of King Alfonso from Spain on April 14, 1931, the establishment of a provisional government, and the subsequent transfer of Luis Calderon, the Spanish representative, to a post in Madrid, interrupted the informal discussions authorized by this agreement. In July 1931, the Spanish Government suggested informally that the negotiations be transferred to Madrid. The request was declined by the United States in September 1931. Since the latter date there has been no diplomatic action toward the settlement of these reciprocal claims.]

SWEDEN

REFUSAL OF THE SWEDISH STATE RAILWAYS TO PAY DEXTER AND CARPENTER, INC., JUDGMENT GRANTED BY A UNITED STATES COURT

458.11 Dexter and Carpenter, Inc./60

The Secretary of State to the Minister in Sweden (Morehead)

No. 54

WASHINGTON, May 13, 1931.

SIR: The Department has under consideration the application of Dexter and Carpenter, Incorporated, an American corporation, for the support of a claim against the Government of Sweden for losses and damages sustained because of the failure of that Government to pay a court judgment rendered against the Kunglig Jarnvagsstyrelsen, known as the Royal Administration of the Swedish State Railways, and in favor of the claimant corporation.

Kunglig Jarnvagsstyrelsen, hereinafter referred to as the Railways, filed a complaint in the United States District Court for the Southern District of New York in 1922, describing itself as a corporation under the laws of Sweden, and sought the recovery of over \$125,000, claiming breach of contract by Dexter and Carpenter, Incorporated, hereinafter referred to as the claimant, for the sale of 150,000 tons of coal. An answer to this complaint was filed denying any breach of contract and setting up a counterclaim on the ground that the Railways had repudiated the contract sued upon by them to the damage of the claimant in the amount of about \$1,000,000. A replication was filed by the Railways in reply to the counterclaim and also a motion requesting the court to dismiss the counterclaim on the ground that the Railways was an agency of the Government of Sweden and therefore the counterclaim was not maintainable against it without the consent of the Swedish Government. This motion was overruled and the replication was stricken out. The Court held that, in filing its claim, the Railways had consented to the jurisdiction of the Court for all purposes including that of affirmative relief by way of counterclaim and that the mere allegation of agency, unsupported by any claim of immunity proceeding directly from the sovereign and unvouched for by the Government of the United States, was insufficient.

The trial of the action resulted in a judgment dismissing the complaint of the Railways and a verdict by the jury for the Railways on

the counterclaim. Neither the Railways nor the claimant was satisfied with this result and each sought a review by the United States Circuit Court of Appeals for the Second Circuit. That court reversed the judgment in favor of the Railways on the counterclaim and affirmed the judgment against the Railways on its original complaint. The Supreme Court of the United States refused the request of the Railways to review the decision of the Circuit Court.

The case then went back to the United States District Court for the Southern District of New York for the second trial in accordance with the decision of the United States Circuit Court of Appeals. That trial resulted in a verdict and judgment against the Railways in the amount of \$411,203.72. The judgment was entered on April 25, 1928.

This judgment, on appeal by the Railways, was affirmed by the United States Circuit Court of Appeals for the Second Circuit in its decision of April 8, 1929. The facts and proceedings so far described are substantiated and set forth in greater detail in the opinion of the Court last referred to. A duly authenticated copy of the opinion is enclosed and marked Exhibit A.¹

Thereafter an application for re-argument was made by the Railways and a certificate, executed by the Minister of Sweden at this Capital, stating that the Railways was not a corporation but an organic part of the Government of Sweden, and advancing the claim of immunity, was filed. Re-argument was denied.

The Railways again sought, by a petition for a writ of certiorari, a review by the Supreme Court of the United States.

In accordance with the request of the Minister of Sweden, contained in his notes of July 2, 1929, and September 17, 1929,² the Department asked the Attorney General of the United States formally to advise the Supreme Court of the status of the Railways and of its claim to immunity from suit in the Courts of the United States. A suggestion to this effect was filed with the Court at the direction of the Attorney General in October, 1929.³ The petition for a writ of certiorari was denied.⁴

Upon the refusal of the Supreme Court of the United States to review, by certiorari, the judgment recovered by the claimant, the claimant, through its counsel, applied to the Minister of Sweden for payment of the judgment. The Minister, pursuant to instructions from

¹ Not printed.

² For text of these notes, see *Suggestion of the Solicitor General as to Petitioner's Legal Status and Claim of Immunity*, Kunglig Järnvägsstyrelsen, also known as the Royal Administration of the Swedish State Railways (A Corporation), *Petitioner v. Dexter & Carpenter, Inc.*, United States Supreme Court, October Term, 1929; No. 273 (Washington, Government Printing Office, 1929), pp. 4 and 10.

³ *Ibid.*, p. 1.

⁴ 282 U. S. 896.

his Government, referred the claimant to the Royal Administration of the Swedish State Railways. The claimant, through its counsel, thereupon requested payment of the judgment from the Railways. Payment was refused.

Payment of the judgment having been refused, the claimant procured the issuance of execution on the judgment, and also instituted proceedings supplementary to execution. In these proceedings, an order was made, on December 16, 1929, attaching funds belonging to the Kingdom of Sweden, on deposit with the National City Bank of the City of New York, as well as money owing to the Kingdom of Sweden by the Swedish American Line, a Swedish corporation doing business in New York, to the amount necessary to satisfy the judgment.

Under the date of December 18, 1929, the Minister of Sweden lodged a protest ⁵ with the Department against the attachment. This protest was duly communicated to the Court, by the United States Attorney for the District, by a suggestion filed, under the date of December 31, 1929,⁶ in the proceedings supplementary to execution.

On the preceding day the Court was presented with a petition of the Minister of Sweden, in which he asked leave to intervene for the sole purpose of asserting the right of the Kingdom of Sweden to sovereign immunity. Upon this application by the Minister, the Court vacated and set aside the order of attachment and writ of execution and directed that no further execution issue against any property belonging to the Kingdom of Sweden or the Railways.

In the course of its opinion, rendered March 12, 1930,⁷ the Court made the following observations concerning the merits of the case:

"The outstanding feature of the case which now presents itself is the fact that the Swedish Government has been in this suit from the beginning. While suggestion has been made from time to time that the plaintiff, as an agency of the Swedish Government, was immune from such liability as was asserted by Dexter and Carpenter, Inc., it never saw fit to claim immunity in the method prescribed by the laws of the United States. The failure so to do cannot be ascribed to inadvertence or oversight. On the contrary, and in the light of all that has transpired, such failure must be regarded as having been deliberate. As pointed out by counsel for the judgment-creditor the only inference properly to be drawn from the procedure heretofore followed is that the Swedish Government, or its attorney, believed it more expedient to contest the issues on their merits than to seek to escape liability from suit upon the ground of immunity, properly advanced. This acquiescence, in the ordinary and usual processes of the court, which preceded and included final judgment, ought to carry

⁵ See *Brief on Behalf of Dexter & Carpenter, Inc.*, Judgment-Creditor, Appellant, United States Circuit Court of Appeals for the Second Circuit, p. 10.

⁶ *Ibid.*, p. 8.

⁷ Full opinion not printed.

with it, as a matter of simple justice, an implied agreement by the Government of Sweden that all writs and remedies commonly available for the collection of the judgment that was here recovered, should now, and without objection, be placed at the disposal of the defendant until they shall have been successful in recovering the full sum of money to which the defendant is rightfully entitled. To state the matter differently, the attitude that has been assumed by the Swedish Government should be held to be a complete waiver of its sovereign immunity, both as to suit and as to execution. Otherwise, the court will find itself to have labored heavily and to have produced nothing more than a moral claim which, at some future time, may, or may not be recognized by the Kingdom of Sweden. Indeed, the intervenor does not hesitate to say that such is the exact situation. The Court is told that although its judgment was rendered in accordance with approved legal formalities, and while, in that respect, it is to be highly regarded, it cannot be permitted, over the protest now made, to support an execution against the funds and property of the Government of Sweden within this jurisdiction. Argument is advanced that the immunity of a foreign sovereign may be waived at one stage of a particular suit, and claimed at a later one, if it then appears wise and expedient so to do, and that such sovereign is the sole judge as to whether and when such claim shall, or shall not be asserted."

In concluding, the Court said:

"If this conclusion be sound, as my study of the question convinces me it is, the attachment, heretofore issued, for obvious reasons, must be vacated. At first blush, an order to that effect will seem to carry with it an admission of impotence on the Court to effectuate its judgment. Strictly speaking, that is not the fact. So far as power is concerned, the Court can compel the garnishees to deliver up the funds of the Swedish Government for the payment of defendant's judgment. But such power, if exercised, and notwithstanding a course of procedure by plaintiff that is far from meeting my approbation, may conceivably precipitate international complications of a burdensome nature to the executive branch of our own Government. To the end that no possibility of this character can arise, and in conformity with what seems to be domestic precedents, the Court will not, for long, exercise further dominion over the property and credits of a friendly foreign sovereign, but will vacate its attachment directed to the garnishees."

This judgment was appealed to the United States Circuit Court of Appeals for the Second Circuit, which, on July 14, 1930, affirmed the judgment. The opinion of the Court contains a lucid discussion of the facts and the law and is enclosed herewith as Exhibit B.⁸

It will be observed that the opinion concludes with the following paragraph:

"It is regrettable that Sweden may thus escape payment of a valid judgment against it. Appellant has been misled in the belief that this plaintiff was a separate entity—apart from the government—and now,

⁸ 43 F. (2d) 705.

when a sufficient number of years has passed making possible a plea of limitation or laches against suing in Sweden (see letter to the League of Nations), appellee appears and pleads its sovereign immunity. Whatever may be appellant's remedy to collect its valid judgment, it should not be necessary to resort to further litigation. It is hoped that the judgment of our courts will be respected and payments made by the Swedish government. But we are required to affirm the order appealed from."

A review of the decision, by the Supreme Court of the United States, was sought by means of a petition to that Court for a writ of certiorari. On January 12, 1931, the Court denied the petition.⁹ Claimant therefore has no further judicial recourse in the United States.

From the above it appears that in 1922, the Railways invoked the jurisdiction of the courts of the United States by bringing suit, as a Swedish corporation, against the claimant. (It may be observed that this was not the only case in which the Railways has sued in the courts of the United States as a Swedish corporation). When affirmative relief by way of counterclaim was sought by the defendant, the Railways for the first time suggested its claim to immunity by reason of its identity with the Swedish Government.

However, it did not see fit to claim immunity in the method prescribed by the laws of the United States. The course of expediency was followed. Thereafter, when it appeared that the Railways would be subjected to the liability of having the judgment against it affirmed by the Court of last resort, it sought the assistance of the executive branch of this Government in presenting its claim to immunity. The Supreme Court, however, declined at that time to review the decision which had been reached by the Lower Courts. When the rights and duties of the parties had been determined, the Railways refused to discharge its obligation by paying the amount of the judgment. And when proceedings supplementary to execution were begun, the Railways, for the first time, properly plead its immunity.

The merits of the case have been thoroughly litigated, in the forum chosen by the Railways and determined in accordance with the law of the country wherein the contract was made and was to be performed. The amount of the damages has been fixed. The sum of \$411,203.72 with interest at 6% from April 25, 1928, is due and unpaid.

You are requested to communicate the above to the Foreign Office and to state that this Government confidently expects that the matter, now brought to the attention of the Swedish Government through the appropriate diplomatic channels, will be adjusted by the payment to this Government, on behalf of the claimant corporation, of the amount of the judgment with interest.

⁹ 282 U. S. 896.

The Department desires you to give this claim your careful attention and to keep the Department informed by cable of the result of your representations.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

458.11 Dexter and Carpenter, Inc./82

The Minister in Sweden (Morehead) to the Acting Secretary of State

No. 305

STOCKHOLM, July 23, 1931.

[Received August 5.]

