3368

54TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { Doc. No. 1, Part 1.

PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT,

TRANSMITTED TO CONGRESS

DECEMBER 2, 1895.

PART I.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1896.

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copy I
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MESSAGE.

To the Congress of the United States:

The present assemblage of the legislative branch of our Government occurs at a time when the interests of our people and the needs of the country give especial prominence to the condition of our foreign relations and the exigencies of our national finances. The reports of the heads of the several administrative Departments of the Government fully and plainly exhibit what has been accomplished within the scope of their respective duties and present such recommendations for the betterment of our country's condition as patriotic and intelligent labor and observation suggest.

I therefore deem my executive duty adequately performed at this time by presenting to the Congress the important phases of our situation as related to our intercourse with foreign nations, and a statement of the financial problems which confront us, omitting, except as they are related to these topics, any reference to departmental operations.

I earnestly invite, however, not only the careful consideration but the severely critical scrutiny of the Congress and my fellow-countrymen to the reports concerning these departmental operations. If justly and fairly examined they will furnish proof of assiduous and painstaking care for the public welfare. I press the recommendations they contain upon the respectful attention of those charged with the duty of legislation, because I believe their adoption would promote the people's good.

By amendatory tariff legislation in January last, the Argentine Republic, recognizing the value of the large market opened to the free importation of its wools under our last tariff act, has admitted certain products of the United States to entry at reduced duties. It is pleasing to note that the efforts we have made to enlarge the exchanges of trade on a sound basis of mutual benefit are in this instance appreciated by the country from which our woollen factories draw their needful supply of raw material.

The Missions Boundary dispute between the Argentine Republic and Brazil, referred to the President of the United States as arbitrator during the term of my predecessor, and which was submitted to me for determination, resulted in an award in favor of Brazil upon the historical and documentary evidence presented, thus ending a long-protracted controversy and again demonstrating the wisdom and desirability of settling international boundary disputes by recourse to friendly arbitration.

Negotiations are progressing for a revival of the United States and Chilean Claims Commission, whose work was abruptly terminated last year by the expiration of the stipulated time within which awards could be made.

The resumption of specie payments by Chile is a step of great interest and importance both in its direct consequences upon her own welfare and as evincing the ascendency of sound financial principles in one of the most influential of the South American Republics.

The close of the momentous struggle between China and Japan, while relieving the diplomatic agents of this Government from the delicate duty they undertook at the request of both countries, of rendering such service to the subjects of either belligerent within the territorial limits of the other as our neutral position permitted, developed a domestic condition in the Chinese Empire which has caused much anxiety and called for prompt and careful attention. Either as a result of a weak control by the central Government over the provincial administrations, following a diminution of traditional governmental authority under the stress of an overwhelming national disaster, or as a manifestation upon good opportunity of the aversion of the Chinese population to all foreign ways and undertakings, there have occurred in widely separated provinces of China serious outbreaks of the old fanatical spirit against foreigners, which, unchecked by the local authorities, if not actually connived at by them, have culminated in mob attacks on foreign missionary stations, causing much destruction of property, and attended with personal injuries as well as loss of life.

Although but one American citizen was reported to have been actually wounded, and although the destruction of property may have fallen more heavily upon the missionaries of other nationalities than our own, it plainly behooved this Government to take the most prompt and decided action to guard against similar or perhaps more dreadful calamities befalling the hundreds of American mis-

sion stations which have grown up throughout the interior of China under the temperate rule of toleration, custom, and imperial edict. The demands of the United States and other powers for the degradation and punishment of the responsible officials of the respective cities and provinces who by neglect or otherwise had permitted uprisings, and for the adoption of stern measures by the Emperor's Government for the protection of the life and property of foreigners, were followed by the disgrace and dismissal of certain provincial officials found derelict in duty, and the punishment by death of a number of those adjudged guilty of actual participation in the outrages.

This Government also insisted that a special American commission should visit the province where the first disturbances occurred, for the purpose of investigation. This latter commission, formed after much opposition, has gone overland from Tientsin, accompanied by a suitable Chinese escort, and by its demonstration of the readiness and ability of our Government to protect its citizens will act, it is believed, as a most influential deterrent of any similar outbreaks.

The energetic steps we have thus taken are all the more likely to result in future safety to our citizens in China, because the Imperial Government is, I am persuaded, entirely convinced that we desire only the liberty and protection of our own citizens and redress for any wrongs they may have suffered, and that we have no ulterior designs or objects, political or otherwise. China will not forget either our kindly service to her citizens during her late war nor the further fact that, while furnishing all the facilities at our command to further the negotiation of a peace between her and Japan, we sought no advantages and interposed no counsel.

The Governments of both China and Japan have in special dispatches transmitted through their respective diplomatic representatives expressed in a most pleasing manner their grateful appreciation of our assistance to their citizens during the unhappy struggle and of the value of our aid in paving the way to their resumption of peaceful relations.

The customary cordial relations between this country and France have been undisturbed, with the exception that a full explanation of the treatment of John L. Waller by the expeditionary military authorities of France still remains to be given. Mr. Waller, formerly United States consul at Tamatave, remained in Madagascar after his term of office expired, and was apparently successful in procuring business concessions from the Hovas of greater or less

value. After the occupation of Tamatave and the declaration of martial law by the French, he was arrested upon various charges, among them that of communicating military information to the enemies of France, was tried and convicted by a military tribunal, and sentenced to twenty years' imprisonment.

Following the course justified by abundant precedents, this Government requested from that of France the record of the proceedings of the French tribunal which resulted in Mr. Waller's condemnation. This request has been complied with to the extent of supplying a copy of the official record, from which appear the constitution and organization of the court, the charges as formulated, and the general course and result of the trial, and by which it is shown that the accused was tried in open court and was defended by counsel. But the evidence adduced in support of the charges—which was not received by the French Minister for Foreign Affairs till the first week in October—has thus far been withheld, the French Government taking the ground that its production in response to our demand would establish a bad precedent. The efforts of our ambassador to procure it, however, though impeded by recent changes in the French ministry, have not been relaxed, and it is confidently expected that some satisfactory solution of the matter will shortly be reached. Meanwhile it appears that Mr. Waller's confinement has every alleviation which the state of his health and all the other circumstances of the case demand or permit.

In agreeable contrast to the difference above noted respecting a matter of common concern where nothing is sought except such a mutually satisfactory outcome as the true merits of the case require, is the recent resolution of the French Chambers favoring the conclusion of a permanent treaty of arbitration between the two countries.

An invitation has been extended by France to the Government and people of the United States to participate in a great international exposition at Paris in 1900 as a suitable commemoration of the close of this, the world's marvellous century of progress. I heartily recommend its acceptance, together with such legislation as will adequately provide for a due representation of this Government and its people on the occasion.

Our relations with the States of the German Empire are, in some aspects, typical of a condition of things elsewhere found in countries whose productions and trade are similar to our own. The close rivalries of competing industries; the influence of the delusive doctrine that the internal development of a nation is promoted and its

wealth increased by a policy which in undertaking to reserve its home markets for the exclusive use of its own producers necessarily obstructs their sales in foreign markets and prevents free access to the products of the world; the desire to retain trade in time-worn ruts, regardless of the inexorable laws of new needs and changed conditions of demand and supply, and our own halting tardiness in inviting a freer exchange of commodities and by this means imperiling our footing in the external markets naturally open to us, have created a situation somewhat injurious to American export interests, not only in Germany, where they are perhaps most noticeable, but in adjacent countries. The exports affected are largely American cattle and other food products, the reason assigned for unfavorable discrimination being that their consumption is deleterious to the public health. This is all the more irritating in view of the fact that no European State is as jealous of the excellence and wholesomeness of its exported food supplies as the United States, nor so easily able, on account of inherent soundness, to guarantee those qualities.

Nor are these difficulties confined to our food products designed for exportation. Our great insurance companies, for example, having built up a vast business abroad and invested a large share of their gains in foreign countries in compliance with the local laws and regulations then existing, now find themselves within a narrowing circle of onerous and unforeseen conditions, and are confronted by the necessity of retirement from a field thus made unprofitable, if indeed they are not summarily expelled, as some of them have lately been from Prussia.

It is not to be forgotten that international trade can not be one-sided. Its currents are alternating and its movements should be honestly reciprocal. Without this it almost necessarily degenerates into a device to gain advantage or a contrivance to secure benefits with only the semblance of a return. In our dealings with other nations we ought to be open-handed and scrupulously fair. This should be our policy as a producing nation, and it plainly becomes us as a people who love generosity and the moral aspects of national good faith and reciprocal forbearance.

These considerations should not, however, constrain us to submit to unfair discrimination nor to silently acquiesce in vexatious hindrances to the enjoyment of our share of the legitimate advantages of proper trade relations. If an examination of the situation suggests such measures on our part as would involve restrictions similar to those from which we suffer, the way to such a course is easy. It should, however, by no means be lightly entered upon, since the

necessity for the inauguration of such a policy would be regretted by the best sentiment of our people, and because it naturally and logically might lead to consequences of the gravest character.

I take pleasure in calling to your attention the encomiums bestowed on those vessels of our new Navy which took part in the notable ceremony of the opening of the Kiel Canal. It was fitting that this extraordinary achievement of the newer German nationality should be celebrated in the presence of America's exposition of the latest developments of the world's naval energy.

Our relations with Great Britain, always intimate and important, have demanded during the past year even a greater share of consideration than is usual.

Several vexatious questions were left undetermined by the decision of the Bering Sea Arbitration Tribunal. The application of the principles laid down by that august body has not been followed by the results they were intended to accomplish, either because the principles themselves lacked in breadth and definiteness or because their execution has been more or less imperfect. Much correspondence has been exchanged between the two Governments on the subject of preventing the exterminating slaughter of seals. The insufficiency of the British patrol of Bering Sea, under the regulations agreed on by the two Governments, has been pointed out, and yet only two British ships have been on police duty during this season in those waters.

The need of a more effective enforcement of existing regulations, as well as the adoption of such additional regulations as experience has shown to be absolutely necessary to carry out the intent of the award, have been earnestly urged upon the British Government, but thus far without effective results. In the meantime the depletion of the seal herds by means of pelagic hunting has so alarmingly progressed that unless their slaughter is at once effectively checked their extinction within a few years seems to be a matter of absolute certainty.

The understanding by which the United States was to pay, and Great Britain to receive, a lump sum of $425,000 in full settlement of all British claims for damages arising from our seizure of British sealing vessels unauthorized under the award of the Paris Tribunal of Arbitration, was not confirmed by the last Congress, which declined to make the necessary appropriation. I am still of the opinion that this arrangement was a judicious and advantageous one for the Government, and I earnestly recommend that it be again considered and sanctioned. If, however, this does not meet with the favor of

Congress, it certainly will hardly dissent from the proposition that the Government is bound by every consideration of honor and good faith to provide for the speedy adjustment of these claims by arbitration as the only other alternative. A treaty of arbitration has therefore been agreed upon, and will be immediately laid before the Senate, so that in one of the modes suggested a final settlement may be reached.

Notwithstanding that Great Britain originated the proposal to enforce international rules for the prevention of collisions at sea, based on the recommendations of the Maritime Conference of Washington, and concurred in suggesting March 1, 1895, as the date to be set by proclamation for carrying these rules into general effect, Her Majesty's Government, having encountered opposition on the part of British shipping interests, announced its inability to accept that date, which was consequently cancelled. The entire matter is still in abeyance, without prospect of a better condition in the near future.

The commissioners appointed to mark the international boundary in Passamaquoddy Bay according to the description of the treaty of Ghent have not yet fully agreed.

The completion of the preliminary survey of that Alaskan boundary which follows the contour of the coast from the southernmost point of Prince of Wales Island until it strikes the one hundred and forty-first meridian at or near the summit of Mount St. Elias awaits further necessary appropriation, which is urgently recommended. This survey was undertaken under the provisions of the convention entered into by this country and Great Britain July 22, 1892, and the supplementary convention of February 3, 1894.

As to the remaining section of the Alaskan boundary, which follows the one hundred and forty-first meridian northwardly from Mount St. Elias to the Frozen Ocean, the settlement of which involves the physical location of the meridian mentioned, no conventional agreement has yet been made. The ascertainment of a given meridian at a particular point is a work requiring much time and careful observations and surveys. Such observations and surveys were undertaken by the United States Coast and Geodetic Survey in 1890 and 1891, while similar work in the same quarters under British auspices are believed to give nearly coincident results; but these surveys have been independently conducted and no international agreement to mark those or any other parts of the one hundred and forty-first meridian by permanent monuments has yet been made. In the meantime the valley of the Yukon is becoming a highway through the hitherto unexplored wilds of Alaska, and

abundant mineral wealth has been discovered in that region, especially at or near the junction of the boundary meridian with the Yukon and its tributaries. In these circumstances it is expedient, and, indeed, imperative, that the jurisdictional limits of the respective Governments in this new region be speedily determined. Her Britannic Majesty's Government has proposed a joint delimitation of the one hundred and forty-first meridian by an international commission of experts, which, if Congress will authorize it and make due provision therefor, can be accomplished with no unreasonable delay. It is impossible to overlook the vital importance of continuing the work already entered upon, and supplementing it by further effective measures looking to the exact location of this entire boundary line.

I call attention to the unsatisfactory delimitation of the respective jurisdictions of the United States and the Dominion of Canada in the Great Lakes at the approaches to the narrow waters that connect them. The waters in question are frequented by fishermen of both nationalities and their nets are there used. Owing to the uncertainty and ignorance as to the true boundary, vexatious disputes and injurious seizures of boats and nets by Canadian cruisers often occur, while any positive settlement thereof by an accepted standard is not easily to be reached. A joint commission to determine the line in those quarters, on a practical basis, by measured courses following range marks on shore, is a necessity for which immediate provision should be made.

It being apparent that the boundary dispute between Great Britain and the Republic of Venezuela concerning the limits of British Guiana was approaching an acute stage, a definite statement of the interest and policy of the United States as regards the controversy seemed to be required both on its own account and in view of its relations with the friendly powers directly concerned. In July last, therefore, a dispatch was addressed to our ambassador at London for communication to the British Government, in which the attitude of the United States was fully and distinctly set forth. The general conclusions therein reached and formulated are in substance that the traditional and established policy of this Government is firmly opposed to a forcible increase by any European power of its territorial possessions on this continent; that this policy is as well founded in principle as it is strongly supported by numerous precedents; that as a consequence the United States is bound to protest against the enlargement of the area of British Guiana in derogation of the rights and against the will of Venezuela; that, considering the disparity in strength of Great Britain and Vene-

zuela, the territorial dispute between them can be reasonably settled only by friendly and impartial arbitration, and that the resort to such arbitration should include the whole controversy, and is not satisfied if one of the powers concerned is permitted to draw an arbitrary line through the territory in debate and to declare that it will submit to arbitration only the portion lying on one side of it. In view of these conclusions, the dispatch in question called upon the British Government for a definite answer to the question whether it would or would not submit the territorial controversy between itself and Venezuela in its entirety to impartial arbitration. The answer of the British Government has not yet been received, but is expected shortly, when further communication on the subject will probably be made to the Congress.

Early in January last an uprising against the Government of Hawaii was promptly suppressed. Martial law was forthwith proclaimed and numerous arrests were made of persons suspected of being in sympathy with the Royalist party. Among these were several citizens of the United States, who were either convicted by a military court and sentenced to death, imprisonment, or fine, or were deported without trial. The United States, while denying protection to such as had taken the Hawaiian oath of allegiance, insisted that martial law, though altering the forms of justice, could not supersede justice itself, and demanded stay of execution until the proceedings had been submitted to this Government and knowledge obtained therefrom that our citizens had received fair trial. The death sentences were subsequently commuted or were remitted on condition of leaving the islands. The cases of certain Americans arrested and expelled by arbitrary order without formal charge or trial have had attention, and in some instances have been found to justify remonstrance and a claim for indemnity, which Hawaii has not thus far conceded.

Mr. Thurston, the Hawaiian minister, having furnished this Government abundant reason for asking that he be recalled, that course was pursued, and his successor has lately been received.

The deplorable lynching of several Italian laborers in Colorado was naturally followed by international representations, and I am happy to say that the best efforts of the State in which the outrages occurred have been put forth to discover and punish the authors of this atrocious crime. The dependent families of some of the unfortunate victims invite by their deplorable condition gracious provision for their needs.

These manifestations against helpless aliens may be traced through successive stages to the vicious *padroni* system, which, unchecked by our immigration and contract-labor statutes, controls these workers from the moment of landing on our shores, and farms them out in distant and often rude regions, where their cheapening competition in the fields of bread-winning toil brings them into collision with other labor interests. While welcoming, as we should, those who seek our shores to merge themselves in our body politic and win personal competence by honest effort, we can not regard such assemblages of distinctively alien laborers, hired out in the mass to the profit of alien speculators and shipped hither and thither as the prospect of gain may dictate, as otherwise than repugnant to the spirit of our civilization, deterrent to individual advancement, and hindrances to the building up of stable communities resting upon the wholesome ambitions of the citizen and constituting the prime factor in the prosperity and progress of our nation. If legislation can reach this growing evil, it certainly should be attempted.

Japan has furnished abundant evidence of her vast gain in every trait and characteristic that constitutes a nation's greatness. We have reason for congratulation in the fact that the Government of the United States, by the exchange of liberal treaty stipulations with the new Japan, was the first to recognize her wonderful advance and to extend to her the consideration and confidence due to her national enlightenment and progressive character.

The boundary dispute which lately threatened to embroil Guatemala and Mexico has happily yielded to pacific counsels, and its determination has, by the joint agreement of the parties, been submitted to the sole arbitration of the United States minister to Mexico.

The commission appointed under the convention of February 18, 1889, to set new monuments along the boundary between the United States and Mexico has completed its task.

As a sequel to the failure of a scheme for the colonization in Mexico of negroes, mostly emigrants from Alabama under contract, a great number of these helpless and suffering people, starving and smitten with contagious disease, made their way or were assisted to the frontier, where, in wretched plight, they were quarantined by the Texas authorities. Learning of their destitute condition, I directed rations to be temporarily furnished them through the War Department. At the expiration of their quarantine they were conveyed by the railway companies at comparatively nominal rates to their homes

in Alabama, upon my assurance, in the absence of any fund available for the cost of their transportation, that I would recommend to Congress an appropriation for its payment. I now strongly urge upon Congress the propriety of making such an appropriation. It should be remembered that the measures taken were dictated not only by sympathy and humanity, but by a conviction that it was not compatible with the dignity of this Government that so large a body of our dependent citizens should be thrown for relief upon the charity of a neighboring State.

In last year's message I narrated at some length the jurisdictional questions then freshly arisen in the Mosquito Indian strip of Nicaragua. Since that time, by the voluntary act of the Mosquito Nation, the territory reserved to them has been incorporated with Nicaragua, the Indians formally subjecting themselves to be governed by the general laws and regulations of the Republic instead of by their own customs and regulations, and thus availing themselves of a privilege secured to them by the treaty between Nicaragua and Great Britain of January 28, 1860.

After this extension of uniform Nicaraguan administration to the Mosquito strip, the case of the British vice-consul, Hatch, and of several of his countrymen who had been summarily expelled from Nicaragua and treated with considerable indignity, provoked a claim by Great Britain upon Nicaragua for pecuniary indemnity, which, upon Nicaragua's refusal to admit liability, was enforced by Great Britain. While the sovereignty and jurisdiction of Nicaragua was in no way questioned by Great Britain, the former's arbitrary conduct in regard to British subjects furnished the ground for this proceeding.

A British naval force occupied without resistance the Pacific seaport of Corinto, but was soon after withdrawn upon the promise that the sum demanded would be paid. Throughout this incident the kindly offices of the United States were invoked and were employed in favor of as peaceful a settlement and as much consideration and indulgence toward Nicaragua as were consistent with the nature of the case. Our efforts have since been made the subject of appreciative and grateful recognition by Nicaragua.

The coronation of the Czar of Russia at Moscow in May next invites the ceremonial participation of the United States, and in accordance with usage and diplomatic propriety our minister to the imperial court has been directed to represent our Government on the occasion.

Correspondence is on foot touching the practice of Russian consuls within the jurisdiction of the United States to interrogate citizens as to their race and religious faith, and upon ascertainment thereof to deny to Jews authentication of passports or legal documents for use in Russia. Inasmuch as such a proceeding imposes a disability, which in the case of succession to property in Russia may be found to infringe the treaty rights of our citizens, and which is an obnoxious invasion of our territorial jurisdiction, it has elicited fitting remonstrance, the result of which it is hoped will remove the cause of complaint.

The pending claims of sealing vessels of the United States seized in Russian waters remain unadjusted. Our recent convention with Russia establishing a *modus vivendi* as to imperial jurisdiction in such cases has prevented further difficulty of this nature.

The Russian Government has welcomed in principle our suggestion for a *modus vivendi*, to embrace Great Britain and Japan, looking to the better preservation of seal life in the North Pacific and Bering Sea, and the extension of the protected area defined by the Paris Tribunal to all Pacific waters north of the thirty-fifth parallel. It is especially noticeable that Russia favors prohibition of the use of firearms in seal hunting throughout the proposed area and a longer closed season for pelagic sealing.

In my last two annual messages I called the attention of the Congress to the position we occupied as one of the parties to a treaty or agreement by which we became jointly bound with England and Germany to so interfere with the government and control of Samoa as in effect to assume the management of its affairs. On the 9th day of May, 1894, I transmitted to the Senate a special message with accompanying documents giving information on the subject and emphasizing the opinion I have at all times entertained, that our situation in this matter was inconsistent with the mission and traditions of our Government, in violation of the principles we profess, and in all its phases mischievous and vexatious.

I again press this subject upon the attention of the Congress and ask for such legislative action or expression as will lead the way to our relief from obligations both irksome and unnatural.

Cuba is again gravely disturbed. An insurrection, in some respects more active than the last preceding revolt, which continued from 1868 to 1878, now exists in a large part of the eastern interior of the island, menacing even some populations on the coast. Besides deranging the commercial exchanges of the island, of which our

country takes the predominant share, this flagrant condition of hostilities, by arousing sentimental sympathy and inciting adventurous support among our people, has entailed earnest effort on the part of this Government to enforce obedience to our neutrality laws and to prevent the territory of the United States from being abused as a vantage ground from which to aid those in arms against Spanish sovereignty.

Whatever may be the traditional sympathy of our countrymen as individuals with a people who seem to be struggling for larger autonomy and greater freedom, deepened as such sympathy naturally must be in behalf of our neighbors, yet the plain duty of their Government is to observe in good faith the recognized obligations of international relationship. The performance of this duty should not be made more difficult by a disregard on the part of our citizens of the obligations growing out of their allegiance to their country, which should restrain them from violating as individuals the neutrality which the nation of which they are members is bound to observe in its relations to friendly sovereign States. Though neither the warmth of our people's sympathy with the Cuban insurgents, nor our loss and material damage consequent upon the futile endeavors thus far made to restore peace and order, nor any shock our humane sensibilities may have received from the cruelties which appear to especially characterize this sanguinary and fiercely conducted war, have in the least shaken the determination of the Government to honestly fulfill every international obligation, yet it is to be earnestly hoped, on every ground, that the devastation of armed conflict may speedily be stayed and order and quiet restored to the distracted island, bringing in their train the activity and thrift of peaceful pursuits.

One notable instance of interference by Spain with passing American ships has occurred. On March 8 last the *Allianca*, while bound from Colon to New York, and following the customary track for vessels near the Cuban shore, but outside the three-mile limit, was fired upon by a Spanish gunboat. Protest was promptly made by the United States against this act as not being justified by a state of war, nor permissible in respect of vessels on the usual paths of commerce, nor tolerable in view of the wanton peril occasioned to innocent life and property. The act was disavowed, with full expression of regret, and assurance of nonrecurrence of such just cause of complaint, while the offending officer was relieved of his command.

Military arrests of citizens of the United States in Cuba have occasioned frequent reclamations. Where held on criminal charges

their delivery to the ordinary civil jurisdiction for trial has been demanded and obtained in conformity with treaty provisions, and where merely detained by way of military precaution under a proclaimed state of siege, without formulated accusation, their release or trial has been insisted upon. The right of American consular officers in the island to prefer protests and demands in such cases having been questioned by the insular authority, their enjoyment of the privilege stipulated by treaty for the consuls of Germany was claimed under the most-favored-nation provision of our own convention and was promptly recognized.

The long-standing demand of Antonio Maximo Mora against Spain has at last been settled by the payment, on the 14th of September last, of the sum originally agreed upon in liquidation of the claim. Its distribution among the parties entitled to receive it has proceeded as rapidly as the rights of those claiming the fund could be safely determined.

The enforcement of differential duties against products of this country exported to Cuba and Puerto Rico prompted the immediate claim on our part to the benefit of the minimum tariff of Spain in return for the most favorable treatment permitted by our laws as regards the production of Spanish territories. A commercial arrangement was concluded in January last securing the treatment so claimed.

Vigorous protests against excessive fines imposed on our ships and merchandise by the customs officers of these islands for trivial errors have resulted in the remission of such fines in instances where the equity of the complaint was apparent, though the vexatious practice has not been wholly discontinued.

Occurrences in Turkey have continued to excite concern. The reported massacres of Christians in Armenia and the development there and in other districts of a spirit of fanatic hostility to Christian influences naturally excited apprehension for the safety of the devoted men and women who, as dependents of the foreign missionary societies in the United States, reside in Turkey under the guarantee of law and usage and in the legitimate performance of their educational and religious mission. No efforts have been spared in their behalf, and their protection in person and property has been earnestly and vigorously enforced by every means within our power.

I regret, however, that an attempt on our part to obtain better information concerning the true condition of affairs in the disturbed quarter of the Ottoman Empire, by sending thither the United

States consul at Sivas to make investigation and report, was thwarted by the objections of the Turkish Government. This movement on our part was in no sense meant as a gratuitous entanglement of the United States in the so-called Eastern question, nor as an officious interference with the right and duty which belong by treaty to certain great European powers, calling for their intervention in political matters affecting the good government and religious freedom of the non-Mussulman subjects of the Sultan, but it arose solely from our desire to have an accurate knowledge of the conditions in our efforts to care for those entitled to our protection.

The presence of our naval vessels which are now in the vicinity of the disturbed localities affords opportunities to acquire a measure of familiarity with the condition of affairs, and will enable us to take suitable steps for the protection of any interests of our countrymen within reach of our ships that might be found imperilled.

The Ottoman Government has lately issued an imperial *iradé* exempting forever from taxation an American college for girls at Scutari. Repeated assurances have also been obtained by our envoy at Constantinople that similar institutions maintained and administered by our countrymen shall be secured in the enjoyment of all rights, and that our citizens throughout the Empire shall be protected.

The Government, however, in view of existing facts, is far from relying upon such assurances as the limit of its duty. Our minister has been vigilant and alert in affording all possible protection in individual cases where danger threatened or safety was imperilled. We have sent ships as far toward the points of actual disturbance as it is possible for them to go, where they offer refuge to those obliged to flee, and we have the promise of other powers which have ships in the neighborhood that our citizens, as well as theirs, will be received and protected on board those ships. On the demand of our minister, orders have been issued by the Sultan that Turkish soldiers shall guard and escort to the coast American refugees.

These orders have been carried out, and our latest intelligence gives assurance of the present personal safety of our citizens and missionaries. Though thus far no lives of American citizens have been sacrificed, there can be no doubt that serious loss and destruction of mission property have resulted from riotous conflicts and outrageous attacks.

By treaty several of the most powerful European powers have secured a right and have assumed a duty not only in behalf of their own citizens and in furtherance of their own interests, but as agents of the Christian world. Their right is to enforce such conduct of

Turkish government as will restrain fanatical brutality, and if this fails their duty is to so interfere as to insure against such dreadful occurrences in Turkey as have lately shocked civilization. The powers declare this right and this duty to be theirs alone, and it is earnestly hoped that prompt and effective action on their part will not be delayed.

The new consulates at Erzeroum and Harpoot, for which appropriation was made last session, have been provisionally filled by trusted employees of the Department of State. These appointees, though now in Turkey, have not yet received their exequaturs.

The arbitration of the claim of the Venezuela Steam Transportation Company under the treaty of January 19, 1892, between the United States and Venezuela, resulted in an award in favor of the claimant.

The Government has used its good offices toward composing the differences between Venezuela on the one hand and France and Belgium on the other, growing out of the dismissal of the representatives of those powers on the ground of a publication deemed offensive to Venezuela. Although that dismissal was coupled with a cordial request that other more personally agreeable envoys be sent in their stead, a rupture of intercourse ensued, and still continues.

In view of the growth of our interests in foreign countries and the encouraging prospects for a general expansion of our commerce, the question of an improvement in the consular service has increased in importance and urgency. Though there is no doubt that the great body of consular officers are rendering valuable services to the trade and industries of the country, the need of some plan of appointment and control which would tend to secure a higher average of efficiency can not be denied.

The importance of the subject has led the Executive to consider what steps might properly be taken without additional legislation to answer the need of a better system of consular appointments. The matter having been committed to the consideration of the Secretary of State, in pursuance of his recommendations, an Executive order was issued on the 20th of September, 1895, by the terms of which it is provided that after that date any vacancy in a consulate or commercial agency with an annual salary or compensation from official fees of not more than $2,500 or less than $1,000 should be filled either by transfer or promotion from some other position under the Department of State of a character tending to qualify the

incumbent for the position to be filled, or by the appointment of a person not under the Department of State, but having previously served thereunder and shown his capacity and fitness for consular duty, or by the appointment of a person who, having been selected by the President and sent to a board for examination, is found, upon such examination, to be qualified for the position. Posts which pay less than $1,000 being usually, on account of their small compensation, filled by selection from residents of the locality, it was not deemed practicable to put them under the new system.

The compensation of $2,500 was adopted as the maximum limit in the classification for the reason that consular officers receiving more than that sum are often charged with functions and duties scarcely inferior in dignity and importance to those of diplomatic agents, and it was therefore thought best to continue their selection in the discretion of the Executive without subjecting them to examination before a board. Excluding seventy-one places with compensation at present less than $1,000, and fifty-three places above the maximum in compensation, the number of positions remaining within the scope of the order is one hundred and ninety-six. This number will undoubtedly be increased by the inclusion of consular officers whose remuneration in fees, now less than $1,000, will be augmented with the growth of our foreign commerce and a return to more favorable business conditions.

In execution of the Executive order referred to, the Secretary of State has designated as a board to conduct the prescribed examinations the Third Assistant Secretary of State, the Solicitor of the Department of State, and the Chief of the Consular Bureau, and has specified the subjects to which such examinations shall relate.

It is not assumed that this system will prove a full measure of consular reform. It is quite probable that actual experience will show particulars in which the order already issued may be amended, and demonstrate that, for the best results, appropriate legislation by Congress is imperatively required.

In any event these efforts to improve the consular service ought to be immediately supplemented by legislation providing for consular inspection. This has frequently been a subject of Executive recommendation, and I again urge such action by Congress as will permit the frequent and thorough inspection of consulates by officers appointed for that purpose or by persons already in the diplomatic or consular service. The expense attending such a plan would be insignificant compared with its usefulness, and I hope the legislation necessary to set it on foot will be speedily forthcoming.

I am thoroughly convinced that in addition to their salaries our

ambassadors and ministers at foreign courts should be provided by the Government with official residences. The salaries of these officers are comparatively small and in most cases insufficient to pay, with other necessary expenses, the cost of maintaining household establishments in keeping with their important and delicate functions. The usefulness of a nation's diplomatic representative undeniably depends much upon the appropriateness of his surroundings, and a country like ours, while avoiding unnecessary glitter and show, should be certain that it does not suffer in its relations with foreign nations through parsimony and shabbiness in its diplomatic outfit. These considerations and the other advantages of having fixed and somewhat permanent locations for our embassies, would abundantly justify the moderate expenditure necessary to carry out this suggestion.

As we turn from a review of our foreign relations to the contemplation of our national financial situation we are immediately aware that we approach a subject of domestic concern more important than any other that can engage our attention, and one at present in such a perplexing and delicate predicament as to require prompt and wise treatment.

We may well be encouraged to earnest effort in this direction when we recall the steps already taken toward improving our economic and financial situation, and when we appreciate how well the way has been prepared for further progress by an aroused and intelligent popular interest in these subjects.

By command of the people a customs-revenue system, designed for the protection and benefit of favored classes at the expense of the great mass of our countrymen, and which, while inefficient for the purpose of revenue, curtailed our trade relations and impeded our entrance to the markets of the world, has been superseded by a tariff policy which in principle is based upon a denial of the right of the Government to obstruct the avenues to our people's cheap living or lessen their comfort and contentment, for the sake of according especial advantages to favorites, and which, while encouraging our intercourse and trade with other nations, recognizes the fact that American self-reliance, thrift, and ingenuity can build up our country's industries and develop its resources more surely than enervating paternalism.

The compulsory purchase and coinage of silver by the Government, unchecked and unregulated by business conditions and heedless of our currency needs, which for more than fifteen years diluted our circulating medium, undermined confidence abroad in our finan-

cial ability, and at last culminated in distress and panic at home, has been recently stopped by the repeal of the laws which forced this reckless scheme upon the country.

The things thus accomplished, notwithstanding their extreme importance and beneficent effects, fall far short of curing the monetary evils from which we suffer as a result of long indulgence in ill-advised financial expedients.

The currency denominated United States notes and commonly known as greenbacks was issued in large volume during the late civil war, and was intended originally to meet the exigencies of that period. It will be seen by a reference to the debates in Congress at the time the laws were passed authorizing the issue of these notes that their advocates declared they were intended for only temporary use and to meet the emergency of war. In almost if not all the laws relating to them some provision was made contemplating their voluntary or compulsory retirement. A large quantity of them, however, were kept on foot and mingled with the currency of the country, so that at the close of the year 1874 they amounted to $381,999,073.

Immediately after that date, and in January, 1875, a law was passed providing for the resumption of specie payments, by which the Secretary of the Treasury was required, whenever additional circulation was issued to national banks, to retire United States notes equal in amount to 80 per cent of such additional national-bank circulation until such notes were reduced to $300,000,000. This law further provided that on and after the 1st day of January, 1879, the United States notes then outstanding should be redeemed in coin, and in order to provide and prepare for such redemption the Secretary of the Treasury was authorized not only to use any surplus revenues of the Government, but to issue bonds of the United States and dispose of them for coin, and to use the proceeds for the purposes contemplated by the statute.

In May, 1878, and before the date thus appointed for the redemption and retirement of these notes, another statute was passed forbidding their further cancellation and retirement. Some of them had, however, been previously redeemed and cancelled upon the issue of additional national-bank circulation, as permitted by the law of 1875, so that the amount outstanding at the time of the passage of the act forbidding their further retirement was $346,681,016.

The law of 1878 did not stop at distinct prohibition, but contained, in addition, the following express provision:

"And when any of said notes may be redeemed or be received into the Treasury, under any law, from any source whatever, and

shall belong to the United States, they shall not be retired, cancelled, or destroyed, but they shall be reissued and paid out again and kept in circulation."

This was the condition of affairs on the 1st day of January, 1879, which had been fixed upon four years before as the date for entering upon the redemption and retirement of all these notes, and for which such abundant means had been provided.

The Government was put in the anomalous situation of owing to the holders of its notes, debts payable in gold on demand which could neither be retired by receiving such notes in discharge of obligations due the Government, nor cancelled by actual payment in gold. It was forced to redeem without redemption and to pay without acquittance.

There had been issued and sold $95,500,000 of the bonds authorized by the resumption act of 1875, the proceeds of which, together with other gold in the Treasury, created a gold fund deemed sufficient to meet the demands which might be made upon it for the redemption of the outstanding United States notes. This fund, together with such other gold as might be from time to time in the Treasury available for the same purpose, has been since called our gold reserve, and $100,000,000 has been regarded as an adequate amount to accomplish its object. This fund amounted on the 1st day of January, 1879, to $114,193,360, and though thereafter constantly fluctuating, it did not fall below that sum until July, 1892. In April, 1893, for the first time since its establishment, this reserve amounted to less than $100,000,000, containing at that date only $97,011,330.