SIR: With further reference to the Department's instruction No. 54 of May 13, 1931, relating to the claim of Dexter and Carpenter, Incorporated, an American corporation, against the Swedish State Railways and in confirmation of my telegram No. 20 of July 22 [21], 5 p. m.,¹⁰ I have the honor to transmit herewith a copy and translation of a communication received from the Minister for Foreign Affairs, dated July 18, 1931, in reply to my note No. 100 of June 9th last¹⁰ informing me that the Swedish Government, to its regret, cannot see its way clear to inviting the Administration of the Swedish State Railways to pay a court judgment rendered against it and in favor of Dexter and Carpenter, Incorporated.

Respectfully yours,

JOHN M. MOREHEAD

[Enclosure—Translation]

The Swedish Minister for Foreign Affairs (Ramel) to the American Minister (Morehead)

STOCKHOLM, July 18, 1931.

MR. MINISTER: By letter of June 9th last you invited my attention to the judgment rendered by an American tribunal condemning the Royal Administration of the State Railways to pay to Dexter and Carpenter, Incorporated, damages amounting to \$411,203.72 plus 6% interest from April 25, 1928. In the same letter you likewise expressed the hope of seeing this matter, now that it has been brought to the attention of the Swedish Government through diplomatic channels, settled by the payment of the above mentioned amount.

In reply to this communication I have the honor to inform you as follows.

The Administration of the Swedish State Railways, to whom the above letter has been communicated, states that, according to the

¹⁰ Not printed.

regulations governing its activities, it believes that it is neither authorized nor obligated, in the absence of a judgment rendered by a Swedish court and which has received force from the thing judged, to satisfy any claims other than those which are clear and incontestable and that it cannot consider the claim in question as fulfilling this condition. It maintains, besides, that, according to Swedish law and in the absence of any expressly formulated convention contrary thereto, judgments rendered by foreign tribunals are not executory in Sweden. A Swedish private person domiciled in Sweden, whom a foreign tribunal condemns to effect a payment, is not consequently bound to execute it, excepting when a new action pleaded in Sweden before a Swedish tribunal leads to the same judgment. The Administration of the Swedish State Railways does not believe that it can adopt a point of view in this regard other than one which would apply to any private Swedish enterprise whatsoever and even less in the present case inasmuch as the question of determining whether the demand of the firm Dexter & Carpenter is justified depends upon the interpretation to be given to a contract made in Sweden between the Administration and a Swedish Company, Beijer & Company, having its seat in Sweden, a contract the effect of which with respect to a third party, in this case the firm Dexter & Carpenter, with which the Swedish Company in turn made a contract, cannot be determined excepting by Swedish law. It can only then invite the firm Dexter & Carpenter eventually to institute an action before the Swedish courts.

The Swedish Government shares the viewpoint of the Administration of the State Railways. And to the considerations which the latter has set forth it desires to add the following. In the case under consideration it had invoked against the competence of the American courts an exception deriving from the immunity by which the above Administration should benefit in its quality as an organ of the Swedish State. This exception was not admitted, it is true, during the course of the action, by reason of the fact that it would not have been opposed under the conditions required by the internal rules of procedure fixed by American jurisprudence. But the courts of the United States have recognized in principle that in international law and according to American jurisprudence, the Administration of the Swedish State Railways enjoys immunity. In this fact also the Swedish Government perceives a reason for not accepting as final the judgment rendered by the American courts against this Administration.

For the reasons set forth above, the Swedish Government, to its regret, cannot see its way clear to inviting the Administration in question to pay the sum which the American court has condemned it to pay, and can only advise the firm Dexter & Carpenter to formulate

a demand before the Swedish courts. Any judgment which they may render will be obligatory for the above administration.

Please accept [etc.]

RAMEL

458.11 Dexter and Carpenter/94 : Telegram

The Secretary of State to the Minister in Sweden (Morehead)

WASHINGTON, September 16, 1931—5 p. m.

21. Department's No. 19, August 29.¹²

1. Department agreed September 1 to exchange ratifications October 1 of the agreement to arbitrate Swedish ship cases.¹³

2. The Dexter and Carpenter claim is based wholly upon a judgment of the United States Circuit Court of Appeals rendered on a counter claim presented in connection with an action which the Swedish State Railways had voluntarily instituted and vigorously prosecuted against the American concern. The judgment is based upon a breach of a contract entered into in the United States and to be performed in this country. The Court therefore had jurisdiction both of the parties and of the subject matter in dispute.

3. It became necessary to present a diplomatic claim only because efforts to execute that judgment in the same American courts were frustrated by the plea of sovereign immunity. This plea of immunity placed the case in the diplomatic channel since Dexter and Carpenter had no other remedy.

4. The Swedish Government does not endeavor to impeach the judgment but rather ignores it by suggesting that Dexter and Carpenter should bring suit in the Swedish courts. This treatment of the claim and the apparent lack of respect for a decision of a high court of the United States are highly disappointing to the Department, considering the circumstances under which the case arose, and may become an element for consideration in connection with other matters pending or which may arise between the two Governments.

5. The Department shall be greatly disappointed if some settlement is not arrived at during Mr. Haight's¹⁴ visit to Sweden. You should inform the Foreign Office in the sense of the foregoing and express the hope that they will take advantage of his presence to bring about a settlement.

STIMSON

¹² Not printed.

¹³ Department of State, *Press Releases*, October 3, 1931 (Publication No. 240), p. 268. For correspondence concerning these cases, see *Foreign Relations*, 1930, vol. III, pp. 818 ff. For records of the arbitration, see Department of State Arbitration Series No. 5, *Arbitration Between United States and Sweden Under Special Agreement of December 17, 1930*; *The "Kronprins Gustav Adolf" and the "Pacific"*, in six parts (Washington, Government Printing Office, 1932-1934).

¹⁴ Charles S. Haight of Haight, Smith, Griffin and Deming, attorneys for Dexter and Carpenter.

458.11 Dexter and Carpenter/96

The Minister in Sweden (Morehead) to the Secretary of State

No. 346

STOCKHOLM, September 17, 1931.

[Received September 30.]

SIR: With reference to the Department's telegraphic instruction No. 21, of September 16, 5 p. m., and in confirmation of the Legation's telegram No. 32, of September 17, 4 p. m.,¹⁵ relating to the Dexter and Carpenter claim, I have the honor to report that Mr. Haight arrived in Stockholm on the morning of September fifteenth without having made any appointment with either the head of the firm of attorneys representing his clients in Sweden or with anyone in the Foreign Office, and that he departed on the same day to return to the United States where he expects to arrive early in October.

Mr. Haight called at the Legation and conferred with me for about an hour, during the course of which he outlined the case from its inception and supplied me with considerable data not previously available to the Legation. Upon leaving he left with me copies of the Brief submitted on behalf of Dexter and Carpenter as defendant appellee before the Circuit Court of Appeals, as judgment creditor appellant before the Circuit Court of Appeals and a Reply Brief as judgment creditor appellant before the Circuit Court of Appeals. Mr. Haight, who had previously called at the office of Mr. Löfgren, his Swedish attorney, and had there conferred with Mr. Rogard, a junior partner, expressed surprise at the absence of Mr. Löfgren, who is at present on the Riviera and is not expected to return until about October tenth, and stated that he had informed Mr. Löfgren of his intended visit and expected to find him here upon his arrival. He stated confidentially that he felt that everything possible had been done up to the present and that the best method of approach would be by informal conversations between Mr. Löfgren and Professor Östen Undén, who as the Department is aware is acting as the legal adviser to the Swedish Government in the matter, and with Baron Ramel, the Minister for Foreign Affairs. He informed me definitely that Dexter and Carpenter could not accept the suggestion of the Swedish Government to institute action in the Swedish courts in view of the number of years of litigation already involved in the case and the obvious difficulties in the way of producing American witnesses at such a great distance, and so forth.

Mr. Haight apparently did not desire to discuss the matter with any officials of the Foreign Office and stated that he had several other engagements of another nature to look after during the course of

¹⁵ Not printed.

the day. He said that he was leaving in the evening for Norway and England and would return to the United States arriving early in October.

Upon receipt of your cable today, I spoke by telephone with Mr. Rogard, of Mr. Löfgren's office, with regard to the case and was informed that Mr. Haight had stated that he would have a further conference with the Department upon his return to the United States and that he would then communicate further instructions to Mr. Löfgren, but that he apparently desired no action to be taken at the present.

In view of the absence in Geneva of the Minister for Foreign Affairs and of the fact that Mr. Haight failed to get in touch with Mr. Löfgren during his very brief stay in Stockholm, I therefore have deemed it inopportune to communicate with the Foreign Office in the sense of the Department's telegraphic instruction No. 21, of September 16, under reference, and have consequently informed the Department in my telegram No. 32 of today that I shall withhold action unless otherwise instructed.

I am sailing from Cherbourg for the United States on the *Bremen* October second and shall call at the Department soon after my arrival in order to confer in person with the Department upon the case. Confidentially I feel that, although Mr. Löfgren is convinced of the strength of the position of Dexter and Carpenter in this case, he is not sufficiently conversant with all the details in the matter to present his case in the most efficacious manner. I greatly regret the fact that Mr. Haight was unable to arrange his visit to Stockholm to coincide with Mr. Löfgren's presence here or with that of the Minister for Foreign Affairs and also that he was apparently unable to devote more than a few hours in this city. I believe it highly desirable that I should have a conference with the Department and a further conference, if possible, with Mr. Haight before making further representations to the Swedish Government. In any event, I believe that such representations should await the return of the Minister for Foreign Affairs.

I shall communicate with the Department further concerning the date of my probable arrival in Washington.

Respectfully yours,

JOHN M. MOREHEAD

SWITZERLAND

TREATY OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SWITZERLAND, SIGNED FEBRUARY 16, 1931¹

711.5412A/28

The Assistant Secretary of State (Carr) to the Swiss Minister (Peter)

WASHINGTON, June 21, 1930.

SIR: I have the honor to refer to your note of June 20, 1928,² with which you were good enough, in reply to Mr. Kellogg's note of April 2, 1928,² to submit for the consideration of this Government a draft treaty of arbitration and conciliation² which your Government was willing to enter into with the United States.

Reference is also made to recent informal discussions which you have carried on with officers of the Department. These discussions were based upon a draft of a treaty of arbitration and conciliation which had been drawn up in the Department for the purpose of substantially meeting the position of your Government and at the same time maintaining the essential characteristics of the treaties of arbitration and conciliation which have recently been entered into between the United States and a number of other countries.³

As a result of these informal conversations, the draft herewith enclosed² has been prepared with the idea of including, as far as possible, the particular requests which you have made. It is believed to embody provisions which will meet the points which you raised and which may be acceptable to your Government as well as to the Government of the United States.

With reference to the question whether, in juridical disputes, there should be a fixed order of precedence for the utilization of the methods of arbitration and conciliation, this Government feels that the better plan is to leave the two Governments free to decide at the time a given dispute arises whether they will submit it first to the conciliation

¹ For previous correspondence, see *Foreign Relations*, 1928, vol. III, pp. 937 ff.

² Not printed.

³ For correspondence concerning these negotiations, see *Foreign Relations*, 1929, vols. II and III, under Belgium, Bulgaria, Egypt, Estonia, Hungary, Luxembourg, Norway, Portugal, Rumania; *ibid.*, 1930, vols. II and III, under China, Greece, Iceland, Latvia, the Netherlands.

commission provided for in the treaty or whether they will submit it to an arbitral tribunal. If conciliation should by any chance fail in such case, the parties would be bound thereupon to submit the dispute to arbitration.

Accept [etc.]

WILBUR J. CARR

711.5412A/29

The Secretary of State to the Swiss Minister (Peter)

WASHINGTON, November 13, 1930.

SIR: I have the honor to refer to Mr. Carr's note of June 21, 1930, with which was transmitted a draft of a Treaty of Arbitration and Conciliation between the United States and Switzerland, and to a statement of suggested alterations in this draft which you handed to one of the officers of the Department of State on October 22, 1930.⁵

I am happy to be in a position to inform you that all of the suggestions of the Swiss Government are acceptable to this Government with the single exception of a purely verbal change affecting the language of lines 8 and 9 of Article III of the draft submitted to you on behalf of this Government. It is understood that you are willing to withdraw this suggestion and have so informed one of the officers of the Department by telephone.