In the meantime, and in July, 1890, an act had been passed directing larger governmental monthly purchases of silver than had been required under previous laws, and providing that in payment for such silver Treasury notes of the United States should be issued payable on demand in gold or silver coin at the discretion of the Secretary of the Treasury. It was, however, declared in the act to be "the established policy of the United States to maintain the two metals on a parity with each other upon the present legal ratio, or such ratio as may be provided by law." In view of this declaration it was not deemed permissible for the Secretary of the Treasury to exercise the discretion in terms conferred on him, by refusing to pay gold on these notes when demanded, because by such discrimination in favor of the gold dollar the so-called parity of the two metals would be destroyed, and grave and dangerous consequences would be precipitated by affirming or accentuating the constantly widening disparity between their actual values under the existing ratio.

It thus resulted that the Treasury notes issued in payment of silver purchases under the law of 1890 were necessarily treated as gold obligations, at the option of the holder. These notes on the 1st day of November, 1893, when the law compelling the monthly purchase of silver was repealed, amounted to more than $155,000,000. The notes of this description now outstanding added to the United States notes still undiminished by redemption or cancellation constitute a volume of gold obligations amounting to nearly $500,000,000. These obligations are the instruments which, ever since we have had a gold reserve, have been used to deplete it.

This reserve, as has been stated, had fallen in April, 1893, to $97,011,330. It has from that time to the present, with very few and unimportant upward movements, steadily decreased, except as it has been temporarily replenished by the sale of bonds.

Among the causes for this constant and uniform shrinkage in this fund may be mentioned the great falling off of exports under the operation of the tariff law until recently in force, which crippled our exchange of commodities with foreign nations and necessitated to some extent the payment of our balances in gold; the unnatural infusion of silver into our currency, and the increasing agitation for its free and unlimited coinage, which have created apprehension as to our disposition or ability to continue gold payments; the consequent hoarding of gold at home and the stoppage of investments of foreign capital, as well as the return of our securities already sold abroad; and the high rate of foreign exchange, which induced the shipment of our gold to be drawn against, as a matter of speculation.

In consequence of these conditions the gold reserve on the 1st day of February, 1894, was reduced to $65,438,377, having lost more than $31,000,000 during the preceding nine months, or since April, 1893. Its replenishment being necessary, and no other manner of accomplishing it being possible, resort was had to the issue and sale of bonds provided for by the resumption act of 1875. Fifty millions of these bonds were sold, yielding $58,633,295.71, which was added to the reserve fund of gold then on hand. As a result of this operation this reserve, which had suffered constant and large withdrawals in the meantime, stood on the 6th day of March, 1894, at the sum of $107,446,802. Its depletion was, however, immediately thereafter so accelerated that on the 30th day of June, 1894, it had fallen to $64,873,025, thus losing by withdrawals more than $42,000,000 in five months and dropping slightly below its situation when the sale of $50,000,000 in bonds was effected for its replenishment.

This depressed condition grew worse, and on the 24th day of November, 1894, our gold reserve being reduced to $57,669,701, it

became necessary to again strengthen it. This was done by another sale of bonds amounting to $50,000,000, from which there was realized $58,538,500, with which the fund was increased to $111,142,021 on the 4th day of December, 1894.

Again disappointment awaited the anxious hope for relief. There was not even a lull in the exasperating withdrawals of gold. On the contrary, they grew larger and more persistent than ever. Between the 4th day of December, 1894, and early in February, 1895, a period of scarcely more than two months after the second reinforcement of our gold reserve by the sale of bonds, it had lost by such withdrawals more than $69,000,000, and had fallen to $41,340,181. Nearly $43,000,000 had been withdrawn within the month immediately preceding this situation.

In anticipation of impending trouble, I had on the 28th day of January, 1895, addressed a communication to the Congress fully setting forth our difficulties and dangerous position, and earnestly recommending that authority be given the Secretary of the Treasury to issue bonds bearing a low rate of interest, payable by their terms in gold, for the purpose of maintaining a sufficient gold reserve, and also for the redemption and cancellation of outstanding United States notes and the Treasury notes issued for the purchase of silver under the law of 1890. This recommendation did not, however, meet with legislative approval.

In February, 1895, therefore, the situation was exceedingly critical. With a reserve perilously low and a refusal of Congressional aid, everything indicated that the end of gold payments by the Government was imminent. The results of prior bond issues had been exceedingly unsatisfactory, and the large withdrawals of gold immediately succeeding their public sale in open market gave rise to a reasonable suspicion that a large part of the gold paid into the Treasury upon such sales was promptly drawn out again by the presentation of United States notes or Treasury notes and found its way to the hands of those who had only temporarily parted with it in the purchase of bonds.

In this emergency, and in view of its surrounding perplexities, it became entirely apparent to those upon whom the struggle for safety was devolved not only that our gold reserve must, for the third time in less than thirteen months, be restored by another issue and sale of bonds bearing a high rate of interest and badly suited to the purpose, but that a plan must be adopted for their disposition promising better results than those realized on previous sales. An agreement was therefore made with a number of financiers and bankers whereby it was stipulated that bonds described in the resumption act of 1875,

paya .e in coin thirty years after their date, bearing interest at the rate of four per cent per annum, and amounting to about $62,000,000, should be exchanged for gold, receivable by weight, amounting to a little more than $65,000,000.

This gold was to be delivered in such instalments as would complete its delivery within about six months from the date of the contract, and at least one-half of the amount was to be furnished from abroad. It was also agreed by those supplying this gold that during the continuance of the contract they would by every means in their power protect the Government against gold withdrawals. The contract also provided that if Congress would authorize their issue, bonds payable by their terms in gold and bearing interest at the rate of three per cent per annum might within ten days be substituted at par for the four per cent bonds described in the agreement.

On the day this contract was made its terms were communicated to Congress by a special Executive message, in which it was stated that more than sixteen millions of dollars would be saved to the Government if gold bonds bearing three per cent interest were authorized to be substituted for those mentioned in the contract.

The Congress having declined to grant the necessary authority to secure this saving, the contract, unmodified, was carried out, resulting in a gold reserve amounting to $107,571,230 on the 8th day of July, 1895. The performance of this contract not only restored the reserve, but checked for a time the withdrawals of gold and brought on a period of restored confidence and such peace and quiet in business circles as were of the greatest possible value to every interest that affects our people. I have never had the slightest misgiving concerning the wisdom or propriety of this arrangement, and am quite willing to answer for my full share of responsibility for its promotion. I believe it averted a disaster the imminence of which was, fortunately, not at the time generally understood by our people.

Though the contract mentioned stayed for a time the tide of gold withdrawal, its good results could not be permanent. Recent withdrawals have reduced the reserve from $107,571,230 on the 8th day of July, 1895, to $79,333,966. How long it will remain large enough to render its increase unnecessary is only matter of conjecture, though quite large withdrawals for shipment in the immediate future are predicted in well-informed quarters. About $16,000,000 has been withdrawn during the month of November.

The foregoing statement of events and conditions develops the fact that after increasing our interest-bearing bonded indebtedness more than $162,000,000 to save our gold reserve we are nearly where we started, having now in such reserve $79,333,966, as

against $65,438,377 in February, 1894, when the first bonds were issued.

Though the amount of gold drawn from the Treasury appears to be very large, as gathered from the facts and figures herein presented, it actually was much larger, considerable sums having been acquired by the Treasury within the several periods stated without the issue of bonds. On the 28th of January, 1895, it was reported by the Secretary of the Treasury that more than $172,000,000 of gold had been withdrawn for hoarding or shipment during the year preceding. He now reports that from January 1, 1879, to July 14, 1890, a period of more than eleven years, only a little over $28,000,000 was withdrawn, and that between July 14, 1890, the date of the passage of the law for an increased purchase of silver, and the 1st day of December, 1895, or within less than five and a half years, there was withdrawn nearly $375,000,000, making a total of more than $403,000,000 drawn from the Treasury in gold since January 1, 1879, the date fixed in 1875 for the retirement of the United States notes.

Nearly $327,000,000 of the gold thus withdrawn has been paid out on these United States notes; and yet every one of the $346,000,000 is still uncancelled and ready to do service in future gold depletions.

More than $76,000,000 in gold has, since their creation in 1890, been paid out from the Treasury upon the notes given on the purchase of silver by the Government; and yet the whole, amounting to $155,000,000, except a little more than $16,000,000, which have been retired by exchanges for silver at the request of the holders, remains outstanding and prepared to join their older and more experienced allies in future raids upon the Treasury's gold reserve.

In other words, the Government has paid in gold more than nine-tenths of its United States notes and still owes them all. It has paid in gold about one-half of its notes given for silver purchases without extinguishing by such payment one dollar of these notes.

When added to all this we are reminded that to carry on this astounding financial scheme the Government has incurred a bonded indebtedness of $95,500,000 in establishing a gold reserve, and of $162,315,400 in efforts to maintain it; that the annual interest charge on such bonded indebtedness is more that $11,000,000; that a continuance in our present course may result in further bond issues, and that we have suffered or are threatened with all this for the sake of supplying gold for foreign shipment or facilitating its hoarding at home, a situation is exhibited which certainly ought to arrest attention and provoke immediate legislative relief.

I am convinced the only thorough and practicable remedy for our

troubles is found in the retirement and cancellation of our United States notes, commonly called greenbacks, and the outstanding Treasury notes issued by the Government in payment of silver purchases under the act of 1890.

I believe this could be quite readily accomplished by the exchange of these notes for United States bonds of small as well as large denominations, bearing a low rate of interest. They should be long-term bonds, thus increasing their desirability as investments, and because their payment could be well postponed to a period far removed from present financial burdens and perplexities, when with increased prosperity and resources they would be more easily met.

To further insure the cancellation of these notes and also provide a way by which gold may be added to our currency in lieu of them, a feature in the plan should be an authority given to the Secretary of the Treasury to dispose of the bonds abroad for gold if necessary to complete the contemplated redemption and cancellation, permitting him to use the proceeds of such bonds to take up and cancel any of the notes that may be in the Treasury or that may be received by the Government on any account.

The increase of our bonded debt involved in this plan would be amply compensated by renewed activity and enterprise in all business circles, the restored confidence at home, the reinstated faith in our monetary strength abroad, and the stimulation of every interest and industry that would follow the cancellation of the gold-demand obligations now afflicting us. In any event the bonds proposed would stand for the extinguishment of a troublesome indebtedness, while in the path we now follow there lurks the menace of unending bonds, with our indebtedness still undischarged and aggravated in every feature. The obligations necessary to fund this indebtedness would not equal in amount those from which we have been relieved since 1884 by anticipation and payment, beyond the requirements of the sinking fund, out of our surplus revenues.

The currency withdrawn by the retirement of the United States notes and Treasury notes, amounting to probably less than $486,000,000, might be supplied by such gold as would be used on their retirement or by an increase in the circulation of our national banks. Though the aggregate capital of those now in existence amounts to more than $664,000,000, their outstanding circulation based on bond security amounts to only about $190,000,000. They are authorized to issue notes amounting to ninety per cent of the bonds deposited to secure their circulation, but in no event beyond the amount of their capital stock, and they are obliged to pay one per cent tax on the circulation they issue.

I think they should be allowed to issue circulation equal to the par value of the bonds they deposit to secure it, and that the tax on their circulation should be reduced to one-fourth of one per cent, which would undoubtedly meet all the expense the Government incurs on their account. In addition they should be allowed to substitute or deposit in lieu of the bonds now required as security for their circulation those which would be issued for the purpose of retiring the United States notes and Treasury notes.

The banks already existing, if they desired to avail themselves of the provisions of law thus modified, could issue circulation in addition to that already outstanding, amounting to $478,000,000, which would nearly or quite equal the currency proposed to be cancelled. At any rate, I should confidently expect to see the existing national banks or others to be organized avail themselves of the proposed encouragements to issue circulation, and promptly fill any vacuum and supply every currency need.

It has always seemed to me that the provisions of law regarding the capital of national banks which operate as a limitation to their location fails to make proper compensation for the suppression of State banks, which came near to the people in all sections of the country and readily furnished them with banking accommodations and facilities. Any inconvenience or embarrassment arising from these restrictions on the location of national banks might well be remedied by better adapting the present system to the creation of banks in smaller communities or by permitting banks of large capital to establish branches in such localities as would serve the people—so regulated and restrained as to secure their safe and conservative control and management.

But there might not be the necessity for such an addition to the currency by new issues of bank circulation as at first glance is indicated. If we should be relieved from maintaining a gold reserve under conditions that constitute it the barometer of our solvency, and if our Treasury should no longer be the foolish purveyor of gold for nations abroad or for speculation and hoarding by our citizens at home, I should expect to see gold resume its natural and normal functions in the business affairs of the country and cease to be an object attracting the timid watch of our people and exciting their sensitive imaginations.

I do not overlook the fact that the cancellation of the Treasury notes issued under the silver-purchasing act of 1890 would leave the Treasury in the actual ownership of sufficient silver, including seigniorage, to coin nearly $178,000,000 in standard dollars. It is worthy of consideration whether this might not, from time to time,

be converted into dollars or fractional coin and slowly put into circulation, as in the judgment of the Secretary of the Treasury the necessities of the country should require.

Whatever is attempted should be entered upon fully appreciating the fact that by careless, easy descent we have reached a dangerous depth, and that our ascent will not be accomplished without laborious toil and struggle. We shall be wise if we realize that we are financially ill and that our restoration to health may require heroic treatment and unpleasant remedies.

In the present stage of our difficulty it is not easy to understand how the amount of our revenue receipts directly affects it. The important question is not the quantity of money received in revenue payments, but the kind of money we maintain and our ability to continue in sound financial condition. We are considering the Government's holdings of gold as related to the soundness of our money and as affecting our national credit and monetary strength.

If our gold reserve had never been impaired; if no bonds had ever been issued to replenish it; if there had been no fear and timidity concerning our ability to continue gold payments; if any part of our revenues were now paid in gold, and if we could look to our gold receipts as a means of maintaining a safe reserve, the amount of our revenues would be an influential factor in the problem. But unfortunately all the circumstances that might lend weight to this consideration are entirely lacking.

In our present predicament no gold is received by the Government in payment of revenue charges, nor would there be if the revenues were increased. The receipts of the Treasury, when not in silver certificates, consist of United States notes and Treasury notes issued for silver purchases. These forms of money are only useful to the Government in paying its current ordinary expenses, and its quantity in Government possession does not in the least contribute toward giving us that kind of safe financial standing or condition which is built on gold alone.

If it is said that these notes if held by the Government can be used to obtain gold for our reserve, the answer is easy. The people draw gold from the Treasury on demand upon United States notes and Treasury notes, but the proposition that the Treasury can on demand draw gold from the people upon them would be regarded in these days with wonder and amusement. And even if this could be done, there is nothing to prevent those thus parting with their gold from regaining it the next day or the next hour by the presentation of the notes they received in exchange for it.

The Secretary of the Treasury might use such notes taken from

a surplus revenue to buy gold in the market. Of course he could not do this without paying a premium. Private holders of gold, unlike the Government, having no parity to maintain, would not be restrained from making the best bargain possible when they furnished gold to the Treasury; but the moment the Secretary of the Treasury bought gold on any terms above par he would establish a general and universal premium upon it, thus breaking down the parity between gold and silver which the Government is pledged to maintain, and opening the way to new and serious complications. In the meantime the premium would not remain stationary, and the absurd spectacle might be presented of a dealer selling gold to the Government, and with United States notes or Treasury notes in his hand immediately clamoring for its return and a resale at a higher premium.

It may be claimed that a large revenue and redundant receipts might favorably affect the situation under discussion by affording an opportunity of retaining these notes in the Treasury when received, and thus preventing their presentation for gold. Such retention to be useful ought to be at least measurably permanent; and this is precisely what is prohibited, so far as United States notes are concerned, by the law of 1878 forbidding their further retirement. That statute in so many words provides that these notes when received into the Treasury and belonging to the United States shall be "paid out again and kept in circulation."

It will, moreover, be readily seen that the Government could not refuse to pay out United States notes and Treasury notes in current transactions when demanded and insist on paying out silver alone and still maintain the parity between that metal and the currency representing gold. Besides, the accumulation in the Treasury of currency of any kind exacted from the people through taxation is justly regarded as an evil, and it can not proceed far without vigorous protest against an unjustifiable retention of money from the business of the country and a denunciation of a scheme of taxation which proves itself to be unjust when it takes from the earnings and income of the citizen money so much in excess of the needs of Government support that large sums can be gathered and kept in the Treasury. Such a condition has heretofore in times of surplus revenue led the Government to restore currency to the people by the purchase of its unmatured bonds at a large premium and by a large increase of its deposits in national banks, and we easily remember that the abuse of Treasury accumulation has furnished a most persuasive argument in favor of legislation radically reducing our tariff taxation.

Perhaps it is supposed that sufficient revenue receipts would in a sentimental way improve the situation, by inspiring confidence in our solvency and allaying the fear of pecuniary exhaustion. And yet through all our struggles to maintain our gold reserve there never has been any apprehension as to our ready ability to pay our way with such money as we had; and the question whether or not our current receipts met our current expenses has not entered into the estimate of our solvency. Of course the general state of our funds, exclusive of gold, was entirely immaterial to the foreign creditor and investor. His debt could only be paid in gold, and his only concern was our ability to keep on hand that kind of money.

On July 1, 1892, more than a year and a half before the first bonds were issued to replenish the gold reserve, there was a net balance in the Treasury, exclusive of such reserve, of less than $13,000,000; but the gold reserve amounted to more than $114,000,000, which was the quieting feature of the situation. It was when the stock of gold began rapidly to fall that fright supervened and our securities held abroad were returned for sale and debts owed abroad were pressed for payment. In the meantime extensive shipments of gold and other unfavorable indications caused restlessness and fright among our people at home. Thereupon the general state of our funds, exclusive of gold, became also immaterial to them, and they, too, drew gold from the Treasury for hoarding against all contingencies. This is plainly shown by the large increase in the proportion of gold withdrawn which was retained by our own people as time and threatening incidents progressed. During the fiscal year ending June 30, 1894, nearly $85,000,000 in gold was withdrawn from the Treasury and about $77,000,000 was sent abroad, while during the fiscal year ending June 30, 1895, over $117,000,000 was drawn out, of which only about $66,000,000 was shipped, leaving the large balance of such withdrawals to be accounted for by domestic hoarding.

Inasmuch as the withdrawal of our gold has resulted largely from fright, there is nothing apparent that will prevent its continuance or recurrence, with its natural consequences, except such a change in our financial methods as will reassure the frightened and make the desire for gold less intense. It is not clear how an increase in revenue, unless it be in gold, can satisfy those whose only anxiety is to gain gold from the Government's store.

It can not therefore be safe to rely upon increased revenues as a cure for our present troubles.

It is possible that the suggestion of increased revenue as a remedy for the difficulties we are considering may have originated in an

intimation or distinct allegation that the bonds which have been issued ostensibly to replenish our gold reserve were really issued to supply insufficient revenue. Nothing can be further from the truth. Bonds were issued to obtain gold for the maintenance of our national credit. As has been shown, the gold thus obtained has been drawn again from the Treasury upon United States notes and Treasury notes. This operation would have been promptly prevented if possible; but these notes having thus been passed to the Treasury, they became the money of the Government, like any other ordinary Government funds, and there was nothing to do but to use them in paying Government expenses when needed.

At no time when bonds have been issued has there been any consideration of the question of paying the expenses of Government with their proceeds. There was no necessity to consider that question. At the time of each bond issue we had a safe surplus in the Treasury for ordinary operations, exclusive of the gold in our reserve. In February, 1894, when the first issue of bonds was made, such surplus amounted to over $18,000,000; in November, when the second issue was made, it amounted to more than $42,000,000, and in February, 1895, when bonds for the third time were issued, such surplus amounted to more than $100,000,000. It now amounts to $98,072,420.30.

Besides all this, the Secretary of the Treasury had no authority whatever to issue bonds to increase the ordinary revenues or pay current expenses.

I can not but think there has been some confusion of ideas regarding the effects of the issue of bonds and the results of the withdrawal of gold. It was the latter process and not the former that by substituting in the Treasury United States notes and Treasury notes for gold increased by their amount the money which was in the first instance subject to ordinary Government expenditure.

Although the law compelling an increased purchase of silver by the Government was passed on the 14th day of July, 1890, withdrawals of gold from the Treasury upon the notes given in payment on such purchases did not begin until October, 1891. Immediately following that date the withdrawals upon both these notes and United States notes increased very largely, and have continued to such an extent that since the passage of that law there has been more than thirteen times as much gold taken out of the Treasury upon United States notes and Treasury notes issued for silver purchases as was thus withdrawn during the eleven and a half years immediately prior thereto and after the 1st day of January, 1879, when specie payments were resumed.

It is neither unfair nor unjust to charge a large share of our present financial perplexities and dangers to the operation of the laws of 1878 and 1890 compelling the purchase of silver by the Government, which not only furnished a new Treasury obligation upon which its gold could be withdrawn, but so increased the fear of an overwhelming flood of silver and a forced descent to silver payments that even the repeal of these laws did not entirely cure the evils of their existence.

While I have endeavored to make a plain statement of the disordered condition of our currency and the present dangers menacing our prosperity, and to suggest a way which leads to a safer financial system, I have constantly had in mind the fact that many of my countrymen, whose sincerity I do not doubt, insist that the cure for the ills now threatening us may be found in the single and simple remedy of the free coinage of silver. They contend that our mints shall be at once thrown open to the free, unlimited, and independent coinage of both gold and silver dollars of full legal-tender quality, regardless of the action of any other government and in full view of the fact that the ratio between the metals which they suggest calls for one hundred cents' worth of gold in the gold dollar at the present standard, and only fifty cents in intrinsic worth of silver in the silver dollar.

Were there infinitely stronger reasons than can be adduced for hoping that such action would secure for us a bimetallic currency moving on lines of parity, an experiment so novel and hazardous as that proposed might well stagger those who believe that stability is an imperative condition of sound money.

No government, no human contrivance or act of legislation, has ever been able to hold the two metals together in free coinage at a ratio appreciably different from that which is established in the markets of the world.

Those who believe that our independent free coinage of silver at an artificial ratio with gold of 16 to 1 would restore the parity between the metals, and consequently between the coins, oppose an unsupported and improbable theory to the general belief and practice of other nations, and to the teaching of the wisest statesmen and economists of the world, both in the past and present, and, what is far more conclusive, they run counter to our own actual experiences.

Twice in our earlier history our lawmakers in attempting to establish a bimetallic currency undertook free coinage upon a ratio which accidentally varied from the actual relative values of the two metals not more than three per cent. In both cases, notwithstanding

greater difficulties and cost of transportation than now exist, the coins whose intrinsic worth was undervalued in the ratio, gradually and surely disappeared from our circulation and went to other countries where their real value was better recognized.

Acts of Congress were impotent to create equality where natural causes decreed even a slight inequality.

Twice in our recent history we have signally failed to raise by legislation the value of silver. Under an act of Congress passed in 1878 the Government was required for more than twelve years to expend annually at least $24,000,000 in the purchase of silver bullion for coinage. The act of July 14, 1890, in a still bolder effort increased the amount of silver the Government was compelled to purchase, and forced it to become the buyer annually of 54,000,000 ounces, or practically the entire product of our mines. Under both laws silver rapidly and steadily declined in value. The prophecy and the expressed hope and expectation of those in the Congress who led in the passage of the last-mentioned act, that it would reestablish and maintain the former parity between the two metals, are still fresh in our memory.

In the light of these experiences, which accord with the experiences of other nations, there is certainly no secure ground for the belief that an act of Congress could now bridge an inequality of fifty per cent between gold and silver at our present ratio, nor is there the least possibility that our country, which has less than one-seventh of the silver money in the world, could by its action alone raise not only our own but all silver to its lost ratio with gold. Our attempt to accomplish this by the free coinage of silver at a ratio differing widely from actual relative values would be the signal for the complete departure of gold from our circulation, the immediate and large contraction of our circulating medium, and a shrinkage in the real value and monetary efficiency of all other forms of currency as they settled to the level of silver monometallism. Everyone who receives a fixed salary and every worker for wages would find the dollar in his hand ruthlessly scaled down to the point of bitter disappointment if not to pinching privation.

A change in our standard to silver monometallism would also bring on a collapse of the entire system of credit which, when based on a standard which is recognized and adopted by the world of business, is many times more potent and useful than the entire volume of currency and is safely capable of almost indefinite expansion to meet the growth of trade and enterprise. In a self-invited struggle through darkness and uncertainty our humiliation would be increased by the consciousness that we had parted company with all the enlightened and progressive nations of the world, and were desper-

ately and hopelessly striving to meet the stress of modern commerce and competition with a debased and unsuitable currency and in association with the few weak and laggard nations which have silver alone as their standard of value.

All history warns us against rash experiments which threaten violent changes in our monetary standard and the degradation of our currency. The past is full of lessons teaching not only the economic dangers, but the national immorality that follows in the train of such experiments. I will not believe that the American people can be persuaded after sober deliberation to jeopardize their nation's prestige and proud standing by encouraging financial nostrums, nor that they will yield to the false allurements of cheap money, when they realize that it must result in the weakening of that financial integrity and rectitude which thus far in our history has been so devotedly cherished as one of the traits of true Americanism.

Our country's indebtedness, whether owing by the Government or existing between individuals, has been contracted with reference to our present standard. To decree by act of Congress that these debts shall be payable in less valuable dollars than those within the contemplation and intention of the parties when contracted, would operate to transfer, by the fiat of law and without compensation, an amount of property and a volume of rights and interests almost incalculable.

Those who advocate a blind and headlong plunge to free coinage in the name of bimetallism and professing the belief, contrary to all experience, that we could thus establish a double standard and a concurrent circulation of both metals in our coinage, are certainly reckoning from a cloudy standpoint. Our present standard of value is the standard of the civilized world and permits the only bimetallism now possible, or at least that is within the independent reach of any single nation, however powerful that nation may be. While the value of gold as a standard is steadied by almost universal commercial and business use, it does not despise silver nor seek its banishment. Wherever this standard is maintained there is at its side in free and unquestioned circulation a volume of silver currency sometimes equaling and sometimes even exceeding it in amount, both maintained at a parity notwithstanding a depreciation or fluctuation in the intrinsic value of silver.

There is a vast difference between a standard of value and a currency for monetary use. The standard must necessarily be fixed and certain. The currency may be in divers forms and of various kinds. No silver-standard country has a gold currency in circulation; but an enlightened and wise system of finance secures the

benefits of both gold and silver as currency and circulating medium by keeping the standard stable and all other currency at par with it. Such a system and such a standard also give free scope for the use and expansion of safe and conservative credit, so indispensable to broad and growing commercial transactions and so well substituted for the actual use of money. If a fixed and stable standard is maintained such as the magnitude and safety of our commercial transactions and business require, the use of money itself is conveniently minimized.

Every dollar of fixed and stable value has through the agency of confident credit an astonishing capacity of multiplying itself in financial work. Every unstable and fluctuating dollar fails as a basis of credit, and in its use begets gambling speculation and undermines the foundations of honest enterprise.

I have ventured to express myself on this subject with earnestness and plainness of speech because I can not rid myself of the belief that there lurks in the proposition for the free coinage of silver, so strongly approved and so enthusiastically advocated by a multitude of my countrymen, a serious menace to our prosperity and an insidious temptation of our people to wander from the allegiance they owe to public and private integrity. It is because I do not distrust the good faith and sincerity of those who press this scheme that I have imperfectly but with zeal submitted my thoughts upon this momentous subject. I can not refrain from begging them to reexamine their views and beliefs in the light of patriotic reason and familiar experience, and to weigh again and again the consequences of such legislation as their efforts have invited. Even the continued agitation of the subject adds greatly to the difficulties of a dangerous financial situation already forced upon us.

In conclusion I especially entreat the people's representatives in the Congress, who are charged with the responsibility of inaugurating measures for the safety and prosperity of our common country, to promptly and effectively consider the ills of our critical financial plight. I have suggested a remedy which my judgment approves. I desire, however, to assure the Congress that I am prepared to co-operate with them in perfecting any other measure promising thorough and practical relief, and that I will gladly labor with them in every patriotic endeavor to further the interests and guard the welfare of our countrymen whom in our respective places of duty we have undertaken to serve.

GROVER CLEVELAND.

EXECUTIVE MANSION,
December 2, 1895.

CORRESPONDENCE.

ARGENTINE REPUBLIC.

THE MISSIONES AWARD.

Award of the President of the United States of America, under the treaty of arbitration concluded September 7, 1889, between the Argentine Republic and the Empire (now United States) of Brazil.

The treaty concluded September 7, 1889, between the Argentine Republic and Brazil for the settlement of a disputed boundary question provides, among other things, as follows:

ARTICLE I.

The contention about the right that each one of the high contracting parties judges to have to the territory in dispute between them shall be closed within the term of ninety days, to be counted from the ending of the survey of the land in which the head waters of the rivers Chapeco or Pepiri-guazu and Jangada or San Antonio-guazu are found. The said survey is understood to end the day on which the commissions appointed by virtue of the treaty of September 28, 1885, shall present to their Governments their reports and plans referred to in article 4 of the same treaty.

ARTICLE II.

Should the time specified in the preceding article expire without an amicable solution being reached, the question shall be submitted to the arbitration of the President of the United States of America, to whom the high contracting parties shall address themselves within the next sixty days, requesting him to accept that commission.

ARTICLE V.

The boundaries shall be established by the rivers that either Brazil or the Argentine Republic has designated, and the arbitrator shall be invited to decide in favor of one of the parties, as he may deem just, and in view of the reasons and the documents they may produce.

ARTICLE VI.

The decision shall be pronounced within the term of twelve months, counting from the date of the presentation of the expositions, or from the latest one if the presentation be not made at the same time by both parties. It shall be final and obligatory, and no reason shall be alleged to obstruct its enactment.

The high contracting parties having failed to arrive at an amicable solution within the time stipulated as aforesaid, have, in accordance with the alternative provisions of the treaty, submitted the controverted question to me, Grover Cleveland, President of the United States of America, for arbitration and award under the conditions in said treaty prescribed.

Each party has presented to me within the time and in the manner specified in Article IV of the treaty, an argument, with evidence, documents, and titles in support of its asserted right.

The question submitted to me for decision under the treaty aforesaid is: Which of two certain systems of rivers constitutes the boundary of Brazil and the Argentine Republic in that part of their adjoining territory which lies between the Uruguay and the Yguazu rivers? Each of the designated boundary systems is composed of two rivers having their sources near together and flowing in opposite directions, one into the Uruguay and the other into the Yguazu.

The two rivers designated by Brazil as constituting the boundary in question (which may be denominated the Westerly system) are a tributary of the Uruguay and a tributary of the Yguazu, which were marked, recognized, and declared as boundary rivers in 1759 and 1760 by the joint commission appointed under the treaty of January 13, 1750, between Spain and Portugal, to locate the boundary between the Spanish and Portugese possessions in South America. The affluent of the Uruguay is designated in the report of those commissioners as the Pepiri River (sometimes spelled Pepiry). In certain later documents put in evidence it is called the Pepiri-guazu. The opposite river flowing into the Yguazu was named the San Antonio by the said commissioners, and it retains that name.

The two rivers claimed by the Argentine Republic as forming the boundary (which may be denominated the Easterly system) lie more to the east and are by that Republic called the Pequiri-guazu (flowing into the Uruguay) and the San Antonio-guazu (flowing into the Yguazu). Of these two rivers last aforesaid, the first is by Brazil called the Chapeco and the second the Jangada.

Now, therefore, be it known, that I, Grover Cleveland, President of the United States of America, upon whom the functions of arbitrator have been conferred in the premises, having duly examined and considered the arguments, documents, and evidence to be submitted by the respective parties pursuant to the provisions of said treaty, do hereby make the following decision and award:

That the boundary line between the Argentine Republic and the United States of Brazil, in that part submitted to me for arbitration and decision, is constituted and shall be established by and upon the rivers Pepiri (also called Pepiri-guazu) and San Antonio, to wit, the rivers which Brazil has designated in the argument and documents submitted to me as constituting the boundary, and hereinbefore denominated the Westerly system.

For convenience of identification these rivers may be further described as those recognized, designated, marked, and declared as the Pepiri and San Antonio, respectively, and as the boundary rivers, in the years 1759 and 1760, by the Spanish and Portuguese commissioners in that behalf, appointed pursuant to the treaty of limits concluded January 13, 1750, between Spain and Portugal, as is recorded in the official report of the said commissioners. The mouth of the affluent of the Uruguay last aforesaid, to wit, the Pepiri (also called Pepiri-guazu), which, with the San Antonio, is hereby determined to be the boundary

in question, was reckoned and reported by the said commissioners who surveyed it in 1759 to be one and one-third leagues upstream from the Great Falls (Salto Grande) of the Uruguay, and two-thirds of a league above a smaller affluent on the same side called by the said commissioners the Ytayoa. According to the map and report of the survey made in 1887 by the Brazilian-Argentine joint commission, in pursuance of the treaty concluded September 28, 1885, between the Argentine Republic and Brazil, the distance from the Great Falls of the Uruguay to the mouth of the aforesaid Pepiri (also called Pepiriguazu) was ascertained and shown to be four and one-half miles as the river flows. The mouth of the affluent of the Yguazu last aforesaid, to wit, the San Antonio, was reckoned and reported by the said commissioners of 1759 and 1760 to be nineteen leagues upstream from the Great Falls (Salto Grande) of the Yguazu, and twenty-three leagues from the mouth of the latter river. It was also by them reported as the second important river that empties itself on the south bank of the Yguazu above its Salto Grande, the San Francisco, about seventeen and one-fourth leagues above the Great Falls, being the first. In the report of the joint survey made in 1788 under the treaty of October 1, 1777, between Spain and Portugal, the location of the San Antonio with reference to the mouth and the Great Falls of the Yguazu agrees with that above stated.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in triplicate at the city of Washington on the fifth day of February in the year one thousand eight hundred and ninety-five, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.] GROVER CLEVELAND.

By the President.

W. Q. GRESHAM,
Secretary of State.

ARGENTINE TARIFF.[1]

Mr. Buchanan to Mr. Gresham.

No. 74.] LEGATION OF THE UNITED STATES,
Buenos Ayres, November 19, 1894. (Received Dec. 31.)

SIR: The customs tariff law for 1895, having been reported to the Chamber of Deputies by the committee to whom it was referred, is now under debate. There is a slight possibility that nothing will be done with it and that the present law may remain in force another year. This is, however, hardly probable, the rumor owing its existence to the political situation arising from the cabinet crisis of which I have advised you.

There seems but little doubt of the passage of the bill practically in the form recommended by the committee of the Chamber of Deputies.

I am glad to inform you that the committee has approved the modification made by the Government in the tariff commission's bill with relation to agricultural implements and lumber. These changes were reported in my No. 63.

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[1] See Foreign Relations, 1894, pp. 3–18.

I am also pleased to be able to report that the following favorable changes have been made by the committee in two items, to which also I referred in my No. 63, viz, farm wagons and fruits or vegetables in tins.

They recommend a reduction in the duty on farm wagons from 60 per cent, present duty, and 50 per cent, tariff commission's recommendation, to 10 per cent.

On canned fruits and vegetables in tins they recommend a reduction from 30 cents specific tax per kilo, present duty, and 15 cents, tariff commission's report, to 3 cents per kilo.

Should the bill pass with these changes, our manufacturers will have open to the last two lines of goods practically a new market, which they should at once take advantage of. While it is true that in farm wagons we have little, if any, competition, it should be remembered that in canned fruits and vegetables France will be an active competitor. I am, however, well satisfied of the superiority of our canned goods, both in quality and variety, and of the ability of our packers under normal conditions to successfully compete with other countries. I shall be greatly disappointed in the event of the passage of the bill if our manufacturers interested in these two lines do not find here a new and profitable market.