With reference to the last sentence of Article II, concerning which you ask that this Government study the possibility of either eliminating it or substituting a counter-project, I believe that simply to eliminate the sentence is the preferable course.

Accordingly, I am transmitting herewith a draft of the proposed treaty⁶ containing the changes referred to above, and request that you furnish me with the French text in order that the treaty may be put in final form for signature.

You will note that, in the second paragraph of Article VIII of the enclosed draft treaty, the place at which ratifications are to be exchanged is not specified. Presumably your Government expects that ratifications will be exchanged at the place of signature, namely, Washington. But should you prefer that ratifications be exchanged at Berne, please prepare the French text accordingly and I will see that the English text is made to conform thereto.

Accept [etc.]

HENRY L. STIMSON

⁵ Not printed. The Swiss Government proposed a number of minor verbal changes.

⁶ Not printed.

711.5412A/34

The Swiss Minister (Peter) to the Secretary of State

WASHINGTON, December 8, 1930.

SIR: I have the honor to acknowledge the receipt of the draft of a Treaty of Arbitration and Conciliation which was transmitted with your note of November 13, 1930, and of your communication of December 5, 1930,⁷ informing me that the suggestions made in regard to the language of the Treaty of Arbitration to the Assistant Chief of the Treaty Division in my letter of November 17th,⁸ meet with the approval of the Government of the United States. For my own part, I am sending you herewith enclosed the French text of the draft⁸ just forwarded to my Government for its final approval. I shall not fail to inform you of this approval as soon as received.

As for the place at which ratifications are to be exchanged, I presume that my Government will also suggest that the ratifications be exchanged at the place of signature, namely, Washington.

Accept [etc.]

MARC PETER

711.5412A/35

The Swiss Minister (Peter) to the Secretary of State

[Translation]

WASHINGTON, February 2, 1931.

MR. SECRETARY OF STATE: I have the honor to inform you that, having submitted to my Government the text of the draft treaty of conciliation and arbitration resulting from negotiations between your Department and this Legation, I have just received from the Federal Council the attached Full Powers to sign the treaty.⁹

In transmitting its adhesion, the Federal Council advises me that, as anticipated in my letter to you of December 8, 1930, it agrees to have the ratifications exchanged in Washington, the place of signature of the treaty. It informs me further that it shares the opinion expressed in your letter dated June 21, 1930, concerning the advantage of leaving to the contracting parties the liberty of deciding, for each conflict of a juridical character, whether they wish to submit it first to the Commission of Conciliation, or prefer resorting immediately to the Tribunal of arbitration. But aside from this optional and preliminary use of the Commission of Conciliation for conflicts

⁷ Latter not printed.⁸ Not printed.⁹ Document not attached to the original of this file.

of a juridical character, contemplated in Article V, it is well understood, that for all conflicts not [of] a juridical character, or that would be excluded from arbitration by virtue of Article VI of the Treaty, recourse to the Commission of Conciliation would be obligatory in all cases, in conformity with Article II.

Please accept [etc.]

MARC PETER

Treaty Series No. 844

*Treaty Between the United States of America and Switzerland,
Signed at Washington, February 16, 1931*¹¹

The President of the United States of America and the Swiss Federal Council

Mindful of the obligations, which have been assumed by the United States of America and Switzerland, that the settlement of all disputes of whatever nature or of whatever origin, which may arise between them, shall never be sought except by pacific means; desirous moreover of reaffirming the adherence of the two countries to the principle of submitting to impartial decision all juridical controversies in which they may become involved; and eager to demonstrate the sincerity of the renunciation of war as an instrument of national policy in the relations between the United States of America and Switzerland,

Have decided to conclude a treaty of arbitration and conciliation and for that purpose have appointed as their respective Plenipotentiaries:

The President of the United States of America:

Henry L. Stimson, Secretary of State of the United States of America; and

The Swiss Federal Council:

Marc Peter, Envoy Extraordinary and Minister Plenipotentiary of Switzerland to the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

Every dispute arising between the Contracting Parties, of whatever nature it may be, shall, when ordinary diplomatic proceedings have failed, be submitted to arbitration or to conciliation, as the Contracting Parties may at the time decide.

¹¹ In English and French; French text not printed. Ratification advised by the Senate, April 29, 1932; ratified by the President, May 9, 1932; ratified by Switzerland, May 4, 1932; ratifications exchanged at Washington, May 23, 1932; proclaimed by the President, May 25, 1932.

ARTICLE II

Any dispute which has not been settled by diplomacy and in regard to which the Contracting Parties do not in fact have recourse to adjudication by an arbitral tribunal shall be submitted for investigation and report to a Permanent Commission of Conciliation constituted in the manner hereinafter prescribed.

ARTICLE III

The Permanent Commission of Conciliation shall be composed of five members and shall be constituted as soon as possible after the exchange of ratifications of this Treaty. Each of the Contracting Parties shall appoint two members, one from among its own nationals, the other from among the nationals of a third State. The Contracting Parties will, in common accord, appoint the fifth member, who shall not be one of their nationals, and who shall be *ex officio* the President of the Commission. If no agreement is reached as to the choice of the President of the Commission his election shall be conducted in accordance with the method prescribed in the fourth, fifth and sixth paragraphs of Article 45 of the Convention for the Pacific Settlement of International Disputes, concluded at The Hague on October 18, 1907.¹²

At any time when there is no case before the Commission, either of the Contracting Parties may recall a member of the Commission appointed by it and may designate his successor. The recall of the President of the Commission will be effected at any such time on the request of either Contracting Party, provided that if the President shall have been elected in accordance with the method prescribed in the fourth, fifth and sixth paragraphs of Article 45 of the Convention for the Pacific Settlement of International Disputes, concluded at The Hague on October 18, 1907, no request for his recall may be made within a period of two years from the date of his election. Vacancies, from whatever cause, shall be filled as soon as possible in the manner hereinabove provided for the making of original appointments.

Members of the Commission shall receive an adequate honorarium during the time when they are engaged in the performance of duties relating to a case before them. Each of the Contracting Parties will bear its own expenses and one-half of the expenses of the Commission.

ARTICLE IV

After the Contracting Parties shall have agreed to submit a dispute to conciliation, the Commission shall proceed to the consideration of such dispute upon a request sent to its President by either of them.

¹² *Foreign Relations*, 1907, pt. 2, pp. 1181, 1189.

The Commission shall meet, in the absence of an agreement otherwise, at the place designated by its President.

The Commission may frame its own rules of procedure. In the absence of such rules it shall follow in so far as practicable the procedure set forth in Articles 18 to 34, inclusive, of the Convention for the Pacific Settlement of International Disputes concluded at The Hague, October 18, 1907.

The Commission shall submit its report within one year after the date on which the case shall have been submitted to it, unless the Contracting Parties should, in common accord, shorten or extend the time limit. The report shall be prepared in triplicate, one copy shall be presented to each Government and the third retained by the Commission for its files.

The Contracting Parties agree to furnish the Commission with all the means and facilities required for its investigation and report.

The Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE V

The Contracting Parties bind themselves to submit to arbitration every difference which may have arisen or may arise between them by virtue of a claim of right, which is juridical in its nature, provided that it has not been possible to adjust such difference by diplomacy and it has not in fact been adjusted as a result of reference to the permanent Commission of Conciliation constituted pursuant to Articles II and III of this treaty.

ARTICLE VI

The provisions of Article V shall not be invoked in respect of any difference the subject matter of which

(a) is within the domestic jurisdiction of either of the Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States of America concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Switzerland in accordance with the Covenant of the League of Nations.

ARTICLE VII

The tribunal to which juridical differences shall be submitted shall be determined in each case by the Contracting Parties but shall, in the

absence of other agreement, be the Permanent Court of Arbitration established at The Hague by the Convention for the Pacific Settlement of International Disputes concluded October 18, 1907. Decision as to the tribunal shall be made in each case by a special agreement, which special agreement shall provide for the organization of the tribunal if necessary, shall define its powers, shall state the question or questions at issue and shall settle the terms of reference.

Such special agreement shall, in each case, be made on the part of the United States of America by the President thereof, by and with the advice and consent of the Senate, and on the part of Switzerland in accordance with its constitutional law.

ARTICLE VIII

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Switzerland in accordance with its constitutional law.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall come into force on the day of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated on notice of one year by either Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and have hereunto affixed their seals.

Done at Washington the sixteenth day of February in the year one thousand nine hundred and thirty-one.

[SEAL]	HENRY L. STIMSON
[SEAL]	MARC PETER

711.5412A/35

The Secretary of State to the Swiss Minister (Peter)

WASHINGTON, February 24, 1931.

MY DEAR MR. MINISTER: Referring further to your note of February 2, 1931, in regard to the Treaty of Arbitration and Conciliation between the United States and Switzerland, which was signed on February 16, 1931, I have given attention to your statement that your Government informs you that it shares the opinion expressed in this Government's letter of June 21, 1930, concerning the advantage of leaving to the contracting parties the liberty of deciding, for each conflict of a juridical character, whether they wish to submit it first

to the Commission of Conciliation, or prefer resorting immediately to the Tribunal of Arbitration. You add:

"But aside from this optional and preliminary use of the Commission of Conciliation for conflicts of a juridical character, contemplated in Article V, it is well understood, that for all conflicts not of a juridical character, or that would be excluded from arbitration by virtue of Article VI of the treaty, recourse to the Commission of Conciliation would be obligatory in all cases, in conformity with Article II."

I am happy to inform you that I concur in your interpretation of the treaty as thus set forth.

I am [etc.]

HENRY L. STIMSON

RIGHT OF CONSULS TO RECEIVE FUNDS FROM ESTATES FOR
TRANSMISSION TO NON-RESIDENT NATIONALS

711.5421/17

The Secretary of State to the Minister in Switzerland (Wilson)

No. 1239

WASHINGTON, January 15, 1931.

SIR: The Department refers to the Legation's despatch No. 1337 of March 5, 1930,¹³ in regard to the interpretation of the most-favored-nation clause in Article VII of the Convention of Friendship, Commerce and Extradition between the United States and Switzerland, signed November 25, 1850.¹⁴

The Swiss Government appears to consider that this most-favored-nation clause entitles Swiss consular officers to privileges accorded to foreign consular officers by the United States in a treaty with some country other than Switzerland, irrespective of a showing by the Swiss Government that the privileges claimed for Swiss consular officers under the most-favored-nation clause are accorded to American consular officers in Switzerland. You may state that this Department has consistently held that the most-favored-nation clause with respect to rights and privileges of consular officers does not embrace unconditionally specific rights and privileges which are granted on the basis of reciprocity to consular officers of third countries, but that the right to enjoy such specific rights and privileges is embraced in the most-favored-nation clause in the event that the country whose consular officers assert such rights or privileges thereunder accords in fact the same rights and privileges to American consular officers in their territories.

The Legation's despatch was in reply to an inquiry from the Department as to whether American consular officers would be permitted to

¹³ Not printed.

¹⁴ Miller, *Treaties*, vol. 5, p. 845.

receive shares from estates probated in Switzerland for remission under the conditions stipulated in Article 25 of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, signed on December 8, 1923.¹⁵ The note of March 4, 1930,¹⁶ addressed to you by the Swiss Federal Political Department contained the following paragraph:

"The Department takes pleasure in adding, however, that Swiss law, by leaving to the state appointing them the task of regulating their duties in this field, in no way forbids foreign consuls from acting in behalf of their citizens and proceeding to the distribution of funds referred to in Article 25 of the German-American treaty of Friendship, Commerce, and Consular Rights of December 8, 1923."

This paragraph without the subsequent portion of the Swiss note would, it is believed, have been acceptable as showing that Swiss law met the condition of reciprocity required in order that Swiss consular officers may, by virtue of the most-favored-nation clause in Article VII of the convention of 1850 with Switzerland, receive, in the manner provided for in Article 25 of the Treaty of 1923 with Germany, referred to herein, proceeds of estates probated in the United States, for transmission to non-resident Swiss beneficiaries. A statement is made, however, following the paragraph quoted, that consular officers in Switzerland are called upon to prove in each individual case that the persons in whose name they are acting are legally entitled to receive the funds which they undertake to distribute, and that these consular officers have the right to give receipts.