I have, etc., WILLIAM I. BUCHANAN.

Mr. Buchanan to Mr. Gresham.

No. 86.] LEGATION OF THE UNITED STATES,
Buenos Ayres, January 10, 1895. (Received Feb. 11.)

SIR: I cabled you to-day as follows:

GRESHAM, *Washington:*

Tariff bill passed; advantages mentioned in my Nos. 63, 64, and 74 secured, except canned goods raised to 15 cents.

BUCHANAN.

DUTY ON WOOLS.

Señor Dominguez to Mr. Olney.

No. 19.] ARGENTINE LEGATION,
Washington, December 26, 1895.

SIR: The undersigned, chargé d'affaires of the Argentine Republic, has the honor to respectfully call your excellency's attention to the announcement that Congress has for its consideration a bill providing that there shall be levied a duty on all imported wools.

Your excellency is aware that immediately this country placed wool on the free list, by the act of August 27, 1894, the Argentine Republic responded by reducing the duties on certain American products, and the President of the United States acknowledged the fact in his annual message to Congress.

If, as it is apparent, the United States wishes to cultivate closer relations with the South American Republics, it would be greatly to be desired that this market should not be shut up to one of the chief products of the Argentine Republic.

In order that there should not be any interruption in the good feelings now happily existing, and to avoid disturbing the commercial relations between the two countries, the undersigned ventures to ask your excellency whether it could not be suggested that in considering the bill the proposed duty should be made to apply only to countries other than South America.

The amount of wool imported from the countries of this continent is comparatively very small.

According to the official statistics of the United States, during the ten months ending in October last only 35,000,000 pounds of wool were imported from South America, while from the United Kingdom alone 85,000,000 came, besides 226,000,000 from other countries. (Finance, Commerce, and Navigation of the United States, October, 1895, p. 427.)

The memorial of the National Woolgrowers' Association, recently presented to Congress, states on page 59 that "it was unjust (in the McKinley act) not to levy greater duties on unwashed Australian wools than on South American wools."

It appears, therefore, that Congress would satisfy all the interests concerned by making the distinction which the undersigned has the honor to submit to your excellency's consideration.

In this way the relations with a sister nation would not be affected, and the Argentine Republic would supply in a moderate degree the wants of this market, while the United States, taking advantage of the field opened to American manufacturers in that country, would continue to expand her exports, which, in the above referred to ten months, amounted to $4,038,452, a larger amount than the exports to any of the South American Republics except Brazil.

Hoping that your excellency will devote immediate attention to this urgent matter, the undersigned has the honor to renew, etc.,

VICENTE J. DOMINGUEZ.

AUSTRIA-HUNGARY.

DIFFERENTIAL DUTY ON SUGAR IMPORTED FROM BOUNTY-PAYING COUNTRIES.[1]

Mr. Hengelmüller to Mr. Gresham.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, January 3, 1895.

Mr. SECRETARY OF STATE: I have the honor to inform your excellency that I have received instructions from my Government to enter a protest against the discriminating duty on sugar from Austria-Hungary which was imposed by the new customs tariff of August 28, 1894.

This discriminating usage, according to which sugar on which a bounty is paid in Austria-Hungary, and which is exported to the United States, is obliged to pay a duty of one-tenth of a cent per pound, is entirely at variance with Article III of the treaty concluded in the year 1829 between Austria-Hungary and the United States, which treaty stipulates that goods imported into the United States from Austria-Hungary shall be subjected to no discrimination in respect to duties.

I also take the liberty to refer to the notes exchanged between this Imperial and Royal Legation and the Department of State of May 2 and 3, 1892, which form a new basis of the commercial relations existing between Austria-Hungary and the United States, and on which the proclamation of President Harrison of May 26, 1892, was based.

In that exchange of notes Austria-Hungary declared that it was prepared to grant the same reductions of duties that were granted to other countries, and that were included in the most-favored-nation clause, to similar North American products, on the supposition that a continuance of the exemption from duties mentioned in section 3 of the North American customs tariff of October 10, 1890, would be guaranteed, especially to sugar imported into the United States from Austria-Hungary.

The importation of sugar from Austria-Hungary into the United States is now subjected not only to the duties established in Schedule E, No. 182½, of the new tariff of August 28, 1894, but is also subjected to an addition of one-tenth of a cent per pound, which is levied on the sugar of countries that allow an export bounty on this article.

The high Imperial and Royal Government can not deny that a public bounty is paid in Austria-Hungary on the exportation of sugar. Yet the same export bounty was paid in the year 1892, when the aforesaid arrangement was made. It clearly appears, moreover, from the system of sugar taxation which is in force in Austria-Hungary, that the export bounty is now allowed simply as a measure which has been forced upon the country, exceptionally, and owing to the state of affairs in the competing States.

The granting of export bounties is, furthermore, a domestic concern

[1] Reprinted from Senate Ex. Doc. No. 58, 53d Congress, 3d session.

of the State that grants them, and therefore gives no right to other countries to impose additional duties, which would render illusory the most-favored-nation principle, on which our relations with North America have been based since 1829.

The Imperial and Royal Government is consequently compelled to enter a decided protest against that provision of the new North American customs tariff which establishes a discriminating usage for Austro-Hungarian sugar.

Austria-Hungary is conscious of having kept the promise made in that exchange of notes with regard to the usage to be granted to North American products on their importation into Austria-Hungary. The Imperial and Royal Government therefore feels authorized, in view of the friendly relations existing between it and the United States, to expect that the latter country, even if it thinks that it can not, for reasons connected with its customs policy, any longer continue the exemption from duty on raw sugar which was guaranteed in 1892, will nevertheless cease to refuse to this article, when imported from Austria-Hungary, the same usage that it grants to the productions of the most favored nation.

The result of a continuance of the existing state of things would be that the Imperial and Royal Government would be obliged to act independently as regards the usage to be granted to North American productions when imported into Austria-Hungary. We should be all the more compelled so to act, inasmuch as, according to another provision of the new North American tariff law, sugar from States allowing export bounties may, on certain conditions, and provided that such States comply with certain formalities to be specified by the Secretary of the Treasury, be exempted from paying the additional duty; and it is consequently possible for countries that secretly allow bounties, and the levying of whose taxes is controlled with difficulty, to secure exemption from the additional duty, while the sugar of countries that openly meet the bounty question, and whose action is altogether aboveboard, is excluded from competition in the North American market.

Trusting that your excellency will not refuse to consider the foregoing statements, and that you will use your kind mediation to the end that the Federal Government may take such action as will meet the wishes of the Imperial and Royal Austro-Hungarian Government, I take the liberty to request that I may be informed, with as little delay as possible, concerning the view taken of this communication by the Federal Government.

Accept, etc.,

HENGELMÜLLER.

Mr. Gresham to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, January 28, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, protesting against the discriminating duty of one-tenth of 1 cent a pound on sugar which receives a bounty on exportation to the United States from Austria-Hungary.

This protest is grounded on Article III of the treaty of 1829 and on the commercial arrangement reached by exchange of notes May 2d and 3d, 1892, and proclaimed by the President on the 26th of the same month.

I need not at present do more than observe, first, that the third article of the treaty relates to equality of treatment of imports under the flag of either country, and does not seem applicable to the present matter; and, second, that the arrangement of 1892, being concluded under the authority of the third section of the tariff act of 1890, necessarily came to an end by the repeal of that section when the existing tariff act took effect.

Discussion of the questions you present may, with propriety, be postponed in view of the pendency of a bill in Congress providing for the repeal of the provision of the present law imposing the differential duty. When that bill is disposed of, I may communicate further with you on the subject.

Accept, etc.,

W. Q. GRESHAM.

Mr. Hengelmüller to Mr. Gresham.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, January 31, 1895. (Received Feb. 1, 1895.)

Mr. SECRETARY OF STATE: I have the honor to acknowledge the receipt of the note whereby your excellency had the kindness to reply to the protest of the Imperial and Royal Government which was filed by me on the 3d instant against the additional duty of one-tenth of a cent per pound on sugar of Austro-Hungarian origin.

While I take note of your excellency's desire to postpone the discussion of this question until it shall have been decided by the bill on the subject which is now before Congress, and so report to my high Government, it is proper for me to inform your excellency that the reference to Article III of our treaty of commerce in my note of the 3d instant was simply due to an unfortunate clerical error, and that, instead of Article III, the reference should have been to Article V, which contains the most-favored-nation clause, and reads as follows:

No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of the dominions of Austria, and no higher or other duties shall be imposed on the importation into the dominions of Austria of any article the produce or manufacture of the United States, than are or shall be payable on the like article being the produce or manufacture of any other foreign country. Nor shall any prohibition be imposed on the importation or exportation of any article the produce or manufacture of the United States, or of the dominions of Austria, to or from the ports of the United States, or to or from the ports of the dominions of Austria, which shall not equally extend to all other nations.

Accept, etc.,

HENGELMÜLLER.

ACCEPTANCE OF PASSPORTS AS PRIMA FACIE EVIDENCE OF CITIZENSHIP.

Mr. Hengelmüller to Mr. Gresham.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, May 1, 1895.

Mr. SECRETARY OF STATE: According to information received by the Imperial and Royal ministry of the national defense at Vienna,

Friedrich Hellebrand, who was born at Tattenik, Austria, in the year 1869, who emigrated to America in 1884, whose name was enrolled in the list of those subject to military duty in the parish to which he belonged, and who is now registered there as being illegally absent, recently returned to his native place and exhibited an American passport, declaring that he had become a citizen of the United States.

The imperial and royal ministry of the national defense therefore asks my mediation for the purpose of ascertaining whether Friedrich Hellebrand has really become a citizen of the United States, and whether he is consequently to be exempted from the performance of military duty, and from the consequences of the nonperformance thereof, in pursuance of Article I, paragraph 1,[1] and Article II, final paragraph,[2] of the treaty between Austria-Hungary and the United States of America which was concluded September 20, 1870.

I consequently have the honor, in pursuance of instructions received from my Government, to beg your excellency to be pleased to procure the necessary information in this case and to transmit the same to me returning at the same time the passport of the person aforesaid.

Accept, etc.,

HENGELMÜLLER.

Mr. Uhl to Mr. Hengelmüller.

No. 27.] DEPARTMENT OF STATE,
Washington, May 8, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, with which, by direction of the Imperial and Royal ministry of the national defense at Vienna, you send me an original passport, No. 3897, issued by this Department on the 7th day of August, 1893, to Frederick Hillebrandt, "for the purpose," as you state, "of ascertaining whether Friedrich Hellebrand has really become a citizen of the United States, and whether he is consequently to be exempted from the performance of military duty, and from the consequences of the nonperformance thereof, in pursuance of Article I, paragraph 1, and Article II, final paragraph, of the treaty between Austria-Hungary and the United States of America which was concluded September 20, 1870."

No previous instance is recalled, certainly not in late years, of such a reference on the part of the Austro-Hungarian Government, and it would be much regretted were the present instance to form a precedent. The passports issued by the Secretary of State, under the seal of this Department, are evidence of the facts therein certified, and they would fail of the purpose for which they are issued were foreign authorities at liberty to disregard them until certified anew by the authority which issued them.

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

[2] On the other hand, a former citizen of the Austro-Hungarian Monarchy naturalized in the United States, who by or after his emigration has transgressed the legal provisions on military duty by any acts or omissions other than those above enumerated in the clauses numbered one, two, and three, can, on his return to his original country, neither be held subsequently to military service nor remain liable to trial and punishment for the nonfulfillment of his military duty.

In many recent instances, and notably in Austria-Hungary, this Government has had occasion to remonstrate against the embarrassment to, and even the deprivation of, personal liberty to which the holders of United States passports have been subjected by the action of the local authorities in detaining them while their passports were held for investigation or sent to the United States legation in the country for attestation of the facts therein certified. Protracted correspondence on the subject was held between the American legation at Vienna and the Imperial and Royal foreign office in 1893 and 1894, in the course of which the United States minister was instructed to convey to your Government the views here entertained touching what appeared to be the insupportable assumption of the Austro-Hungarian officials that a foreign passport is valueless as evidence per se, an assumption which, as Mr. Gresham instructed Mr. Bartlett Tripp under date of September 4, 1893,[1] "is wholly incompatible with the universally admitted doctrine that a state is the sole and ultimate judge of the citizenship of its own dependents, and is, in its sovereign capacity, competent to certify to the fact. A passport, in the eye of international law, is one of the highest sovereign acts of a state whereby it attests that the holder is a lawful citizen. In the nature of the case it must be assumed to be prima facie valid until shown to be otherwise. This Government can be satisfied with no less degree of respect in Austria-Hungary for its sovereign acts than it shows in the United States for the like sovereign acts of Austria-Hungary."

In Count Welsersheimb's note to Mr. Tripp of August 18, 1894, your Government admits "the necessity that papers issued by the competent authorities of one country should be respected and recognized by the authorities of a third state as long as these documents do not bear unmistakable proofs of having been counterfeited or otherwise obtained by fraud."

This last reservation is responsive to the proposition of the United States Government that the prima facie evidence of a verity supplied by the passport might be traversed by allegation of fraud, in which case this Government would hold itself ready to investigate the allegation when duly presented, and act as its duty might require.

It was supposed that the question at issue was definitely set at rest by this correspondence. Your present note, however, revives it in a modified form, for in place of the ex parte and independent municipal investigation of American passports by the Austro-Hungarian authorities, against which we have heretofore had just ground to remonstrate, a passport bearing the signature of the Secretary of State and seal of this Department is now sent to the authority which granted it "for the purpose of ascertaining whether Friedrich Hellebrand has really become a citizen of the United States."

No imputation of fraud or irregularity in connection with the passport in question is presented to this Government for investigation and action—nothing is asked save a renewed attestation of the fact already certified by the passport itself, that the bearer is a lawful citizen of the United States and as such entitled to the rights guaranteed to citizens by the existing treaties between the United States and Austria-Hungary.

This Government stands ready, as assurance has been before given, to cooperate in the investigation of any case where reasonable evidence of the fraudulent use of a United States passport may be forth-

[1] Printed in Foreign Relations, 1893, p. 23.

coming, and to that end the legations of the United States abroad will cheerfully render assistance, so far as an examination of the authenticity of the document is concerned, whenever there may be good ground to believe that a passport has been forged or tampered with, or is held by another than the person to whom it was lawfully issued, or was procured by fraud.

Having thus stated the views of this Government in the premises, and assuming that the Friedrich Hellebrand to whom your inquiry relates is the same as the Frederick Hillebrandt mentioned in the passport you inclose, I may state, without prejudice to the position herein taken that the passport in question was duly issued by this Department upon proof that the applicant had been lawfully naturalized after more than five years' residence in the United States. Our statutes penalize the issuance of a passport to any person not a citizen of the United States.

Returning the passport of Frederick Hillebrandt as requested, I avail, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Tripp.

No. 141.] DEPARTMENT OF STATE,
Washington, May 9, 1895.

SIR: I inclose for your information a copy of a note from the Austro-Hungarian minister of the 1st instant,[1] and of the Department's reply of the 8th,[2] in regard to his inquiry concerning the case of Frederick Hillebrandt, to whom a passport, No. 3897, was issued August 7, 1893. I add, also, a copy of Mr. Hillebrandt's application of August 4, 1893, as well as a copy of an instruction, No. 19, of November 26, 1892,[3] to the United States minister at St. Petersburg, in a somewhat similar case, and which emphasizes the point that this Government expects its passports to be accepted abroad as prima facie evidence of citizenship. When their validity is assailed by competent proof, the hearty cooperation of this Government may be relied upon to investigate and determine the disputed point.

I am, etc., EDWIN F. UHL.

Mr. Hengelmüller to Mr. Uhl.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, May 16, 1895.

HIGHLY ESTEEMED SIR: I have the honor to acknowledge, with thanks, the receipt of your note of the 8th instant, No. 27, whereby your excellency had the kindness to furnish me the information which I had requested concerning the American citizenship of Friedrich Hellebrand.

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[1] See page 8.
[2] See page 9.
[3] Printed in Foreign Relations, 1892, p. 530.

Your excellency stated, at the same time, that this information was furnished without prejudice to the position taken by the United States in relation to the prima facie evidence furnished by passports, and prefaced your esteemed note with some remarks in which that position was defined at length, and reference was made to the correspondence between the Imperial and Royal ministry of foreign affairs and the American legation at Vienna which grew out of the return to Austria of certain American citizens who had formerly been Austrian or Hungarian subjects.

In this connection, I would remark that it did not come within the scope of the inquiry which I was instructed to make to raise a discussion relative to the questions of principle thus arising.

I do not know what circumstances led the Imperial and Royal authorities to entertain doubts concerning the American citizenship which had been actually acquired by Friedrich Hellebrand notwithstanding the fact that he was in possession of a regular passport. By way of possible explanation, and as a purely private supposition, I nevertheless take the liberty to call your excellency's attention to the circumstance that passport No. 3897 was issued by the State Department to Frederick Hillebrandt, whereas the bearer of said passport is enrolled in the military list of his original place of residence as Friedrich Hellebrand.

Accept, etc.,

HENGELMÜLLER.

Mr. Uhl to Mr. Hengelmüller.

No. 31.] DEPARTMENT OF STATE,
Washington, May 22, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in further relation to your inquiry of May 1, touching the naturalization of Friedrich Hellebrand.

In my reply to you, of the 8th instant, I noted the discrepancy in the spelling, to which your present note adverts, but, not clearly perceiving how the submission of a passport issued by this Department in favor of Mr. Hillebrandt could enlighten the inquiry of your note as to whether Mr. Hellebrand has been naturalized a citizen of the United States, I naturally inferred that the passport and your inquiry related to the same person and that the variation was a mere slip of the pen, especially as you spoke of the inclosure as "the passport of the above named" (Hellebrand).

Should a case of disputed indentity be presented, raising doubt as to whether the actual possessor of the passport issued to Frederick Hillebrandt is the person therein mentioned, a case of fraudulent impersonation of the rightful owner of a genuine passport would arise, which this Government would be happy to assist in investigating through its legation in Austria-Hungary, and in regard to which it would adopt such course as the facts developed would warrant.

It is submitted, however, that your note of the 1st instant does not present such a case for consideration, and seems to admit of no other response than that already made, namely, that the passport, No. 3897, issued to Frederick Hillebrandt, is what it purports to be, a genuine certification of the citizenship of the person to whom it was lawfully issued.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

RIGHT OF JUDICIAL OFFICERS TO DISREGARD PASSPORTS AS PRIMA FACIE EVIDENCE OF CITIZENSHIP.

Mr. Tripp to Mr. Olney.

No. 151.] LEGATION OF THE UNITED STATES,
Vienna, July 26, 1895. (Received August 9.)

SIR: I have the honor to submit for your consideration the correspondence between this legation and the Imperial and Royal ministry of foreign affairs of Austria-Hungary in reference to the case of Solomon Czosnek, as shown by notes and translations herewith inclosed, the facts of which are as follows:

Solomon Czosnek was born at Chrzanow, in the province of Galicia, of Austrian parents, on the 1st day of April, 1873. In 1878 his father emigrated to America, and having established a permanent home in the United States sent for his family, consisting of a wife, the complainant, Solomon Czosnek, and a younger brother. Subsequently, in 1888, the father was duly naturalized a citizen of the United States, his son Solomon being then a minor of the age of 16 years. Young Solomon Czosnek continued to reside in the United States until January, 1895, when, desiring to visit Austria-Hungary upon some matters of business connected with his father's affairs, he applied to and obtained from the Department of State at Washington a passport in the usual form, the same being dated January 5, 1895, and numbered 7178.

Arriving at Chrzanow about the 1st of March, 1895, he was summoned by the local military authorities to appear for military duty. To this summons he replied that he was an American citizen and not subject to military duty in Austria-Hungary, and exhibited his passport. Subsequently he was arrested by the criminal authorities upon the complaint of the district attorney at Krakau, charging him with a violation of the military law of Austria-Hungary by evading military service when properly summoned. Upon this complaint, which in no way attacks or seeks to impeach the passport of Czosnek, he was bound over to the district court to answer the criminal charge therein contained. Czosnek appealed to this legation and I intervened in his behalf, which resulted in his discharge, as disclosed by the correspondence itself.

The case becomes valuable as a precedent in this, that, while in the John Benich case (see my dispatch No. 93 [1]) the Government of Austria-Hungary admitted the position taken by the Department of State through this legation, viz, that the passport of a friendly nation was prima facie evidence of citizenship and must be respected as such by local executive and administrative officers, the right has several times been suggested that judicial officers might with impunity act in disregard of the same. I therefore took occasion in this case to deny the right of the district attorney, whose complaint is herein set out in full, to hold this man to answer for failure to perform military duty in Austria-Hungary, at the same time ignoring his right as an American citizen and treating with contempt his passport from the State Department.

Without trenching upon the debatable ground of how far the courts of a friendly nation may go in reviewing the decisions of another friendly nation in reference to the status of a citizen claimed by either

[1] Foreign Relations, 1894, p. 36.

Government, I contented myself with politely but firmly contending that in a case where no charges of fraud were made against the person presenting the passport, in its procurement or as to his own identity, etc., the judicial officers were as much bound as executive or administrative officers to respect the paper when fair upon its face, and that it must be taken by them as prima facie evidence of the facts therein recited; and it gives me great pleasure to say that this view is shared by the Imperial and Royal ministry of foreign affairs for Austria-Hungary, as will be seen by its final note, a translated copy of which is herewith submitted, and by which this legation is informed that the district attorney at Krakau was not only instructed to immediately dismiss his complaint, but that in future the judicial authorities of Galicia were instructed that they must be governed in similar cases by the treaty and the views expressed in my notes to the imperial and royal ministry of foreign affairs.

It gives me great pleasure to add that since the determination of the Benich case, to which I have already referred, the annoyances of our citizens bearing American passports have been much less frequent, and it is to be hoped that the determination of this case and the instructions that have in accordance therewith been issued to the local authorities of Galicia will perhaps entirely end all further annoyance and hindrance to American travel in the provinces of Austria-Hungary. The frequent complaints in the past, it gives me pleasure to say, have not arisen from any want of courtesy or consideration on the part of any officials of the foreign office, or of the higher officers of State, but from overzeal and want of knowledge on the part of provincial officers or local authorities not under the control or jurisdiction of the ministry of foreign affairs.

Trusting that the determination of this matter may meet with your favor and approval,

I have, etc., BARTLETT TRIPP.

[Inclosure 1 in No. 151.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, May 23, 1895.

YOUR EXCELLENCY: One Solomon Czosnek, a naturalized citizen of the United States, makes complaint to this legation that he has been arrested at Chrzanow, Galicia, and held to answer the criminal charge of illegally abstaining from fulfilling military duty. The facts, as presented to this legation, are as follows:

Solomon Czosnek was born in Chrzanow, Galicia, on April 1, 1872, of Austrian parents. In 1878 the father emigrated to America, and having established a home in the United States sent for his family, consisting of a wife and two sons, the complainant, Solomon Czosnek, and a younger brother; that subsequently in 1888, the father, having made previous application, was duly naturalized a citizen of the United States, this complainant being at that time 16 years of age; that he has since said naturalization and since his arrival in the United States continuously resided therein until January, 1895, when, desiring to visit Austria upon matters of business, he applied to the Department of State at Washington, D. C., and was granted a passport in the usual form, the same being numbered 7178 and bearing date January 5, 1895.

Arriving at Chrzanow, he was, about the 1st of March, 1895, summoned to appear for military duty, to which summons he replied by submitting his passport and claim of American citizenship.

Mr. Czosnek was, on the 1st of May, 1895, subsequently arrested and held to answer the criminal charge of illegally abstaining from fulfilling military duty as above stated. To this charge he made the same answer and again exhibited his passport, which was taken from him by the local authorities, and has since been retained by them. Mr. Czosnek desires to visit Russia and other parts of Europe before returning to America, but is still detained at Chrzanow under surveillance and his passport is still withheld from him.

If the facts are as stated in the complaint made to this legation, a great wrong has been done Mr. Czosnek, one which your excellency, it is confidently expected, will immediately take measures to correct.

Under the naturalization laws of the United States, when the father becomes a naturalized citizen of that Government his wife and minor children become, ipso facto, citizens of the United States, and the citizenship of this son, under the facts herein stated, it will be at once admitted, comes clearly within the terms of the treaty of 1870, which provides that "citizens of the Austro-Hungarian Monarchy who have resided in the United States of America uninterruptedly at least five years and during such residence have become naturalized citizens of the United States shall be held by the Government of Austria and Hungary to be American citizens and shall be treated as such."

This is but one of several instances in which the local, civil, and military authorities of Austria-Hungary have deemed it their right to pass upon the validity or authenticity of American passports, whereby our citizens have been long hindered and delayed, and in some cases have been arrested and put to great cost and inconvenience. In the case of John Benich (see note of this legation to the foreign office, No. 93, under date of August 23, 1894), I took occasion to express fully and at length the views entertained by my Government as to the right of the local authorities of one government to review the decision of another friendly government under the general principles of international law, and in which view Count Welsersheimb, speaking for his excellency the minister of foreign affairs, in his reply (see note from foreign office of date August 18, 1894, No. 28523–7), approving the views therein expressed, took occasion to say:

In regard to that part of the esteemed letter of September 26, 1893, which treats of the necessity that papers issued by the competent authorities of one country should be respected and recognized by the authorities of a third state, as long as these documents do not bear unmistakable proofs of having been counterfeited or otherwise obtained by fraud, the provincial government of Croatia-Slavonia-Dalmatia begs leave to say that it fully shares the views expressed in that part of the note, and that the governor has not failed to instruct all his subordinate officers to act in the future in due conformity.

Again assuring your excellency, as in my note in that case I took occasion to do, that should any case arise in which the passport of an American citizen is drawn in question as to the identity of its bearer, or as to fraud in the procurement of the passport itself, this legation will hold itself in readiness to aid in causing the allegations and complaints to be immediately investigated by the authority from which the document issued, to the end, in all cases when the charges are sustained, that the document may be canceled and the bearer of the same be convicted and punished, my Government must insist, where its passport, bearing upon its face an apparent validity, is presented to the local authorities of your Government, that it must be respected as such

without subjecting its bearer to months of delay and great expense in proving and determining the facts of which the paper is prima facie evidence and, as to the local authorities to whom it is presented, the best evidence.

Being assured by our previous correspondence that no difference of opinion can possibly exist between the two Governments as to the legal questions involved, I trust it is not asking too much to request that such instructions may be issued to the different provinces of Austria-Hungary, as may in the future save your excellency the annoyance, and this legation the trouble, of making and passing upon complaints of American citizens deprived of their rights by provincial authorities acting in violation of the rules of international law governing the intercourse of friendly powers.

And at the same time permit me, etc.,

BARTLETT TRIPP.

[Inclosure 2 in No. 151.—Translation.]

Mr. Cziraky to Mr. Tripp.

VIENNA, *June 27, 1895.*

SIR: The ministry of foreign affairs has not neglected to address itself to the minister of public defense in regard to the nonfulfillment of the military duty on the part of the alleged citizen of the United States, Solomon Czosnek, as requested in the esteemed note of May 23 last, No. 96, in order that the case in question be fully investigated and further steps be subsequently taken.

The minister of public defense now reports that the investigations which have been made furnish the following result:

Solomon Czosnek, born in Chrzanow in 1872, was called to report for military duty, by ticket No. 584, in the year 1893. He did not answer this summons, however, neither in 1893 nor in 1894, for the reason that he had gone to America when he was 16 years old in company with his mother, without having obtained a permit to emigrate. He was, therefore, carried on the descriptive rolls according to paragraph 109 of the military law, and marked as being absent.

On his return to his native town in 1894, he was summoned by the authorities of his community to appear before the military board of examination, and in February, 1895, he reported to the district captain at Chrzanow, protesting against his enrollment on the ground of having become a citizen of the United States by the naturalization of his father in 1888, when he was yet a minor. To prove his assertion, he produced the passport which had been issued to him.

His statements were written down by the district captain at Chrzanow, and afterwards transmitted to the state attorney at Krakau for further action.

In the course of proceeding against Solomon Czosnek the district court at Chrzanow had taken the passport away from the accused, and had forwarded the same to the United States legation at Vienna, with the request that its genuineness be verified, asking at the same time whether the owner of the document in question was really an American citizen.

A reply has so far, as the provincial governor at Lemberg under date of June 8 reports, not yet been received, and the provincial government of Galicia is of opinion that Solomon Czosnek's passport is still

with the United States legation. The accused, it must here be said, is not deprived of his liberty, and is allowed to move about freely.

The case, as it appears from the foregoing, being still pending, the ministry of public defense is unable to act before judgment has been passed, the more so as it must first be ascertained whether Solomon Czosnek is the legitimate son of the father who emigrated to America and whether he received his citizenship with the latter according to law.

While the ministry of foreign affairs reserves to itself the privilege of giving further information to the honorable envoy of the United States as soon as received, the undersigned avails, etc.,

CZIRAKY,
For the Minister of Foreign Affairs.

[Inclosure 3 in No. 151.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, June 27, 1895.

YOUR EXCELLENCY: Referring to the note from this legation, No. 96, of May 23, 1895, in reference to the case of Solomon Czosnek, I have the honor to further say that I have this day received from Mr. Czosnek another communication containing copy of an "Anklage-Aki" served upon him, a duplicate of which is herewith inclosed for the consideration of your excellency.

If the reasons given by the district attorney for holding this man to answer before the courts to a criminal charge are the real and only ones against him, I am sure your excellency will agree with me that it is my duty to insist upon prompt and immediate discharge. The district attorney says:

> In view, however, that the accused, although he emigrated before he was liable to military duty, received no permit from the minister of defense (par. 64 of the military law), or at least can not produce one, it can not be assumed that he is exempt from military duty even if he should be provided with a United States passport.

In other words, a United States passport is not prima facie evidence that a man is an American citizen, and as such exempt from military duty. The language used admits of no other meaning.

No charge is brought against this man that his passport has been obtained by fraud, that he is not the identical person therein named, but he is arrested upon the ground that he was born a citizen of Austria-Hungary and has failed to report for military duty during the three years 1893, 1894, 1895, since he has become of age, and this in spite of his passport as an American citizen, which he presents and the authenticity of which stands unchallenged and undenied. Your excellency will agree with me that no principle of international law permits the passports of a friendly nation to be thus ignored or even treated with contempt.

Without desiring to enter upon the field of discussion as to how far or under what circumstances a friendly nation is permitted to attack the passports of the citizens of another friendly nation, I content myself with denying the position taken by the district attorney in this case and the reasons given by him for holding this man to answer a criminal charge and for assuming that he may do so notwithstanding the passport, and without attempt at impeaching the same. As Mr.

Czosnek has already been long detained in Chrzanow at great expense, and the reasons given by the local authorities are such as can not be admitted in justification of his further detention, I am led to confidently expect that your excellency will immediately take such steps in the premises as will make complaint as to further action on the part of the local authorities in Chrzanow unnecessary by my Government.

I avail, etc.,

BARTLETT TRIPP.

[Subinclosure.—Translation.]

CHARGES.

The state attorney at Krakau charges Solomon Czosnek, of Chrzanow, 23 years old, single, commercial correspondent, to have avoided rendering military duty, and to have been outside of the limits of the Austro-Hungarian Empire during 1893 and 1894, at a time when he should have reported for service, by which act he violated the provisions of paragraph 45 of the law of April 11, 1889, N–41, and it is ordered that he be tried before the provincial court at Krakau, where he will be summoned, and that during the trial the documents issued by the district captain at Chrzanow on April 5, 1895, and May 22, as well as those of the chief of the community at Chrzanow of April 18, 1895, and all the testimonials of the accused, be admitted.

REASONS.

It appears that the accused was born in 1872 at Chrzanow, and was therefore liable to military duty in 1893, 1894, and 1895. He did not report, however, until in the spring of 1895.

He alleges to have emigrated when 16 years old, to have become a citizen of the United States, for which reason he did not report for military duty; nor did he do so until he came to Chrzanow, at the beginning of 1895, when he was summoned. In view of the fact, however, that the accused, although he emigrated before he was liable to military duty, received no permit from the ministry of public defense (par. 64 of military law), or at least can not produce one, it can not be assumed that he is exempt from military duty, even if he be provided with a United States passport, and as he failed to fulfill his military duties in 1893 and 1894, and was during that time in America, the charges appear to be well founded.

Krakau, May 31, 1895.

THE STATE ATTORNEY.

[Inclosure 4 in No. 151.]

Mr. Tripp to Count Goluchowsky.

UNITED STATES LEGATION,
Vienna, June 29, 1895.

YOUR EXCELLENCY: This legation has the honor to acknowledge the receipt of the esteemed note of June 27 last in reference to the case of Solomon Czosnek, and replying thereto in addition to my note No. 103, of June 27 last, upon the same subject-matter, I have the honor to say in reference to the statement that the district court at Chrzanow has forwarded the passport of Mr. Czosnek to this legation for authentication, that it has never been received at this legation, and if it has been sent, as therein stated, it must have been lost or miscarried. If received by me it would have been examined and promptly returned to the officer from whom received.

Begging permission to again call the attention of your excellency to the contents of my note No. 103, of June 27 last, already herein referred to, and which must have been written subsequently to the esteemed note to which this is in reply, I take this occasion, etc.,

BARTLETT TRIPP.

[Inclosure 5 in No. 151.—Translation.]

Mr. Pasetti to Mr. Tripp.

VIENNA, *July 22, 1895.*

SIR: The ministry of foreign affairs had the honor of receiving the esteemed notes of June 27 (No. 103) and of June 29 (No. 104) in which the honorable envoy of the United States was pleased to refer to the case of Solomon Czosnek, a naturalized citizen of the United States, arrested at Chrzanow for nonfulfillment of his military duty, denying the position taken by the district attorney at Krakau against the above-named Solomon Czosnek for the reason of having violated the provisions of paragraph 45 of the military law.

The ministry of justice, to whom the matter was referred by the ministry of foreign affairs, now reports that it has not delayed to instruct the State attorney at Krakau to submit the case to a full investigation and to make the necessary depositions with all possible haste.

From the report, which was accordingly made by the State attorney at Krakau, under date of July 10, to the ministry of justice, it appears that the State attorney, after having convinced himself of the lawful naturalization of Solomon Czosnek in the United States, and of the unquestionable genuineness of the passport produced by Czosnek, and his identity, has instructed the district attorney at Krakau to withdraw the charges brought against Czosnek under date of May 31, and to cause the passport, which was among the papers taken from him at the time, to be returned to Solomon Czosnek.

The State attorney at Krakau has, moreover, informed the district attorney that the proceedings instituted by the latter in the premises were not in conformity with the existing regulations, and has at the same time instructed the authorities under his jurisdiction to act in future in strict compliance with the provisions of the treaty of September 20, 1870, and with the views expressed by the honorable envoy of the United States regarding the prima facie evidence of foreign and American passports and documents proving the identity of persons.

While the undersigned has the honor to inform the honorable envoy of the United States of this decision, he avails, etc.,

PASSETTI,
For the Minister of Foreign Affairs.

Mr. Adee to Mr. Tripp.

No. 170.] DEPARTMENT OF STATE,
Washington, August 12, 1895.

SIR: I have to inform you that your dispatch No. 151, of the 26th ultimo, transmitting copies of your correspondence with the Austro-Hungarian foreign office in regard to the case of Solomon Czosnek, a naturalized American citizen, who was arrested on a charge of evading military duty in his native country, has been received.

It appears from the correspondence that Solomon Czosnek was born in Chrzanow, in the province of Galicia, of Austrian parents, in 1873. His father went to the United States and was naturalized while Solomon was a minor. In 1895 Solomon went to Chrzanow on business, having provided himself with a passport from this Department. He was arrested for violating military law in evading service, was bound over

to the district court to answer the criminal charge, and through your intervention he was discharged.