The latter statements cause some doubt as to whether the Swiss Government considers that American Consular officers in Switzerland would have an unqualified right to receive the funds from estates probated in that country for transmission to non-resident American beneficiaries in the manner provided for in Article 25 of the treaty between the United States and Germany of 1923.

While the Department cannot undertake to say how the courts of this country would construe the provisions of Article 25 of the treaty between the United States and Germany of 1923 it would seem that the court probating the estate in the country in which the consular officer is stationed, would upon all the evidence before it determine who are legally entitled to the proceeds of the estate. While it is assumed that the court would receive and consider evidence from the consular officer on this point, the Department does not consider that the burden of showing who are entitled to receive the proceeds of the estate rests upon him, as might be inferred from the Swiss note.

¹⁵ *Foreign Relations*, 1923, vol. II, pp. 29, 43.

¹⁶ Not printed.

The Department interprets Article 25 of the treaty with Germany of 1923 to mean that a consular officer is made eligible so far as concerns the country of his residence to receive funds for transmission as provided for therein, but that whether he may act in this capacity depends upon whether he is authorized to do so by his own Government. The Department does not contemplate authorizing American consular officers in Switzerland to receive for transmission funds from estates probated in that country, but merely desires to determine whether the Swiss authorities would, if called upon to do so, grant to American consular officers in Switzerland the right, as provided in Article 25 of the treaty with Germany, that might be claimed for them to receive funds for transmission if they be authorized by their Government to receive such funds. This Government does not consider that it is necessary to enter into a special agreement with the Swiss Government bearing on the matter dealt with herein as suggested by the Swiss Government.

It is requested that you endeavor to obtain a categorical reply to the Department's inquiry. If the exercise of the right is not dependent upon a number of conditions you may inform the Department of the nature of the reply briefly by telegraph.

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

711.5421/21

The Minister in Switzerland (Wilson) to the Secretary of State

No. 1880

BERNE, February 5, 1931.
[Received February 26.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1239 of January 15, 1931, in regard to the interpretation of the most favored nation clause in Article 7 of the Convention of Friendship, Commerce and Extradition between the United States and Switzerland, signed November 25, 1850. I am directed to endeavor to obtain from the Swiss Government a categorical reply in connection with the Department's contention that Swiss consular officers in the United States might be permitted to exercise the functions specified in Article XXV of the Treaty with Germany, of December 8, 1923, only on condition that American consular officers in Switzerland are permitted to exercise like functions. While the Swiss Government, in its note of March 4, 1930, expressed its willingness to allow American consular officers to perform such functions upon the completion of certain requirements, it let the inference be drawn that the most favored nation provision in Article 7 was not subject to reciprocity. There is thus created a clear issue

regarding the scope and extent of the treatment to be accorded by one country to the other by virtue of the most favored nation provision in Article 7.

A recollection of past events in the treaty relations between the United States and Switzerland has prompted me to withhold compliance with the Department's present instruction until it has given further consideration to certain points which I submit. I refer in particular to the circumstances which led to the denunciation by the United States of Articles 8, 9, 10 and 12 of our Treaty of 1850 with Switzerland.¹⁷ This denunciation was made as a result of Switzerland's claim to the benefits of certain privileges accorded to France by virtue of a reciprocity treaty. In the course of the controversy, Switzerland proved to the satisfaction of the United States that it was the intent of [*that?*] the most favored nation clause should be subject to no condition. (Please see Moore's *Digest*, Volume V, page 283, paragraph 765).

Being in doubt as to whether this intent of the negotiators was applicable to all the articles of the Treaty, I obtained permission from the Political Department to consult the minutes of the negotiations leading to the conclusion of the Treaty. The pertinent archives in the Political Department, however, are in manuscript and, for the most part, in old German script, which made perusal difficult. I was unable to obtain any such definite assertion as Moore's *Digest* postulates. The nearest approach I could find was in a letter dated January 5, 1852, from the Federal Council to Mr. A. Dudley Mann, Special Agent of the United States. One paragraph reads as follows:

"And if we do not insist on the insertion of a clause authorizing expressly the respective consuls to claim the administration of property falling to absent nationals, it is because on the one hand you, Mr. Special Agent, declared to our delegates that such a provision did not exist in any treaty between the United States and other Powers, not even with Great Britain, and, on the other hand, because the clause of Article 7 which we are discussing, in stating that 'Consuls and Vice-Consuls of their own appointment, who shall enjoy the same privileges and powers, in the discharge of their duties, as those of the most favored nation' will necessarily have the effect of giving to the Consuls and Vice-Consuls the right to claim the administration of property falling to their absent nationals in the States and Cantons where Consuls of other nations may be admitted to this previously by the law and customs or by the practice of such States or Cantons."

This is obviously not a direct declaration of unconditional most favored nation treatment, but would tend to show that such an in-

¹⁷ Article 11 was also involved. For pertinent correspondence, see *Foreign Relations*, 1890, pp. 740 ff.

terpretation was already in the minds of the Swiss Government, and apparently unchallenged by our representative, at such an early date.

I trust that the Department will approve of my withholding immediate compliance with its instruction No. 1239 for the two following reasons:

(1) The language of Article 7 of our Treaty with Switzerland of 1850 does not seem to make most favored nation treatment subject to the condition of reciprocity. Consequently, in the absence of proof to the contrary, the Swiss Government's contention, as expressed in its note of March 4, 1930, would not seem to be without foundation.

(2) Absence of more definite information as to the extent of the intent of the negotiators of the Treaty of 1850. It is possible that in the Department's records there can be found a clearer statement of the understanding of the negotiators regarding the most favored nation clause as appearing in Article 7. In any case, it appears to me that the incidents of 1898, in so far as I am aware of events at that time, throw a certain doubt on the soundness of our contention.

Respectfully yours,

HUGH R. WILSON

711.5421/22

The Minister in Switzerland (Wilson) to the Secretary of State

No. 1895

BERNE, February 17, 1931.

[Received February 25.]

SIR: I have the honor to refer to my despatch No. 1880, dated February 5, 1931, concerning the interpretation of the most favored nation clause as contained in Article 7 of the Treaty of 1850 between the United States and Switzerland.

In addition to the points which I submitted to the Department for its consideration before carrying out its instruction No. 1239, of January 15, 1931, I invite its attention to the discussion of the administration on estates of deceased aliens by Samuel B. Crandall in his book (second edition) entitled *Treaties—Their Making and Enforcement*, beginning with Paragraph 173, on page 411. The first sentence of this paragraph reads: "State courts have in various cases coming before them held that the consuls of a nation enjoying most favored nation treatment were entitled to privileges and rights in administration on the estates of deceased countrymen extended by treaty to consuls of a third nation".

Mr. Crandall's discussion is so pertinent to the case at issue that I have ventured to supplement my despatch No. 1880 by this addition.

Respectfully yours,

HUGH WILSON

711.5421/24

The Secretary of State to the Minister in Switzerland (Wilson)

No. 1398

WASHINGTON, May 9, 1931.

SIR: The Department has received your despatch No. 1880 of February 5, 1931, requesting that further consideration be given to the question whether the most-favored-nation clause in Article VII of the Convention of Friendship, Commerce and Extradition between the United States and Switzerland, signed November 25, 1850, should be interpreted as conditional.

Prior to the negotiation of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, signed on December 8, 1923, it was the general practice of this Government to regard the most-favored-nation clause in treaties to which it was a party as conditional, regardless of whether the clause related to rights of consular officers or commercial matters. Beginning with the negotiation of the treaty of 1923 with Germany this Government adopted the unconditional form of the most-favored-nation clause as regards commercial matters but there was no change of policy with respect to the interpretation of the most-favored-nation clause as applied to the rights of consular officers.

The Legation raises the question whether, in view of the circumstances which led to the denunciation of Articles VIII to XII inclusive of the treaty with Switzerland of 1850, it may not be possible that the negotiators of the treaty understood that the most-favored-nation clause in Article VII relating to consular officers would be unconditional in its application. The Swiss Government was able to show that the negotiators of the treaty of 1850 understood that the most-favored-nation clause relating to Commerce in certain articles of the treaty was to be regarded as unconditional in its application, and the insistence by the Swiss Government on this interpretation finally led to the termination of Articles VIII to XII inclusive upon notice given by the Government of the United States on March 23, 1899.¹⁸ The Department's records in regard to the negotiation of the treaty with Switzerland of 1850 have been examined, but it has not been found that there was an understanding on the part of the negotiators that the most-favored-nation clause relating to consular officers in Article VII should be regarded as unconditional in its application.

You refer to a letter dated January 5, 1852, from the Swiss Federal Council to Mr. A. Dudley Mann, Special Agent of the United States, in which the Federal Council referred to a statement, said to have been made by Mr. Mann, that the most-favored-nation clause in Article VII would necessarily have the effect of giving to consuls and vice consuls

¹⁸ *Foreign Relations*, 1899, p. 756.

the right to claim the administration of property falling to their absent nationals in the States and Cantons where consuls of other nations may be admitted to this right by the law and customs or by the practice of such States or Cantons.

As stated by you, this is obviously not a direct declaration of unconditional most-favored-nation treatment. While, according to the Swiss Federal Council, the American Agent referred to a general right that could be asserted by the consular officers of either country, under certain conditions, there is nothing in the statement quoted to show whether the American Agent had in mind that a consular officer of either country could, under the most-favored-nation clause in Article VII, claim the right to act as administrator in the other country without the necessity of showing that the authorities of his own Government would accord a similar right to consular officers of such other country.

In the absence of information as to the exact nature of the declaration which is said to have been made by the American Agent and as to what may have been the understanding between the negotiators of the two Governments regarding the right of consular officers to claim administration of the property falling to their absent nationals, the Department could not, in view of its long established policy of regarding the most-favored-nation clause concerning rights of consular officers as conditional, assume that in the negotiation of the Treaty with Switzerland of 1850 it was the intention of this Government that the most-favored-nation clause in Article VII should be regarded as unconditional in its application.

You state that the language of Article VII of our Treaty with Switzerland of 1850 does not seem to make most-favored-nation treatment subject to the condition of reciprocity and that consequently, in the absence of evidence to the contrary, the Swiss Government's contention, as expressed in its note of March 4, 1930, would not seem to be without foundation.

While it is true that Article VII does not contain language indicating definitely whether it was the intention of the contracting parties to regard the most-favored-nation clause as conditional in its operation, neither does the Article contain language which could be construed as definitely showing that it was intended that the most-favored-nation clause in this Article should be given an unconditional application. The most-favored-nation clause regarding consular officers in Article X of the Treaty of Commerce and Navigation between the United States and Austria-Hungary of August 27, 1829,¹⁹ is the same as the clause in Article VII of the Treaty between the United States and Switzerland of November 25, 1850. In a case arising in

¹⁹ Miller, *Treaties*, vol. 3, p. 507.

the Department of State in 1846, only a few years before the Treaty with Switzerland was signed, the Department regarded the most-favored-nation clause regarding rights of consular officers in Article X of the Treaty with Austria-Hungary of 1829 as being conditional in its operation.