The case is a valuable one, because in the Benich case and other cases the authorities of Austria-Hungary, while admitting that a passport of a friendly nation is prima facie evidence of citizenship and must be respected by administrative officers, have suggested that judicial officers might act in disregard of it. In this case you contended that when there is no charge of fraud in the procurement of a passport or as to the identity of the person presenting it, it must be respected by judicial as well as administrative officers, and the correspondence shows that this view was shared by the Austro-Hungarian minister, who instructed the attorney to dismiss the complaint, and added that hereafter the judicial authorities of Galicia would be instructed to be governed in all similar cases by the views expressed in your notes. You add that since the determination of the Benich case the annoyances of our citizens bearing American passports have been much less frequent, and you express the opinion that now they will entirely end. They seem to have been due in the past not to any want of courtesy on the part of the officials of the foreign office or of the higher officials of State, but from overzeal and want of knowledge on the part of local authorities not under the control or jurisdiction of the ministry of foreign affairs.

The Department fully approves of your course in regard to the case in question.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CITIZENSHIP CASE OF EDWARD KOVACSY.

Mr. Tripp to Mr. Olney.

No. 147.] UNITED STATES LEGATION,
Vienna, June 30, 1895. (Received July 18.)

SIR: I have the honor to submit for your consideration the facts in the case of Hugo Kovacsy, and my action in the premises as follows: Mr. Hugo Kovacsy, a native of Hungary, emigrated with his wife to the United States in the year 1871, where, having resided continuously until 1876, a period of five years, he was naturalized and became a citizen of the United States. In the year 1874, about two years prior to such naturalization, Edward Kovacsy, a son of the said Hugo Kovacsy and wife, was born in New York City. In 1878 Hugo Kovacsy, his wife, and infant son returned to Hungary, to their native town, where they have since continually resided. The father claims still to be an American citizen and to have never renounced in any way his allegiance to his adopted country. He has, however, never returned, nor has his wife or son ever returned, even for a visit to the United States, since their departure in 1878, but the father has been engaged in business here and has reared and educated the son here in Hungary, and declares that he has never had any intention of again returning to the United States, except perhaps for a visit, since he left it in 1878.

The son Edward is now 21 years of age and has been summoned to appear for examination as a soldier in the Hungarian army, and the father appeals to this legation for its intervention upon the ground that the son is an American citizen. The son declares that he never intends to go to America to reside, but expects and intends to remain in Hun-

gary, so far as he knows, during his natural life, but claims to be an American citizen by reason of his birth.

Upon these facts I stated to the father and son that the son, by reason of the peculiar circumstances of his birth, belonged to that class of individuals who were privileged to choose for themselves whether on coming of age they would become a citizen of the country of their own and father's domicile or of the country in which they were born; that if he now elected to go to America, in good faith to take upon himself the duties of citizenship there, I would issue to him a passport and intervene in his behalf by application to the Government of Austria-Hungary to release its claim upon him as a subject of Hungary. He expressed a willingness to go to America if he might be again permitted to immediately return to reside as before permanently in Hungary.

I explained to him fully why, as in his case, the power of the Government of the United States could not be invoked to protect a citizen of Austria-Hungary against the execution of its own laws. He was now at that period of his life when he must elect whether he would be a Hungarian or an American. If he elected to be a Hungarian, the United States would not intervene to prevent him from performing the duties of a Hungarian citizen, among which was his duty to serve in its armies as required by its laws. If he elected to be a citizen of the United States, good faith required that he should place himself in a position to be ready to perform the duties his native country might require of him, which he could not do as a resident abroad; that the duties of citizens and Governments toward each other were reciprocal; that the citizen who claimed from his Government the right of protection must himself be ready to perform toward his Government the duties of a citizen when required; that while he might still claim to be an American citizen, I could accept nothing less in his case than an actual renouncement of the domicile so long maintained in Hungary and a return to the United States in good faith to make it his permanent home. This he declined to do, and I have refused to intervene, subject to your approval.

It may not be out of place for me to briefly state my view of the general principles of international law which seem to make the case easy of determination.

Under the Austro Hungarian law a citizen born abroad of Austro-Hungarian parentage is and continues to be, unless he renounces his allegiance, an Austro-Hungarian subject; which is the rule obtaining in most European States, and although there is some conflict in the decisions, I do not understand that it is now seriously claimed on the part of our Government that the fourteenth amendment, or section 1992 of the Revised Statutes of the United States, extends to a case of a child born in America of foreign parentage and having only a temporary domicile therein. The words of the statute, "subject to the jurisdiction thereof," and of the fourteenth amendment, "not subject to the jurisdiction of the United States," which are used as qualifying the clause making all persons born or naturalized in the United States citizens, it seems to me, clearly except children of foreigners temporarily residing in the country; such children are subject to the jurisdiction of the country of which their parents are citizens, and not to the jurisdiction of the United States. The son therefore became a citizen of the United States, not by the accident of birth, but by the naturalization of his father, two years later, and this citizenship he could abandon or elect to maintain on arriving at age, irrespective of whether his father did or did not in the meantime abandon his own right of American citizenship.

On arriving at the age of discretion, however, the act of election should be something more tangible than the mere statement of the candidate that he elects to be an American citizen, especially in a country where, as in this, there is every inducement to be in name an American citizen, and in fact an Austrian subject; and in such cases I have deemed it prudent to require that the assertion shall be accompanied by some act of good faith, such as placing himself within the jurisdiction of the country of which he claims protection, or some other act of sacrifice on his part which may satisfy me that his purpose is not one of evasion, but that in good faith he is and intends to be a citizen of the United States.

I shall await your approval or disapproval of my action before taking any further steps in the premises.

I have, etc., BARTLETT TRIPP.

Mr. Adee to Mr. Tripp.

No. 164.] DEPARTMENT OF STATE,
Washington, July 23, 1895.

SIR: I have received your dispatch No. 147, of the 20th ultimo, in regard to the case of Hugo Kovacsy and his son Edward, a young man of 21 years of age, born in the United States, who has been summoned to appear for examination as a soldier in the Hungarian army.

In view of the refusal of Edward Kovacsy to elect American citizenship by coming to the United States, in good faith to reside and perform the duties of citizenship, your course in refusing to intervene to secure for him exemption from military service in Austria is approved.

Your general discussion of the question of citizenship and the fourteenth amendment and section 1992 of the Revised Statutes has been read with interest. The argument advanced by you has much force. It seems, however, not to be in harmony with the decisions of the circuit court of the United States, which hold that birth in the United States creates citizenship, irrespective of the nationality of the parents. The correctness of this view is enforced, it seems to me, by the fact that thousands of persons born here of alien parents who were never naturalized and who have returned to their native countries, are exercising all the rights of American citizenship by virtue of their birth here.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CITIZENSHIP CASE OF SALOMON FADEN.

Mr. Townsend to Mr. Olney.

No. 163.] UNITED STATES LEGATION,
Vienna, October 14, 1895. (Received Oct. 30.

SIR: I have the honor to present to your notice the case of Salomon Faden, a native of Hungary, born in 1870, emigrated to the United States when 16 years of age, remained there five years and a half, was naturalized before the common pleas court of Hudson County, N. J., on September 17, 1891; left the United States, returning to his native country immediately after obtaining his naturalization certificate and a

passport from the Department of State dated September 30, 1891, num bered 33122.

When he obtained the above passport he evidently affirmed his "intention to return to the United States within two years, with the purpose of residing and performing the duties of citizenship therein." Two years later, when his passport had expired, he applied to this legation and obtained a renewal of the same, October 2, 1893, at which time he again took the oath of allegiance and declared his intention to return to the United States within two years to perform the duties of citizenship. As his passport has again expired, he now applies for a renewal of the same, after having twice failed to adhere to his declared intention of returning to the United States.

After a thorough investigation of this case, I have unearthed the following facts: Salomon Faden belongs to a largely increasing class of citizens of Austria-Hungary who run away to the United States just prior to the time when they are to be called into the military service of their country, remaining in the United States just long enough to obtain a naturalization certificate, returning to the country of their birth, and continuing to reside there for the rest of their lives, their every voluntary act showing a determination to abandon their acquired citizenship, yet wishing to retain and claim the protection of the strong arm of the United States Government, without showing any intention to return the favor by any act of allegiance or support of the Constitution.

It is this class of naturalized citizens, who do not appreciate the high honor and privilege of American citizenship, except so far as they can use it as a means of escaping their duties in their native country, that have brought our citizenship into disrepute, have created a feeling of disrespect to our naturalization certificates among the authorities of this Government, and have thereby subjected the bona fide naturalized citizens of the United States who wish to return to this country for a temporary visit to their families to endless trouble, annoyance, and expense.

Salomon Faden, under my cross-examination, admitted that he had never voted in the United States, did not pay a penny of tax there, owned no property of any kind, had no business connection with any American house, had no domicile in the United States; in fact, had virtually severed all connection with his adopted country, a country which, in the eyes of this class, is good enough to protect them, but not good enough to live in.

Since he obtained his last passport, in October, 1893, he has married here a native girl with some money, has purchased a business in his native town, and practically settled down there to raise a family. He says that "if his business does not go, he may try his luck in America." In view of these facts I am holding his application for a third passport, subject to instructions from the Department. This case brings forward a question which is growing yearly more and more serious to our naturalized citizens of Austro-Hungarian birth. This country is full of this class of citizens, as well as a large number who contemplate a trip to America with the sole object of avoiding military duty. I have talked to scores of them at wayside inns and in small villages about the country; they knew me only as a tourist, and they have expressed their opinions and intentions freely. It is nearly always the same story; instead of America being regarded as a land of promise for the poor emigrant, a country to grow up in and earn a respectable livelihood, to become good, useful citizens thereof, with all the rights, privileges, and liberties which the term implies, it is looked upon as a land where they can quickly and easily obtain a paper which will allow them to

shirk the performance of their duties to their native land, and place them above their fellows who have not been sharp enough to make the journey at a proper age, as a means of obtaining freedom from work and military discipline.

This class of citizen tell me that they can make a better living here than in America, and the secret of it is that they are not working men or laborers, but sharp, shrewd traders, money lenders, and small village storekeepers, who are much too clever in handling the monetary unit of the country for the peasants and farm hands, with whom they have their principal dealings. In America the same class of laborers are less ignorant, better educated, and more intelligent in every way, so it becomes there a question of "Greek meets Greek," with the advantage in favor of the native American workingman. The crowning disgrace to our citizenship, which I have time and again observed in this class, is that they can neither read, write, nor speak the English language, they having spent their time while in the United States among the members of a foreign colony, where their native language is almost entirely spoken, and they have not the smallest conception of the Constitution of the United States, or the nature of the oath of allegiance which they take every two years with perfect equanimity.

In view of the above facts, am I authorized in renewing the passport of Salomon Faden?

I have, etc., LAWRENCE TOWNSEND.

Mr. Olney to Mr. Townsend.

No. 189.] DEPARTMENT OF STATE,
Washington, October 31, 1895.

SIR: Your No. 163, of the 14th instant, in relation to the application for a renewed passport made by Salomon Faden, has been received.

Mr. Faden's prior application, upon which a renewal of a previous passport granted by this Department was obtained by him at your legation October 2, 1893, having contained a positive declaration to return to the United States within two years to perform the duties of citizenship, it would require now very conclusive proof of his determination to so return in order to issue him a third passport. The facts you state, however, conspicuously negative any such purpose of return, and Mr. Faden's declaration to you that, if the business he has established in his native town "does not go, he may try his luck in America," is entirely too indefinite to be considered.

For some years the Department has in special cases, upon the repeated application for renewal of passports, directed that the applicant be warned that the declaration of intention to return to the United States is not an empty phrase, and that in the case of a further renewal being sought withholdment of a passport would probably follow. You do not state whether any such warning was given to Mr. Faden, but his case does not seem sufficiently meritorious to invite the Department to stretch its custom in this regard. Both on the presumption and the facts he may be deemed to have voluntarily repatriated himself, and if he has not actually resumed Austrian allegiance in conformity with the laws of that country, he has at least voluntarily abandoned practical allegiance to the Government of his acquired nationality to such an extent as to absolve it in return from the duty of protecting him while he maintains indefinite and apparently permanent domicile in the land of his birth.

I am, etc., RICHARD OLNEY.

BELGIUM.

PROHIBITION OF AMERICAN CATTLE.[1]

Mr. Ewing to Mr. Gresham.

No. 97B.] LEGATION OF THE UNITED STATES,
Brussels, January 11, 1895. (Received Jan. 21.)

SIR: Referring to my dispatch No. 83,[2] I have the honor to state that the 3d of October, 1894, I addressed the following communication to the Count de Merode, secretary for foreign affairs for Belgium:

LEGATION OF THE UNITED STATES,
Brussels, October 3, 1894.

COUNT: I have the honor to call your attention again to the ministerial decree of the 25th of August, 1894, prohibiting the landing of American cattle in the ports of Belgium, and I desire most respectfully to submit to you the following suggestions:

1. Between the 19th day of April and the 2d day of September of this year there were disembarked at the port of Antwerp 3,376 head of American cattle.

The carrying of this stock was by Belgian shipowners, and the beeves were sold at Antwerp and at Brussels. This trade had been induced and was established by the efforts of citizens of Belgium. This trade has been entirely destroyed by the decree above referred to and diverted to Havre and Liverpool.

2. The United States Government has established stringent rules and regulations with a view of preventing if possible the exportation from that country of diseased cattle. Veterinary inspectors are stationed at all the stock yards in the United States for the purpose of procuring a complete record of all the cattle destined for export.

This record is a complete history of each animal from the time it leaves the farm until it reaches the stock yards. These veterinary inspectors are required to inspect all export cattle, every one of which is properly tagged. A report of each cattle-carrying steamer which leaves the United States is sent to the Government veterinary inspector at the port where the steamer lands. Those reports contain the exporter's name, the name of the steamer, the number of cattle, and the tag number of each animal. In case any disease should be discovered, the veterinary inspector is required to cable the tag number of the animal to the United States Department of Agriculture, when immediate steps are taken to retrace the animal in question to the farm from which it came. Out of the immense number of American cattle shipped to England since the 1st of April, 1891, to the present time, about seventy cases of what the English authorities claimed to be pleuro-pneumonia have been discovered, and those all prior to November, 1893. Each and every one of these cases was cabled to Washington and the animals successfully traced without finding a single case of pleuro-pneumonia on the farm from which the alleged cases came or anywhere in the neighborhood, and I am authorized by the Secretary for the Department of Agriculture of my Government to say that not a single case of contagious pleuro-pneumonia has been known to exist anywhere in the United States during the past three years, notwithstanding the incessant effort of the Department to discover the disease during the interval above stated.

3. Out of the 3,376 head of American cattle landed in Belgium between the 19th of April and the 2d of September of this year, only two cases of illness of any kind have been discovered, and as to those cases a difference of opinion existed between the United States veterinary, Dr. Wray, who examined the lungs of the animals, and the Belgian veterinary authorities.

These two bullocks came on the steamship *Minnesota* in a cargo of 350 head. This cargo was shipped from Baltimore on the 29th of July, and arrived at Antwerp on the 14th of August of this year, all the cattle in apparent good condition.

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[1] See Foreign Relations 1894, pp. 50–52. [2] Ibid., p. 50.

Prior to the issuance of the ministerial decree, 291 head of those cattle had been killed, only two of which were in any way affected, and they so slightly that they were permitted to be sold in the market. The remaining 59 head were afterwards slaughtered at the "abattoir public," and were found in good condition.

Since that time, under the exceptional conditions contained in the decree, another cargo of American cattle has been slaughtered at Antwerp without finding any evidence of disease.

4. It would not be profitable and I have no desire to enter into the controversy between the medical authorities as to the nature of the malady in question, but readily concede the wisdom of the minister of agriculture, industry, and public works in taking the precautionary measures effectuated by his decree of the 25th of August. It was but reasonable that he should rely solely on the examination and the opinions of the Belgian medical authorities and to have taken the benefit of any doubt which may have existed as to the nature and character of the malady in question.

5. My Government is sensible of and appreciates the prompt and courteous action of the minister for agriculture, industry, and public works in making the exception embodied in paragraph 2 of the decree, and relying on the assurance contained in your excellency's letter of the 7th of September that it is the wish of the Government of the King that circumstances may permit as soon as possible the withdrawal of the decree of the 25th of August, 1894, instructs me to again bring this matter to the attention of His Majesty's Government and, in view of the facts hereinbefore stated, to respectfully request that the said decree will be at an early date withdrawn.

Expressing my thanks in advance for any courtesy extended in this matter, I profit, etc.,

JAMES S. EWING.

In answer to this communication I have just received from the minister for foreign affairs a letter, of which the following is a translation:

MINISTRY OF FOREIGN AFFAIRS,
Brussels, January 8, 1895.

Mr. MINISTER: Owing to the appearance of contagious pleuro-pneumonia among the bovine animals disembarked at Antwerp in the month of August last, a decree of the minister of agriculture, dated August 25, 1894, subjected the animals of the bovine species coming from the United States of America to a quarantine of forty-five days.

The letter that your excellency had the kindness to address me on that subject the 3d of October last has been on the part of the competent administration the object of an attentive examination, and the intention of the Government of the King was to suspend, or at least to attenuate, the measure above referred to as soon as the sanitary condition would permit it.

Unfortunately new conditions have arisen to place the department under the obligation of increasing, on the contrary, the dispositions in question.

On the 25th of December last contagious pleuro-pneumonia was discovered on two steers coming from the United States of America, and disembarked at Antwerp on the 17th day of the same month, per steamship *Canadia*.

In the presence of such a condition of things, my colleague has felt obliged to issue a new decree that prohibits, until further order, the entry and the transit of animals of the bovine species coming from the United States.

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

Please accept, etc.,

MERODE WESTERLOO.

I inclose herewith a printed copy and translation of the order above referred to.

About the 17th of December last the United States veterinary inspector, Dr. Wray, paid me a visit, at which time he informed me of the occurrence with reference to the affected cattle at Antwerp.

He stated to me that he had examined the lungs of the animals; that they were affected in a similar manner to the animals first referred to, and that in his judgment the trouble was catarrhal pneumonia and not contagious pleuro-pneumonia.

It will be observed that a period of more than five months elapsed between the first and second discovery of what is claimed to be a con-

tagious disease in American cattle disembarked at Antwerp, and about three months of time have elapsed since the attention of the Belgian Government was called to the question of withdrawing the ministerial order of the 25th of August, and the response to my communication.