A claim was made by the Austrian Chargé d'Affaires for the benefit of the stipulation in the treaties between the United States and Russia and certain other countries conferring upon consuls the power to hear disputes between the masters and crews of vessels. In a note dated May 18, 1846, the Department made the following statement:

"Seeing that the right now under consideration, where it can be claimed under a treaty wherein it is expressly conferred is, in every such instance, given in exchange for the very same right conferred in terms equally express upon the consuls of the United States, it cannot be expected that it will be considered as established by the operation of a general provision which, if it were allowed so to operate, would destroy all reciprocity in this regard, leaving the United States without that equivalent in favor of their consuls, which is the consideration received by them for the grant of this right wherever expressly granted." (Mr. Buchanan, Secretary of State, to the Chev. Hülse-mann, May 18, 1846, MS. Notes to German States VI, 130.) ²⁰

Article X of the Treaty between the United States and the Hawaiian Islands signed December 20, 1849,²¹ less than a year before the signing of the Treaty between the United States and Switzerland November 25, 1850, contains the same kind of most-favored-nation clause with respect to the rights of consular officers as is found in Article VII of the Treaty of 1850 with Switzerland. In an opinion rendered on June 26, 1866,²² the Attorney General of the United States held that the American Consul at Honolulu had, by virtue of the most-favored-nation clause of Article X of the Treaty between the United States and the Hawaiian Islands of December 20, 1849, the same jurisdiction over differences between American citizens occurring on American merchant vessels as was conferred upon French consuls with respect to French nationals on board of French vessels by a treaty between the Hawaiian Islands and France.²³ It appears that in this case a judge of a court in the Hawaiian Islands had ordered the discharge of a seaman after the American Consul had held that

²⁰ Also printed in John Bassett Moore, *A Digest of International Law*, vol. II, p. 301.

²¹ Miller, *Treaties*, vol. 5, p. 591.

²² 11 *Opinions of the Attorney General* 508.

²³ Treaty of Friendship, Commerce, and Navigation, signed October 29, 1857, at Honolulu. For English text, see *Treaties and Conventions concluded between the Hawaiian Kingdom and Other Powers since 1825* (Honolulu, "Elele" Book, Card and Job Print., 1887), p. 57; for French text, see *British and Foreign State Papers*, vol. L, p. 378.

the seaman had been lawfully shipped and that there was no ground for his discharge.

On July 3, 1866, the Department of State transmitted a copy of the Attorney General's opinion to the American Minister Resident at Honolulu for his guidance in any representations he might make in the case to the Hawaiian Government.²⁴ (2 MS. Instructions, Hawaii, 144.) When the case was taken up with Hawaiian Government on the basis of the Attorney General's opinion the Hawaiian Government took the position that the most-favored-nation clause in Article X of the Treaty of 1849 between the United States and Hawaii conferred upon American consular officers the right to claim jurisdiction by virtue of the Treaty between Hawaii and France only in so far as the right claimed for American consular officers would be accorded to consular officers of Hawaii in ports of the United States.

The note of the Hawaiian Government was referred for consideration to the Examiner of Claims for the Department of State, a position corresponding to the present title of Solicitor, who made the following statement in an opinion in which he concurred in the view of the Hawaiian Government:

"They [the Hawaiian Government] ^{24a} hold that the powers granted to French consuls are entirely depended upon the allowance by France of similar powers to the Hawaiian consuls in French ports; that the clause is a reciprocal one, and that the 'parity' clause in our treaty only authorizes us to claim the jurisdiction for our consul which is granted to those of France, upon the same terms and conditions, viz., that of conceding to Hawaiian consuls the same rights in our ports."

"I think the Hawaiian Government is right in this construction of our treaty and that our own practice is conformable to that construction. . . ." ²⁵

"The favor granted by Hawaii to France is granted in consideration of a reciprocal favour. We are put, I think, on the same footing, when we are told that * can entitle our consuls to the privileges of French consuls by granting to Hawaiian consuls in the United States what France has granted to them." (Memorandum of the Bureau of Claims of April 19, 1867—1 So. Op. 418)

Your attention is also invited to an instruction dated May 9, 1867, to the American Consul at Strasbourg in which the Department said:

"The 'most-favored-nation' clause has not been construed by this Government as entitling it or those nations with whom it has treaties to the benefit of exceptional provisions made in behalf of a particular nation upon special consideration, as of reciprocity. Our consuls in Austria will be entitled to all the new privileges granted to French

²⁴ For Department's communication of July 3, 1866, see *Foreign Relations*, 1866, pt. 2, p. 488.

^{24a} Brackets appear in the original.

²⁵ Omission indicated in the original.

* Apparent omission. [Footnote in the original.]

consuls only when we shall extend similar privileges to Austrian consuls in this country. In other words we are to be favored as France has been and on the same conditions, that of giving reciprocal privileges." (44 Despatches to Consuls, Volume 13, page 253.)

The Legation's attention is further invited to an instruction sent to the American Minister at Riga, Latvia, as late as July 10, 1928,²⁶ in which the Department interpreted the most-favored-nation clause in regard to customs privileges and exemptions in Article XXVII of the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, signed on April 20, 1928.²⁷ In this instruction the Department made the following statement:

"I desire to point out that it is and has long been the policy of this Government to construe the most favored nation clause in respect to consular privileges and immunities and in particular in respect of fiscal concessions to consular officers as conditioned on reciprocity.

"The condition of reciprocity has been insisted upon by this Government in instances in which foreign Governments have relied upon a most-favored-nation provision to obtain in behalf of their consular officers in the United States the benefit of the particular privilege of free entry in the treaty between the United States and Germany."

If you will inform the Swiss authorities of the views of the Department as contained in its instruction No. 1239 of January 15, 1931, and can obtain from the Swiss Government assurances that it will accord to American consular officers the right to receive funds from estates in Switzerland, for transmission in the same manner that the right is accorded to American consular officers in Germany by Article XXV of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany of 1923, if American consular officers should at any time be authorized by their Government to exercise such right, the Department will consider that consular officers of Switzerland in the United States are entitled to the same right. If the Swiss Government will give such assurances it will be considered that reciprocity has in fact been established under Article VII of the treaty with Switzerland of 1850, and the Department will not in that event insist upon reaching a definite agreement with the Swiss Government at this time in regard to a general interpretation of the most-favored-nation clause in Article VII.

On April 4 last Mr. Etienne Lardy, Counselor of the Swiss Legation, called at the Department to discuss the note in regard to the interpretation of Article VII which was addressed to your Legation by the Swiss Federal Political Department on March 4, 1930. A copy of a

²⁶ *Foreign Relations*, 1928, vol. III, p. 224.

²⁷ *Ibid.*, p. 208.

memorandum of the conference with Mr. Lardy is enclosed for your information.²⁸

Very truly yours,

For the Secretary of State:
W. R. CASTLE, JR.

711.5421/25

The Chargé in Switzerland (Greene) to the Secretary of State

No. 2270

BERNE, October 6, 1931.
[Received October 14.]

SIR: I have the honor to refer to the Department's instruction No. 1398 of May 9, 1931, and to previous correspondence in regard to the interpretation of the most favored nation clause in Article VII of the Convention of Friendship, Commerce and Extradition between the United States and Switzerland, signed November 25, 1850.

On June 19, 1931, the Legation addressed to the Federal Political Department an inquiry in the sense of the Department's instruction No. 1398, and appended thereto a memorandum outlining the views held by the American Government in this connection. Copies of the note and the memorandum are enclosed herewith.²⁸

The Legation is now in receipt of a reply from the Federal Political Department, dated September 9, 1931, a copy and translation of which are enclosed.²⁸ The Political Department's reply is to the effect that Swiss law does not prevent American consular officers, if authorized to do so, from receiving funds for transmission to their nationals, as provided in Article XXV of the Treaty of 1923 between the United States and Germany, and assumes that under these conditions Swiss consular officers in the United States will be permitted to exercise similar rights. The Political Department therefore requests that this be brought to the attention of the appropriate authorities in the United States, and asks that it be furnished with a copy of the official journal containing the announcement to that effect.

I also invite attention to the last paragraph of the Political Department's note in which it maintains its view of the unconditional character of the most favored nation treatment in Article VII of the Treaty of 1850.

Respectfully yours,

WINTHROP S. GREENE

²⁸ Not printed.

TURKEY

TREATY OF ESTABLISHMENT AND SOJOURN BETWEEN THE UNITED STATES AND TURKEY, SIGNED OCTOBER 28, 1931¹

711.679 Residence and Establishment/68

The Ambassador in Turkey (Grew) to the Secretary of State

No. 1268

ANKARA, May 12, 1931.

[Received June 3.]

SIR: In conformity with the Department's instruction No. 320 of February 26, 1931, (file number 711.679 Residence and Establishment/58 [65]),² I took up with the Minister for Foreign Affairs on May 7 the proposal which he himself had made to me in January, to the effect that if I would address to him a note or letter containing the statement made by me to Ismet Pasha at the time of the interruption of our negotiation for a Treaty of Residence and Establishment on November 27, 1930,³ he would endeavor to persuade his colleagues in the Cabinet to authorize the initialling of the text of a convention incorporating substantially the provisions which had been agreed to by both delegations prior to the suspension of the negotiations. I told the Minister that I had been authorized to furnish him with such a written statement and to initial such a text upon the distinct understanding that no publicity would be given to my action and upon the further understanding that at an opportune moment, probably early in the coming autumn, the Turkish Government would be prepared to proceed to final signature. The Minister expressed satisfaction at this conditional acceptance of his proposal and said that he would favorably support the proposal in taking it up with his colleagues.

Last evening I had a moment's talk with him at the railroad station as he was on the point of departure from Ankara to attend at Geneva the meeting of the Commission of Study for the Pan-European Union. He said that he had taken up the treaty question with Ismet Pasha, Zekai Bey and Mustapha Cherif Bey and that on his return from Geneva he would suggest one or two minor changes in the text of the letter to be furnished him at the time of initialling.

¹ Continued from *Foreign Relations*, 1930, vol. III, pp. 852-872.

² Not printed.

³ See telegram No. 15, November 25, 1930, from the Ambassador in Turkey and Department's No. 7, November 26, 1930, *Foreign Relations*, 1930, vol. III, pp. 870, 872.

This may mean that his intransigent colleagues, Zekai Bey and Mustapha Cherif Bey, will insist upon incorporating in the letter some such provision concerning the alleged non-existence of treaty relations between the two countries with respect to establishment, residence and judicial competence as they endeavored to have included in the preamble of the convention during our past negotiations, perhaps along the lines of the formula proposed to me by Zekai Bey in our conversation on November 24, reported to the Department in my Ankara telegram No. 15 of November 25, noon.⁴ On the other hand, the desired changes mentioned by the Minister may possibly be merely minor modifications in the phraseology of the statement involving no substantial alteration. I believe it would be unwise for me to display any signs of eagerness by discussing the matter with the other officials during the absence of the Minister for Foreign Affairs and I shall therefore await further word from Tefrik Rüstü Bey after his return, presumably in a few weeks, reporting to the Department in due course such observations as he then may make.

Respectfully yours,

JOSEPH C. GREW

711.679 Residence and Establishment/69 : Telegram

The Ambassador in Turkey (Grew) to the Acting Secretary of State

[Paraphrase]

ISTANBUL, July 10, 1931—10 a. m.

[Received 5 : 40 p. m.]

24. Department's No. 320, February 26.⁵ (1) On July 6 the Turkish Minister for Foreign Affairs informed me that he had succeeded finally in persuading his Cabinet colleagues to accept what he considered a mutually fair solution respecting the text of the letter which I am to address to him upon signature of the convention of establishment and residence between the United States and Turkey. He says this solution consists of leaving the points of controversy between the two countries in abeyance. Although not mentioned specifically in our conversation, these points obviously are the theoretical continuation in force of the 1830 treaty⁶ and the date for the abolition of the capitulations. The Foreign Minister pointed out that the inclusion of the words "since the establishment of the Republic" in the first sentence of the letter tended to prejudice the Turkish thesis adversely, since the phrase involved the implication of a definite date. Therefore, he proposed the phrase be omitted, so that the first sentence

⁴ *Foreign Relations*, 1930, vol. III, p. 870.

⁵ Not printed.

⁶ *Treaty of May 7, 1830*, Miller, *Treaties*, vol. 3, p. 541.

would be as follows: "The Government of the United States of America is fully alive to the changes which have taken place in Turkey".

This new phraseology, the Minister maintained, would leave the position of the two parties completely unprejudiced insofar as the dates were concerned; and he pointed out furthermore that in any case the letter is not legally binding but merely expresses the United States Government's "disposition". The other modifications proposed by him, including omitting the final sentence, do not seem to alter materially the sense of the original text. Tevfik Rüşti Bey averred that his present proposal represented a very material concession in departing from the original position taken by the Turkish delegation and he had only with difficulty and for the express purpose of facilitating the United States Senate's ratification of the treaty obtained this concession from his colleagues.

(2) The modified text of the letter which the Foreign Minister proposed reads as follows:⁷

"The Government of the United States of America is fully alive to the changes which have taken place in Turkey. Its sole desire is that the development of the relations between the two countries should proceed upon basis of these changed conditions. It was with such considerations in mind that the Government of the United States of America negotiated the exchange of notes of February 17, 1927⁸ and the treaty of Commerce and Navigation of October 1, 1929;⁹ it is on this same basis that it has negotiated the Treaty of Residence and Establishment which its representative is signing today and that it is always ready to negotiate treaties of arbitration and conciliation."

(3) If the foregoing text of the letter should be acceptable to the Department, the Foreign Minister proposed initialing of the treaty text approved by the Department ("Annex A" to instruction No. 320, February 26, but using the preamble in "Annex B"¹⁰) and signature at the same time of an exchange of notes by which the treaty provisions would be given immediate effect in the form of a *modus vivendi* which would last 6 months, a year, or for so long as may be required to bridge the interval before ratification of the treaty. The actual signing of the treaty and of the letter, which then would become purely a *pro forma* act, could take place at the United States Government's entire convenience. He assures me that the act of initialing will receive no publicity whatever.

(4) The Department stated in its 7, November 26, 1930, 6 p. m.,¹¹ that it "would prefer" including in the letter the phrase "since the establish-

⁷ Quotation not paraphrased.

⁸ See *Foreign Relations*, 1927, vol. III, pp. 765 ff.

⁹ See *ibid.*, 1929, vol. III, pp. 803 ff.

¹⁰ None printed.

¹¹ *Foreign Relations*, 1930, vol. III, p. 872.

ment of the Republic", since the Turks might otherwise assume the implication that among the changes to which the United States is "fully alive" in this connection is the abolition of the capitulations in 1914.¹² I repeat that the Turkish Minister for Foreign Affairs stated definitely in our recent conversation that he interpreted the newly proposed phraseology to leave in abeyance the points of difference between the two countries. In other words, each party is free, according to the assurance given me by the Foreign Minister, to interpret the first sentence as it sees fit.

(5) The Foreign Minister's proposed drawing up of a *modus vivendi* presumably would entail reproducing therein the entire treaty. I am unable to perceive either the necessity or the propriety of such an arrangement, in view of the language in the exchange of notes dated February 17, 1927, paragraph C, sub-paragraph 3.¹³ Possibly the Turks may, upon expiration of the Allied establishment convention of 1923,¹⁴ seek to invoke the concluding portion of paragraph B in the same notes as justification for claiming the impairment of the effectiveness of paragraph C, sub-paragraph 3, at least insofar as "the essential provisions of the Turkish-American treaty" signed August 6, 1923,¹⁵ are concerned. However, applying the concluding portion of paragraph B seems to be clearly contingent upon the ratification prior to June 1, 1928, of the Treaty of August 6, 1923.

(6) Since there are now only 3 months until the establishment treaty normally would be signed, and since its initialing presumably cannot take place for another month (a Turkish text having to be prepared and verified), would the Department be disposed, if the Turks are agreeable to this procedure, to authorize me to sign the establishment treaty within the next 6 weeks or 2 months? Please instruct.

GREW

711.679 Residence and Establishment/70 : Telegram

The Acting Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, July 27, 1931—11 a. m.

28. Your 24, July 10, 10 a. m.

(1) Conclusion of the *modus vivendi* which the Turkish Minister for Foreign Affairs proposed would not be possible, because it would

¹² See *Foreign Relations*, 1914, pp. 1090 ff.

¹³ Apparently reference is to paragraph 3, instead of "paragraph C, sub-paragraph 3." See *ibid.*, 1927, vol. III, p. 797.

¹⁴ Signed at Lausanne, July 24, 1923; League of Nations Treaty Series, vol. XXVIII, p. 151.

¹⁵ General Treaty, *Foreign Relations*, 1923, vol. II, p. 1153.

constitute an attempt at putting into force a treaty without the Senate's having given its advice and consent to the treaty's ratification.

(2) The Department is prepared to accept the text of the letter, including omissions, as proposed by the Turks. It is believed that, in view of this concession, the Turks will be prepared to initial the treaty within the near future, as they themselves suggested. However, its signature should be put off if possible until mid-October and in no case should occur before late in September.

(3) The Department considers your interpretation of the exchange of notes on February 17, 1927, to be correct and that only if the American-Turkish treaty of August 6, 1923, had been ratified before June 1, 1928, could the understanding set forth in the concluding portion of paragraph (b) become operative.

CASTLE

711.679 Residence and Establishment/72: Telegram

The Ambassador in Turkey (Grew) to the Acting Secretary of State

[Paraphrase]

ISTANBUL, August 28, 1931—1 p. m.

[Received August 28—10:50 a. m.]

34. Department's 28, July 27, 11 a. m., and No. 320, February 26.¹⁶ The treaty, with the preamble which the Department preferred, was initialed yesterday. The proceedings are confidential. The assurances (see "Annex D" of Department's No. 320) were not given because they were not requested.

GREW

711.679 Residence and Establishment/74: Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANKARA, October 28, 1931—5 p. m.

[Received October 28—12:20 p. m.]

9. Treaty of establishment and residence signed today. No alterations, no procès-verbal.

GREW

¹⁶ Latter not printed.

Treaty Series No. 859

*Treaty Between the United States of America and the Turkish Republic, Signed at Ankara, October 28, 1931*¹⁷

The United States of America and the Republic of Turkey, being desirous of prescribing, in accordance with modern international law, the conditions under which the nationals and corporations of each of the High Contracting Parties may settle and carry on business in the territory of the other Party, and with a view to regulating accordingly questions relating to jurisdiction and fiscal charges, have decided to conclude a treaty for that purpose and have appointed their plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

Joseph C. Grew, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Turkish Republic; and

THE PRESIDENT OF THE TURKISH REPUBLIC:

Zekâi Bey, Minister for National Defence

who, having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following provisions:

ARTICLE I

With reference to the conditions of establishment and sojourn which shall be applicable to the nationals and corporations of either country in the territories of the other, as well as to fiscal charges and judicial competence, the United States of America will accord to Turkey and Turkey will accord to the United States of America the same treatment in all cases as that which is accorded or shall be accorded to the most favored third country.

Nothing contained in this treaty shall be construed to affect existing statutes and regulations of either country in relation to the immigration of aliens or the right of either country to enact such statutes.

ARTICLE II

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Washington as soon as possible.

It shall take effect at the instant of the exchange of ratifications and shall remain in effect for three years. After this date it shall remain in effect until the expiration of twelve months from the date

¹⁷ In English and Turkish; Turkish text not printed. Ratification advised by the Senate, May 3 (legislative day of April 29), 1932; ratified by the President, May 12, 1932; ratified by Turkey, November 24, 1932; ratifications exchanged at Washington, February 15, 1933; proclaimed by the President, February 18, 1933.

on which notice of its termination shall have been given by either High Contracting Party to the other.

IN WITNESS WHEREOF the plenipotentiaries have signed the present Treaty and have affixed their seals thereto.

Done in duplicate in the English and Turkish languages at Ankara this 28th day of October nineteen hundred and thirty one.

J.C.G.
JOSEPH C. GREW
[SEAL]

Z.S.
ZEKÂÎ
[SEAL]

711.679 Residence and Establishment/76

The Ambassador in Turkey (Grew) to the Secretary of State

No. 1362

ANKARA, October 30, 1931.
[Received November 17.]

SIR: With reference to my telegram No. 49, October 12, 1 P. M., and the Department's mail instruction No. 320, February 26, 1931,¹⁸ I transmit herewith the Treaty of Residence and Establishment signed at Ankara on October 28.¹⁹ I also transmit a copy of my letter to the Minister of Foreign Affairs as approved by the Department's telegram No. 28, July 10 [27], 12 noon [11 a. m.], and the original and English translation of the Minister's acknowledgment of the same.

Respectfully yours,

JOSEPH C. GREW

[Enclosure 1]

The American Ambassador (Grew) to the Turkish Minister for Foreign Affairs (Tevfik Rüştü Bey)

ANKARA, October 28, 1931.

MY DEAR MR. MINISTER: The Government of the United States of America is fully alive to the changes which have taken place in Turkey. Its sole desire is that the development of the relations between the two countries should proceed upon the basis of these changed conditions. It was with such considerations in mind that the Government of the United States of America negotiated the exchange of notes of February 17, 1927, and the Treaty of Commerce and Navigation of October 1, 1929; it is on this same basis that it has negotiated the Treaty of Residence and Establishment which its representative is signing today, and that it is always ready to negotiate treaties of arbitration and conciliation.

I am [etc.]

JOSEPH C. GREW

¹⁸ Neither printed.

¹⁹ *Supra*.

[Enclosure 2—Translation]

*The Turkish Minister for Foreign Affairs (Tevfik Rüştü Bey) to the
American Ambassador (Grew)*

ANKARA, October 28, 1931.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of your letter of October 28, 1931, as follows:

[Here follows text of the letter printed *supra*.]

I have noted its contents in my Government's name and pray Your Excellency to accept [etc.]

Dr. T. Rüştü

UNION OF SOUTH AFRICA

ARRANGEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOUTH AFRICA REGARDING RECIPROCAL RECOGNITION OF CERTIFICATES OF AIRWORTHINESS FOR IMPORTED AIRCRAFT, EFFECTED BY EXCHANGE OF NOTES, SIGNED OCTOBER 12 AND DECEMBER 1, 1931

Executive Agreement Series No. 28
711.48a27/12

The American Minister in the Union of South Africa (Totten) to the Minister for External Affairs of the Union of South Africa (Hertzog)

No. 68

PRETORIA, October 12, 1931.

SIR: I have the honor to communicate the text of the arrangement between the United States of America and the Union of South Africa providing for the acceptance by the one country of certificates of airworthiness for aircraft imported from the other country as merchandise, as understood by me to have been agreed to in the negotiations which have just been concluded between the Legation and your Ministry.

"1. The present arrangement applies to civil aircraft constructed in continental United States of America, exclusive of Alaska, and exported to the Union of South Africa; and to civil aircraft constructed in the Union of South Africa and exported to continental United States of America, exclusive of Alaska.

2. The same validity shall be conferred on certificates of airworthiness issued by the competent authorities of the Government of the United States in respect of aircraft subsequently registered in the Union of South Africa as if they had been issued under the regulations in force on the subject in the Union of South Africa provided that in each case a certificate of airworthiness for export has also been issued by the United States authorities in respect of the individual aircraft, and provided that certificates of airworthiness issued by the competent authorities of the Union of South Africa in respect of aircraft subsequently registered in the United States of America are similarly given the same validity as if they had been issued under the regulations in force on the subject in the United States.

3. The above arrangement will extend to civil aircraft of all categories, including those used for public transport and those used for private purposes.

4. The present arrangement may be terminated by either Government on sixty days' notice given to the other Government. In the event, however, that either Government should be prevented by future action of its legislature from giving full effect to the provisions of this arrangement it shall automatically lapse."

If you inform me that it is the understanding of your Government that the arrangement agreed upon is as herein set forth, the arrangement will be considered to be operative from the date of the receipt of your note so advising me.

I have [etc.]

RALPH J. TOTTEN

Executive Agreement Series No. 28
711.48a27/12

*The Minister of External Affairs of the Union of South Africa
(Hertzog) to the American Minister in the Union of South Africa
(Totten)*

P. M. 66/80

PRETORIA, 1 December 1931.

SIR: With reference to your letter No. 68 of the 12th October, 1931, regarding the arrangement between the Union of South Africa and the United States of America providing for the reciprocal acceptance by the competent authorities of the respective Governments of certificates of airworthiness for aircraft imported from the one country into the other as merchandise, I have the honour to inform you that His Majesty's Government in the Union of South Africa are in accord with the terms of the arrangement, which reads word for word as follows:

[“] 1. The present arrangement applies to civil aircraft constructed in continental United States of America, exclusive of Alaska, and exported to the Union of South Africa; and to civil aircraft constructed in the Union of South Africa and exported to continental United States of America, exclusive of Alaska.

2. The same validity shall be conferred on certificates of airworthiness issued by the competent authorities of the Government of the United States in respect of aircraft subsequently registered in the Union of South Africa as if they had been issued under the regulations in force on the subject in the Union of South Africa provided that in each case a certificate of airworthiness for export has also been issued by the United States authorities in respect of the individual aircraft, and provided that certificates of airworthiness issued by the competent authorities of the Union of South Africa in respect of aircraft subsequently registered in the United States of America are similarly given the same validity as if they had been issued under the regulations in force on the subject in the United States.

3. The above arrangement will extend to civil aircraft of all categories, including those used for public transport and those used for private purposes.

4. The present arrangement may be terminated by either Government on sixty days' notice given to the other Government. In the event, however, that either Government should be prevented by future action of its legislature from giving full effect to the provisions of this arrangement it shall automatically lapse."

This arrangement will be operative from the date of this note.

I have [etc.]

J. B. M. HERTZOG

URUGUAY

POLICY OF THE DEPARTMENT OF STATE OF NON-INTERFERENCE WITH USE BY FOREIGN BORROWERS OF LOANS OBTAINED IN THE UNITED STATES

833.51/417

The Secretary of State to the Minister in Uruguay (Wright)

No. 47

WASHINGTON, September 30, 1931.

SIR: The Department refers to your telegram No. 54, dated September 2,¹ in which you make certain suggestions for the consideration of the Federal Reserve Bank of New York in connection with the discussions which are to take place with the representative of the Uruguayan central bank.

You state that the International Telephone and Telegraph Corporation, irrespective of the long standing *ad referendum* contract awarded to a company subsequently acquired by that corporation, has filed a proposal to construct and operate a telephone system from Montevideo to be extended through the entire country if desired, and add that a technical opinion favorable to a German firm has been rendered on an allegedly irregular consideration of bids for the construction, but not operation, of a system of more limited extent. You add that the proposed contract has not been awarded because of the Government's lack of sufficient funds, and suggest that it might be deemed advisable to obtain assurance that any credits which may be extended by American financial institutions shall not be devoted, even indirectly, to payments on contracts awarded to other than American firms. You further indicate that the representatives of the International Telephone and Telegraph Corporation in Montevideo are aware that you have advanced this suggestion.

The Department's attention was drawn to the question of a telephone system in Uruguay as early as 1911 and there has been an extensive correspondence on that subject since 1921. In 1926, at a time when the Uruguayan Government was attempting to float a loan in the United States, a representative of the International Standard Electric Company requested the Department's aid in obtaining action by the Uruguayan Government looking toward compliance with the *ad referendum* contract of June 30, 1921, and suggested that the Amer-

¹ Not printed.

ican Minister at Montevideo be instructed to intimate informally to the Uruguayan Minister for Foreign Affairs that this Government did not look with favor upon the flotation in this country of a loan by Uruguay which did not provide funds for the fulfilment of the telephone contract. The representative of the company was informed that this could not be done and was given a copy of the Department's Circular of March 3, 1922, regarding foreign loans.² The Department considers foreign loans submitted to it in the line of governmental policy and since no governmental policy was involved in the contract under reference the Department did not care to take the action requested.

The possibility of the Department exerting pressure on the Uruguayan Government for the fulfilment of the telephone contract as a prerequisite to its approval of the proposed loan continued under discussion for several months, but the Department continued to limit its assistance to instructing the Legation at Montevideo to use its good offices on the company's behalf.

The suggestion which you now make is very similar to the request made by the representative of the International Standard Electric Company in 1926. Circumstances vary in that the Uruguayan central bank is now seeking a credit from the Federal Reserve Bank in New York, whereas in 1926 the Uruguayan Government was seeking a loan from private bankers, but the Department's policy of not attempting to prevent a foreign borrower from using the proceeds of its borrowing in any legitimate manner it sees fit continues in full force.

The Department regrets that local representatives of the International Telephone and Telegraph Corporation were made aware of your suggestion.

Very truly yours,

For the Secretary of State:
FRANCIS WHITE

² See press release issued by the Department, March 3, 1922, *Foreign Relations*, 1922, vol. I, p. 557.

YUGOSLAVIA

THE PROTECTION OF NATURALIZED AMERICAN CITIZENS WHO RETURN TO THEIR NATIVE COUNTRY AND ARE IMPRESSED INTO MILITARY SERVICE

360h.117 Nikolich, Peter/7

The Minister in Yugoslavia (Prince) to the Secretary of State

No. 976

BELGRADE, January 19, 1931.

[Received February 11.]

SIR: I have the honor to refer to the Department's Instruction No. 244 of September 3, 1930, File No. 360h.117-Nikolich, Peter/2[4],¹ directing the Legation to take up with the appropriate Yugoslav authorities the question of the release from Yugoslav military service of the naturalized American citizen of Yugoslav origin, Mr. Peter Nikolich, and to the Legation's Despatch No. 925 of November 12, 1930,¹ reporting the surrender of Mr. Nikolich's passport by the Yugoslav Foreign Office. The Legation is in receipt of a note from the Foreign Office, a copy and translation of which are enclosed,¹ stating that Mr. Nikolich is still regarded as a Yugoslav subject according to local laws, since he did not request and obtain an authorization for naturalization in a foreign country, and that accordingly there exists no legal reason for his release from the army prior to the expiration of the term prescribed by military law. Mr. Nikolich's case presents a difference as to date of birth, which the Department's instruction shows to be July 5, 1903, whereas the note of the Foreign Office gives the year as 1901. In an informal registration at the Consulate in Belgrade, Mr. Nikolich himself indicates the date of his birth as June 19, 1901, which coincides as to year with the information furnished by the Foreign Office. It would thus appear that Mr. Nikolich, who emigrated to the United States on or about January 23, 1921, according to the Department's instruction, or on December 18, 1919, according to the registration form, left this country at the age of eighteen [*nineteen*] and one-half years, at least.

As reported in the despatch above referred to, the Legation took up the matter of Mr. Nikolich's release from the army prior to the receipt of the Department's instruction to that effect, although, judging from previous experience it appeared quite unlikely that the local

¹ Not printed.

government would release one of our citizens who had abandoned without authorization his Yugoslav citizenship and left this country when of military age.

The uncompromising attitude, in this connection, of the Yugoslav government, has on several occasions been reported to the Department and the Legation feels it necessary to recall now, that in the absence of a convention covering such matters the Yugoslavs insist and will insist upon the strict application of the "Law on the Organization of the Army and Navy", fully reported on in Despatch No. 662 of October 5, 1929.² The main provisions of that law as affecting our naturalized citizens read as follows:

Article 45, paragraph 2 and following: "Persons permanently residing abroad for the purpose of earning their livelihood, whether in Europe (except in neighboring countries) or in transoceanic countries, as immigrants or who have become naturalized in such countries, or who reside there temporarily but departed from this Kingdom five years or more prior to recruitment, shall not be considered as avoiding service if they report to our military or civil representatives in the country of their residence when the military obligation falls due and not later than the attainment of twenty-five years of age, and settle their obligation. All such persons not returning to this Kingdom for permanent or temporary residence before the age of twenty-five shall be exempted from active service in time of peace, unless special circumstances require their performance of active service earlier, subject to decision of the Minister of War and Marine in agreement with the Prime Minister. In the event of mobilization and war it shall be the duty of such persons to return immediately and report to their military commands, if under obligations to serve and capable of active service. Those persons failing to comply with these conditions or to settle their military obligations with our military or civil representatives in the country of their residence, before the age of twenty-five, shall be regarded as deserters.

"All persons referred to in the second paragraph of this Article shall be permitted to visit their native land for private business during the period of their liability for military service, every third year, and to remain not more than three months, but shall be required thereafter to return to the country of their foreign residence or whence they came. Those failing to depart again within the prescribed delay, as well as those returning to their native land for permanent or temporary residence, shall serve if capable, as follows:

"1. Persons returning before the age of twenty-seven shall serve the full period of their liability under the provisions of this law.

"2. Persons returning after the age of twenty-seven but before the age of thirty-two shall serve nine months, if liable during that period, according to their family status.

"3. Persons returning after the age of thirty-two shall not serve in the active army but shall be inscribed in the reserve ranks as liable for military service.

² Not printed.

"Emigrants, as in paragraph two of the present Article, not returning for permanent residence to their native land before the age of thirty-two, shall likewise be inscribed in the reserve ranks as liable for military service."

"Article 333: "The provisions of Article 45 of the Law shall be enforced with respect to all our subjects resident abroad in Europe (except in neighboring states) or in transoceanic countries before the date of publication of this Law, and who have not fulfilled their military obligations, provided, however, that:

"1) They report and settle this obligation as follows: Persons residing in Europe (except in neighboring states), within one year, and persons residing outside of Europe, in transoceanic countries, within two years from the date of enforcement of this Law. Those failing to take advantage of this provision, provided the periods mentioned in paragraph two of Article 45 have elapsed . . . shall suffer the consequences provided in the same Article. . . ."

It will be observed from the foregoing that this law does not provide exemption from military service for such naturalized American citizens, as, under the laws of this kingdom are still regarded as Yugoslav subjects, but only grants facilities to such naturalized citizens of Yugoslav origin as have complied with certain conditions, the principal of which is a registration with representatives of the Yugoslav government abroad. The Legation is not informed as to the exact nature of this registration, but it appears probable that, under our laws, it could be effected by Yugoslav immigrants only prior to the acquisition of American citizenship. Thus any American citizen of Yugoslav origin who has not complied with the above provisions prior to the acquisition of American citizenship runs the heavy risk of being inducted into the Army upon entering this country even on a short visit.

The Legation believes that cases of induction of naturalized American citizens into the Yugoslav army occur much more frequently than is known to our authorities. For instance, the Legation recently intervened with the Yugoslav Foreign Office for the return to two naturalized citizens drafted into the army, of their American passports, which were irregularly seized about a year and a half ago and could not be found after their owners had completed their military service. But for the fact that the passports had been lost, the Legation would probably never have heard of these two cases of passport seizure and military service. Furthermore, the Legation has observed that the great majority of such cases occur to persons who have just been naturalized and are apparently aware of the fact that their military status in Yugoslavia is not settled, but who believe that an American passport will save them from any trouble in this connection during a visit to Yugoslavia.

The Department directed the Legation, in its Instruction No. 74 [77] of May 20, 1927,³ as follows:

"The Department feels, however, that in all cases where the naturalized citizen concerned emigrated to the United States prior to the date when liability for the performance of military service accrued, and when it appears that he has not abandoned his domicile in the United States, you should exert every effort to obtain the release of such person from service in the Yugoslav army."

The Legation ventures to express its opinion that under existing conditions it is highly improbable that the Yugoslav Government would agree to the release from military service of naturalized American citizens who left this country "prior to the date when liability for the performance of military service accrued", in case that date was construed, as apparently was the Department's design, to mean the date of actual entry into the army.

The Law regarding the Organization of the Army and Navy provides, as regards the date of recruitment, that: "Are subject to recruitment all young men in the calendar year of their twentieth birthday". Furthermore, the last paragraph of Article 45 of that Law (see Despatch No. 662) provides as follows:

"Permits to leave this country shall not be delivered to young men in the calendar year of their eighteenth birthday, and such permits may only be delivered after the completion of their active service or settlement of their military obligation."

The Legation wishes further to report, on the basis of numerous exchanges of views on this subject with the Foreign Minister and the Minister of War, that the Yugoslav Government considers that the *modus vivendi* agreed upon verbally in 1923 between the former Minister at Belgrade, Mr. Dodge, and the then Yugoslav Minister, and referred to in the Department's Instruction No. 77 of May 20, 1927, will by no means be re-established by the Yugoslav Government, since the question to which the *modus vivendi* applied is now settled by law. Furthermore, the military authorities attach no importance to the fact that the persons, enrolled upon their return to Yugoslavia, may, on originally emigrating, have been in possession of regular documents, entitling them to leave the country (but not to relinquish Yugoslav citizenship), as before the proclamation of the Law on the "Organization of the Army and Navy" emigrant passports were frequently delivered, because of abuses of local officials, to young men, regardless of military obligations due or about to fall due.

The Department's Instruction No. 74 [77], above quoted, refers, as the Legation now understands it, both to cases where the intervention

³ Not printed.

of the Legation might be expected to bring about release from military service of a naturalized American citizen and to cases where its efforts can only meet with a categorical refusal on the part of the Yugoslav Government. But, as intervention in obviously desperate cases may conceivably result in weakening the force of the Legation's protests in other cases, this office would be grateful for instruction as to whether (1) action should be taken in all cases coming directly to its knowledge, of induction into the Yugoslav Army of naturalized American citizens, or whether (2) the Department would prefer to make a distinction between cases arising from a strict application of Yugoslav nationality laws and cases where American citizens who have just acquired their American citizenship are inducted into the army on their return on a temporary visit, under the "Law on the Organization of the Army and Navy". In the former case (1) the Legation believes that it would be advisable for the Department to state its point of view in such a way as to enable the Legation to communicate it verbatim to the local Government.

At the same time the Legation respectfully renews its request, expressed in Despatch No. 272 of August 12, 1927,⁴ that each naturalized citizen of Yugoslav origin, applying for a passport to visit this country, be carefully cautioned of the risk of being inducted into the army, and that his attention be drawn in each case to the "Notice to Bearers of Passports".

Respectfully yours,

JOHN DYNELEY PRINCE

711.60h4/20

The Acting Secretary of State to the Minister in Yugoslavia (Prince)

No. 315

WASHINGTON, September 4, 1931.

SIR: The Department acknowledges the receipt of your despatch No. 976 of January 19, 1931, concerning the attitude of the Yugoslav authorities with regard to the treatment accorded to naturalized American citizens of Yugoslav origin who return to Yugoslavia and are impressed into the military service of that country.

The Department has very carefully considered the matters discussed in your despatch under acknowledgment which it considers of importance to the relations between the Governments of the United States and Yugoslavia, and with reference to your inquiry whether you should intervene in all cases coming to the knowledge of your office of the induction into the Yugoslav Army of naturalized American citizens of Yugoslav origin you are advised that the Department desires you to protest against such induction in all meritorious cases

⁴ Not printed.

coming to the attention of your office, regardless of the fact that such protest may seem futile. Such protests are considered by the Department as necessary for maintaining the position of this government concerning the status and right to protection of naturalized citizens. In this connection your attention is called to the Act of July 27, 1868 (U. S. C. Title 8, Section 15) which freely recognizes the principle of the inherent right of expatriation. In pursuing the principle outlined in the Act of July 27, 1868, the Department has maintained that a naturalized citizen of the United States should not, upon his return to his country of origin or prior nationality, be obliged to perform military or other obligations or be held liable for failing to have performed such service or obligations which had not actually accrued under the law of the foreign country prior to his emigration to the United States. The Department, of course, makes a distinction between persons who emigrated to the United States under a prospective liability to military or other obligations which had not yet matured and those who emigrated to avoid military and other obligations which had been definitely fixed upon them. Consequently, in all cases where naturalized American citizens emigrated to the United States prior to the date when they were actually required by the law of Yugoslavia to serve in the army of that country and who, upon returning to Yugoslavia for temporary visits, are called upon to serve in the Yugoslav Army, the Department desires, as a matter of principle, that a protest be entered with the Yugoslav authorities against such service.

The Department, in considering the attitude of the Yugoslav authorities with regard to the treatment accorded to naturalized American citizens of Yugoslav origin who return to Yugoslavia and are impressed into the military service of that country, has not overlooked the fact that there exists a conflict between the nationality laws of the United States and of Yugoslavia. It believes, however, that if the question of the status of persons of Yugoslav origin who have been naturalized in the United States should be further considered by the high officials of the Yugoslav Government they might be induced to concede the propriety of, and the advantages to be obtained by, the conclusion of a treaty of naturalization between the United States and Yugoslavia defining the status of nationals of each country who shall have been naturalized in the other upon their return to their country of origin for a temporary stay. Such treaties have been entered into between the United States and a number of European countries. Recently treaties of naturalization have been concluded with Bulgaria and Czechoslovakia. A similar treaty with Albania was signed on January 21, 1931, but has not yet been ratified.⁵ Experience has shown

⁵ See vol. I, pp. 827 ff.

that these treaties are mutually advantageous to the countries being party to them. The files of the Department indicate that in 1921 the Yugoslav Government expressed a desire to conclude a naturalization treaty with the United States in order to obviate the difficulties encountered by naturalized American citizens born in the territory now occupied by Yugoslavia upon returning to their native country. Subsequently various delays were encountered in the negotiation of such a treaty, the reason alleged on several occasions being that there was no fundamental legislation on the subject of nationality of Yugoslavia. In view of the passage of the Yugoslav Law of September 21, 1928, such reason would appear no longer to exist, and it is possible that if the matter of entering into a naturalization treaty with the United States should be taken up with the Yugoslav authorities at this time and pressed as forcibly as circumstances warrant, the Yugoslav authorities might be willing to conclude such a treaty, thus obviating the difficulties encountered in each individual case because of the conflict between the laws of the United States and Yugoslavia. It is desired that you promptly take action with this end in view. As the draft convention submitted with the Department's instruction No. 254 of October 25, 1921,⁶ was prepared before the adoption of the Married Women's Nationality Act of September 22, 1922,⁷ and the Joint Resolution of Congress of May 28, 1928,⁸ hereinafter mentioned, a new draft is enclosed herewith,⁶ for submission to the Yugoslav Foreign Office.

It may be added that if there is any reluctance on the part of the Yugoslav authorities to concluding a naturalization treaty with the United States because they apprehend that persons of Yugoslav origin who are naturalized in the United States might, shortly after naturalization, resume their residence in Yugoslavia and seek to benefit by the Yugoslav laws, while at the same time evading military and other obligations to Yugoslavia, it should be pointed out that the Government of the United States has no desire to extend its protection to persons of the class just mentioned. It is interested only in persons who have in good faith established a permanent residence in the United States and obtained naturalization in this country. Attention may be called to the second paragraph of Section 15 of the Act of June 29, 1906, (U. S. C. Title 8, Section 405) which authorizes the cancellation *ab initio* of the naturalization of persons who, within five years after procuring naturalization, establish a permanent residence abroad. Attention may be also called to the provisions of the second paragraph of Section 2 of the Act of March 2, 1907 (U. S. C.

⁶ Not printed.

⁷ 42 Stat. 1021.

⁸ 45 Stat. 789.

Title 8, Section 17) under which a naturalized citizen of the United States who resides for two years in his native land becomes subject to the presumption that he has ceased to be a citizen of this country, although such presumption may be overcome upon the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under rules prescribed by the Department. These rules contain the condition that the naturalized citizen intends to return to the United States to reside. It may also be observed that the Immigration Act of 1924⁹ draws a sharp line of demarcation between immigrants and non-immigrants, and it is not lawful for an alien who has entered this country as a non-immigrant to obtain naturalization. Thus it is clearly the intent of the laws of the United States to grant naturalization only to aliens who have in good faith established themselves in this country. It is for the benefit of such persons only that a naturalization treaty with Yugoslavia is desired.

Very truly yours,

W. R. CASTLE, JR.

711.60h4/22

The Minister in Yugoslavia (Prince) to the Secretary of State

No. 1252

BELGRADE, January 30, 1932.

[Received February 26.]

SIR: I have the honor to refer to the Department's instruction No. 315 of September 4, 1931 (File No. 360 H. 117 Nikolich, Peter/7),¹⁰ enclosing a new draft Convention of Nationality and Military Service for submission to the Yugoslav Foreign Office, and to report that this question was recently informally discussed with Dr. Ivan Subotich, of the Legal Department of the Foreign Office, who, in reviewing the history of our *pourparlers* for the new treaty, emphasized the following dates and communications:

On November 26, 1921, the Legation proposed a naturalization convention, and in reply was informed that the Yugoslav Government would not be in a position to enter into any such bilateral agreement before arriving at a national law governing nationality. In 1928, the question was again brought up by the Legation, following the passing of the new Nationality Laws by the Yugoslav Parliament, and the adoption of our own Joint Resolution of 1928, inviting the President to negotiate non-recruitment pacts.

The Yugoslav Foreign Office sees three desiderata of the American Government, of importance from our standpoint in the following order. We desire first of all to obtain a naturalization convention

⁹ 43 Stat. 154.

¹⁰ This paper is now filed under 711.60h4/20.

similar to our draft last submitted, and secondly, failing this, a reciprocal pact exempting our nationals of Yugoslav origin from military duties and obligations here, and finally, if neither of these arrangements proves obtainable, to arrive at an informal understanding whereby American visitors to Yugoslavia, of naturalized status and Yugoslav origin, will be free from molestation while temporarily sojourning in this country.

It now seems that a complete naturalization convention will not be possible. "The juridical system and viewpoints of the two countries on this question", says Dr. Subotich, "are so at variance that it would probably be a waste of time and patience to press for such a convention at this time". The Yugoslav stand is more or less in conformity with the Hague Convention of 1930,¹² recognizing what is termed the "permit of expatriation". The arguments submitted by the various countries in support of the two outstanding theses on this question fill volumes impressive in size, as the Department is aware, and the very magnitude of the effort involved in arriving at the Hague Convention, as represented by the published discussions of the representatives of the various nations, and the final adoption of the thesis which, on the point of automatic loss of original allegiance through naturalization, is in opposition to our own view, constitutes an argument for the Yugoslavs against forsaking their position to engage in a bilateral naturalization convention apparently unprofitable to themselves.

The Legation's *aide-mémoire* of January 5, 1931,¹³ again bringing the question to the attention of the Foreign Office, was replied to orally by Acting Foreign Minister Kumanudi, who promised that a careful study would be made. I am pleased to be able to report to the Department that there appears no question that a serious examination of the matter has been made. In fact, a special commission was formed of the various interested authorities, which was divided into sub-committees for the purpose of detailed study. This commission was composed of representatives of the Foreign Office and the Ministries of Justice, War, Interior, and Social Welfare. Meetings were frequently held and I am assured that the result of the commission's deliberations, now terminated, will be communicated officially to the Legation at a relatively early date.

The Yugoslav Military Law, translated portions of which have been furnished the Department, appears by its Art. 45 to satisfy the third desideratum above mentioned, but I believe that a definite agreement on non-recruitment may be hoped for, possibly in exchange

¹² Protocol Relating to Military Obligations in Certain Cases of Double Nationality, signed at The Hague, April 12, 1930, *Foreign Relations*, 1930, vol. I, p. 224.

¹³ Not found in Department files.

for a convention affecting the settlement of estates of Yugoslav subjects dying in the United States, on which the Foreign Office appears to have set its heart. The particular wording that appeals to the Foreign Office is that of Art. 11 of our treaty of 1829, with Austria,¹⁴ and the annex thereto of 1848,¹⁵ which of course was applicable, until the partition of the Empire, in those regions north of the Sava, now included within the Yugoslav frontiers. For additional security on this point, the Foreign Office appears to have addressed a circular instruction to certain of its consular representatives in the United States (San Francisco, Chicago, New York and Washington, probably) requiring the submission of reports expressing their opinion as to the desirability of such a convention governing the settlement of estates, if obtainable. The Foreign Office is apparently awaiting replies to this instruction, before submitting formal counter proposals in reply to the Legation's notes submitting the Department's new draft convention.

Respectfully yours,

JOHN DYNELEY PRINCE

¹⁴ Miller, *Treaties*, vol. 3, p. 507.

¹⁵ *Ibid.*, vol. 5, p. 445.

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