Without submitting any comments or making any suggestions on the situation, I respectfully refer the matter to the Department, and ask for such instructions as may be thought necessary.

I have, etc.,

JAS. S. EWING.

[Inclosure in No. 97 B.—Translation.]

DECREE OF DECEMBER 29, 1894.

The minister of agriculture, industry, labor, and public works, considering the law of the 30th of December, 1882, on the sanitary police of domestic animals, as well as the general administration regulations of the 20th of September, 1883, adopted in execution of this law; considering again the ministerial order of the 25th of August, 1894, subjecting to a quarantine of forty-five days animals of the bovine species shipped from the United States of America, contagious pleuro-pneumonia having been discovered among animals of this origin; considering that the same contagious affection was discovered on the 25th of December, 1894, in two animals shipped from the aforesaid country and disembarked at Antwerp on the 17th day of the same month; considering the advice of the veterinary inspection service, orders:

ARTICLE 1. The importation and the transit of animals of the bovine species coming from the United States of America are interdicted until ulterior disposition.

The direct transit of these animals can be made by railway only and in sealed wagons, and without being unloaded en route.

ARTICLE 2. By exceptional measure, animals of the origin indicated in the preceding article, in course of shipment before the 2d day of January, 1895, may be disembarked at Antwerp under the condition of being subjected in the port of that city to a quarantine of forty-five days at least, or may be directed toward a public slaughterhouse, to be there butchered in the delay provided for by the regulation dispositions.

ARTICLE 3. The order above referred to of the 7th of December, 1894,[1] is repealed.

LÉON DE BRUYN.

BRUSSELS, *December 29, 1894.*

Mr. Le Ghait to Mr. Gresham.

[Translation.]

LEGATION OF BELGIUM,
Washington, January 19, 1895.

Mr. SECRETARY OF STATE: As your excellency has no doubt been already informed, the Government of Belgium has found itself under the necessity of taking measures, by a decree dated the 29th of December last, for protection against the importation of cattle from the United States.

The reason for taking these measures is the discovery on the 25th December of contagious pleuro-pneumonia in two beeves arrived from the United States of America, and landed at Antwerp the 17th of the same month, per steamer *Canadia.*

Under these circumstances, my Government, notwithstanding its expressed desire to soon remove the quarantine measures prescribed by the decree of the 25th August last, is, on the contrary, constrained to insist upon them.

I am directed by my Government, in pointing out to your excellency the reasons which called for the decree of the 29th December, to assure

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[1] This date here given should evidently be August 25, 1894.

you that it has every desire that the sanitary condition of the cattle of the United States may be such as to permit the removal of this measure as soon as possible.

I avail, etc., A. LE GHAIT.

Mr. Gresham to Mr. Le Ghait.

No. 9.] DEPARTMENT OF STATE,
Washington, February 14, 1895.

SIR: Referring to your note of the 19th ultimo, relative to the considerations which induced your Government to prohibit the importation of cattle from the United States into Belgium, I have the honor to inform you that the Department has received a letter on this subject from the Secretary of Agriculture, in which he says that it is due to the stock industry of the United States that your Government should be informed that there has not been a case of contagious pleuro-pneumonia among the cattle of the United States for nearly three years, and that consequently it is impossible that the American cattle referred to in your note were affected with this disease when they were landed in Belgium.

The Secretary of Agriculture adds that it is universally admitted by scientists that pleuro-pneumonia can only arise from contagion transmitted from an animal affected with that disease, and that it is also generally admitted that the history of the animal must be taken into consideration in diagnosing contagious pleuro-pneumonia, because the lesions of this disease can not, in many cases, be distinguished with certainty from the lesions of noncontagious diseases of the lungs.

In view of the excellent sanitary condition of the cattle of the United States, it is hoped by the Department that your Government may be able to see the way clear to revoking, at an early day, the order excluding American cattle from Belgium.

Accept, etc., W. Q. GRESHAM.

Mr. Gresham to Mr. Ewing.

No. 103.] DEPARTMENT OF STATE,
Washington, February 16, 1895.

SIR: Referring to your dispatch, No. 97 B, of the 11th ultimo, relative to the prohibition of the importation of American cattle into Belgium, I inclose for your information a copy of correspondence between the Belgian legation at this capital and the Department[1] with regard to the subject.

I am, etc., W. Q. GRESHAM.

Mr. Gresham to Mr. Ewing.

No. 111.] DEPARTMENT OF STATE,
Washington, April 1, 1895.

SIR: I inclose for your information a copy of a letter of the 27th ultimo from the Secretary of Agriculture, inclosing a copy of a com-

[1] See page 27, and *supra*.

munication addressed by him to Mr. Burnet Landreth, of Bristol, Pa., in regard to the sanitary condition of American cattle.

You may avail yourself of any opportune occasion which may occur to communicate a copy of Mr. Morton's letter to the Government of Belgium.

I am, etc., W. Q. GRESHAM.

[Inclosure in No. 111.]

Mr. Morton to Mr. Gresham.

DEPARTMENT OF AGRICULTURE,
Washington, March 27, 1895.

SIR: I have the honor to inclose for your information a copy of a letter which I have recently addressed to Mr. Burnet Landreth, of Bristol, Pa., who requests a statement of this nature, with the object of publishing it in the proceedings of one of the French agricultural societies. It is a concise statement of my views in regard to the prohibition of American cattle by certain European Governments, and it may, therefore, possibly be found useful in your Department.

Very respectfully,

J. STERLING MORTON.

[Subinclosure in No. 111.]

Mr. Morton to Mr. Landreth.

DEPARTMENT OF AGRICULTURE,
Washington, March 22, 1895.

DEAR SIR: I am in receipt of your letter of the 9th instant, making inquiry concerning the existence of contagious cattle diseases in the United States, and as to whether the prohibition now enforced against American cattle by France, Germany, and Belgium is justified by any danger from such diseases. The facts in relation to this matter are very clear, and I will present them briefly for your information:

For a considerable number of years the exports of American cattle to Europe have exceeded 200,000 animals annually, and in several years they have nearly reached 400,000. Among all of these animals there has not been one which has conveyed a contagious disease to the cattle of any country to which it has been shipped. A number of years ago contagious pleuro-pneumonia existed in the United States, but was confined to a small area and has been entirely eradicated by stringent measures adopted by the Federal Government. There has not been a case of pleuro-pneumonia observed in the United States during the last three years. This Department has declared officially that the disease was eradicated, and the evidence of this is briefly as follows:

In the districts where the disease existed, a rigid inspection and quarantine was maintained for one year after the last case of the disease was discovered. There has been a careful inspection of all cattle exported before they were allowed to be loaded upon the ships. There has also been a careful inspection at the time of slaughter of all cattle killed, the meat of which was to be shipped from one State into another or to any foreign country. The number of these during the last year exceeded 3,800,000.

There has also been an investigation made of all outbreaks of cattle disease reported to the Department of Agriculture during the last three years. With all these sources of information it does not appear possible that there could be a contagious disease of this character existsng among the cattle of the United States without its having been brought to the notice of this Department.

At the meeting of the United Sates Veterinary Medical Association, held in Chicago in 1893, one of the topics of discussion was the question as to whether this disease had been entirely eradicated from the United States. The unanimous voice of the association, which is composed of members from every State in the Union, was that the disease did not exist in any part of the country, and had not existed during the year and a half immediately preceding the meeting.

As pleuro-pneumonia does not exist anywhere in the United States, it is absurd to suppose that our cattle are infected with it when they are landed in Europe, for it is universally admitted among veterinarians that the disease only arises by contagion. The disease which has been most frequently mistaken for pleuro-pneumonia is a form

of broncho-pneumonia, in which a septic microbe multiplies in the lungs and causes lesions which, on superficial examination, appear to resemble those of contagious pleuro-pneumonia. This disease was discovered in one or two animals among those landed in France in 1891, and was very clearly described by M. Nocard in a paper presented to the Société Centrale de Médecine Vétérinaire, July 23, 1891. This disease is seen in cattle which have been transported long distances by rail or by ship, but, like at least one form of ordinary pneumonia in man, it is, although associated with the development of a microbe in the lungs, apparently free from any contagious properties. There is not sufficient reason for assuming, as some have, that this disease is confined to American cattle. A similar disease has been described as affecting the lungs of calves on the continent of Europe, and Professor Williams is of the opinion that it is seen in adult cattle in Great Britain. It has not been more frequently described, because, unless cattle are exposed to unusual hardships, drafts of air, and extremes of temperature, it is a mild disease and the veterinarian seldom has the opportunity of making a post-mortem examination.

There is not the slightest danger to the animals of Europe from the occurrence in rare instances of this disease in the lungs of our cattle, nor is there anything to show that the flesh of such animals has a deleterious effect upon the health of the consumer. Under any circumstances the disease is easily recognized by inspection of the lungs, and affected carcasses may be disposed of according to the regulations in force in the district where the animals are slaughtered.

Texas-fever infection, about which certain fears have recently been expressed in Germany and France, is equally impossible under the conditions surrounding the shipments of our cattle to Europe. In the first place, Texas fever is not, strictly speaking, an epizootic or a contagious disease. It is an enzootic with limited powers of infection. The cattle which disseminate it come from a well-known and clearly defined region, which is under strict sanitary regulations. None of the cattle from this region are allowed to leave it during the warm season of the year, when alone the disease occurs, except for immediate slaughter, and the exportation of these animals is absolutely prohibited.

The disease can only be spread by cattle which have originated in the district where the infection is enzootic. These animals do not communicate it directly from animal to animal, but indirectly by first infecting pastures or pens. The animals to which the disease has been communicated in this way do not have the power to reconvey it, but the power of infection is extinguished with the first transmission. It has been asserted that there are rare exceptions to this rule, but if so they are so very rare that in the whole history of the disease in this country enough of them have not been recorded to relieve the observation from reasonable doubt.

The disease has been prevented for years in this country by regulations which require cattle from the district of the infection to be yarded in pens set apart for them, and to go directly from these to the abattoirs. Some outbreaks of the disease have occurred as a result of violations of the regulations, or by carelessly allowing cows to stray into the pens of local abattoirs where Texas cattle are slaughtered, but there has been no case in which the disease has spread from the animals first affected. The infected pens retain the infection during the hot weather only, and never from one summer to another.

Europe is entirely protected from this disease by the American regulations which prohibit the exportation of cattle from the district where the infection is enzootic. Every bullock exported is inspected, its origin is ascertained, and a number is placed upon it for identification. There is, consequently, no chance for a violation of this regulation.

If the diagnosis of the German veterinarians was correct with the animals asserted by them to have had Texas fever, that fact does not justify the conclusion that there was any danger of other animals contracting the disease from them. On the contrary, the fact that they were sick demonstrates that they were not from the district where the infection originates, as the animals in that district have an immunity from the disease, but that they had been accidentally infected, and like all such animals were incapable of further disseminating the infection.

It is not at all clear that the American cattle at Hamburg were affected with Texas fever. The official reports show very clearly that the first lot of cattle reported to have had this disease did not present any of its distinctive characters. Later, and after attention had been attracted to this evident error of diagnosis, it was reported that in a subsequent cargo, animals were discovered which exhibited the lesions described in the bulletin of the Bureau of Animal Industry on Texas fever. As the description given in the two cases is not inconsistent with the conclusion that the disease was in both cases the same, and as there must, consequently, have been an error of diagnosis in one case, there can be no certainty that the inspectors were correct in the other. Is it not possible that an inspector, finding that such a damaging error had been committed, would be inclined to search with more than ordinary zeal for the disease which he had wrongly reported to exist, and in his

desire to justify himself, might he not be unconsciously biased to such an extent that his judgment in the subsequent case would be more or less unreliable? This possibility which presents itself from a reading of the official report is not made any less probable by private advices which have been received from various sources.

This Government is not unreasonable in its requests that other nations receive the animals which are exported from the United States with the certificate of health issued by this Government, after a careful inspection and with a full knowledge of the facts. We only ask the same privileges which we have willingly freely accorded to others. We have always received horses and cattle and sheep from France, Germany, Great Britain, and other countries of Europe, in which maladie du coit, glanders, contagious pleuro-pneumonia, foot-and-mouth disease, and even rinderpest, have existed, and have protected ourselves by inspection and quarantine where the animals were landed. The Governments of Europe have never issued certificates of health such as are issued by this Government, nor have they adopted such elaborate regulations for preventing the exportation of diseased animals as exist here. In spite of the acknowledged existence of such dangerous diseases, and the lack of a proper export inspection and certification, there has been no prohibition enforced in this country.

The animals imported by us were for breeding purposes; they have gone to the farm and the ranch, where they mingled with our native stock, circumstances which increase the danger of a wide-spread distribution of an imported contagion. Our animals, on the other hand, are exported for slaughter. There would be little danger of a contagion spreading, even if they should prove affected, and arrangements might be easily made by which they could be handled without coming in contact with or endangering the native stock.

Considering all these circumstances, the absolute exclusion of our animals is unnecessary as a sanitary measure, and is an act of unfriendliness such as this Government has never adopted.

The general character of the cattle exported from this country, their condition and healthfulness, can not be surpassed, and probably is not equaled, by the cattle of any other country. M. Nocard, in the communication already referred to, says:

"Pendant l'hiver dernier, on a mis en vente sur le marché de la Villette, plusieurs milliers de magnifiques bœufs des Etats-Unis, notamment de la Virginie, de l'Indiana et de l'Illinois."

The following abstract of an article by Boysen and Vollers, veterinarians at Hamburg, recently appeared in the Hygienische Rundschau (February 15, 1895, p. 171), and demonstrates that there can be no objection offered to the general condition and healthfulness of American cattle:

"The authors protest against the misrepresentations and fears which are scattered through the newspapers, that tuberculosis exists in cattle in America to an enormous degree, and also that pleuro-pneumonia is still more prevalent, and that the American stock raisers are forced on this account to ship their cattle to Europe at a merely nominal price.

"In Hamburg, from the year 1889 to the present time, there were in all 7,104, and in other German cities altogether 918 imported cattle slaughtered. These animals were subjected to a careful veterinary inspection, not only before being slaughtered, but afterwards as well. It was impossible to find pleuro-pneumonia in a single case, while tuberculosis was present in only four of these animals. In two of the latter the entire carcasses were condemned, while with the other two it was only necessary to condemn single organs. Accordingly, only one-twentieth of one per cent of the American cattle were tuberculous, while 8 per cent of the German steers slaughtered in Hamburg have been found tubercular. It is noticed parenthetically that, strange to say, the American cattle were entirely free from liver flukes. The authors consider the condition of this stock as fully equal to that of the stock raised on the home meadow lands.

"Boysen and Vollers see a certain danger in the American meat for the German producers and for the German meat trade, which is well founded, not only on account of the lower price, but in the high standard of cattle breeding and in the perfect health of the American cattle. The German stock raisers are advised to study the achievements of the Americans in the field of stock raising, and to examine and consider how the tuberculosis, which is constantly spreading around them in the German stock, may be arrested."

What the American people ask in this matter is only fair treatment, with a truthful and unprejudiced characterization of their products, and sanitary measures limited to what is necessary to prevent the entrance of contagion. No country has a larger or more valuable stock of domesticated animals than the United States, and yet it has not been found necessary to prohibit the importation of animals from Europe, although European countries have been overrun with the most virulent and infectious plagues to which animals are subject. Why should we not expect from friendly nations with which we have trade relations the same liberality, the same

spirit of fairness toward our products which we have shown toward the products which have been exported by them to this country?

We have taken the official statements of European Governments as to whether contagious diseases of animals existed in their territory, but they apparently refuse to accept our repeated declaration that contagious pleuro-pneumonia was eradicated from the United States three years ago.

We have taken animals from Europe when there was grave danger of introducing plagues; about the epizootic character of which there was no doubt. There is now a refusal by European nations to take our cattle on account of alleged danger from Texas fever, a disease which is not epizootic even in the United States, and which is more easily prevented than any other communicable disease.

Very respectfully,

J. STERLING MORTON.

Mr. Adee to Mr. Ewing.

No. 131.] DEPARTMENT OF STATE,
Washington, May 31, 1895.

SIR: Referring to previous correspondence relative to the decree of the Belgian Government prohibiting the importation of American cattle into Belgium, and particularly to the Department's instruction No. 111, of the 1st ultimo, to you in regard to the sanitary condition of cattle in the United States, I inclose herewith for your information a copy of a communication of the 25th instant from the Secretary of Agriculture, transmitting a copy of a letter to him from Messrs. Patterson, Ramsay & Co., steamship agents at Baltimore, Md., stating that large numbers of Canadian cattle are now imported into France from Canada and find their way into Belgium.

I will thank you to informally investigate the statements made by Messrs. Patterson, Ramsay & Co. as to the importation of Canadian cattle into France and indirectly into Belgium, and report the result of your inquiries to the Department.

You will avail yourself of every opportune occasion which may offer to recall the subject to the attention of the foreign office, with a view to obtaining a repeal or modification of the decree complained of.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 131.]

Mr. Morton to Mr. Gresham.

DEPARTMENT OF AGRICULTURE,
Washington, May 25, 1895.

SIR: I have the honor to inclose herewith for your consideration a letter which has just been received from Patterson, Ramsay & Co., steamship agents, Baltimore, Md., in regard to the Belgian prohibition of American cattle. If it appears possible to accomplish anything in the way of securing the removal of this prohibition I would recommend that the matter be given the early attention of your Department.

Very respectfully,

J. STERLING MORTON.

[Subinclosure in No. 131.]

Messrs. Patterson, Ramsay & Co. to Mr. Morton.

BALTIMORE, *May 24, 1895.*

SIR: Referring to the interview which we had the pleasure of having with you some little time ago, and the various conversations held on the subject of the importation of American cattle into Belgium, we understand that large shipments of cattle are being made from Canada to Havre, and these cattle, of course, are finding their way into Belgium. The present hardship which we are suffering from, owing to the prohibition of the importation of American cattle into either France or Belgium, is therefore enhanced, and the hardship is made all the more apparent by the knowledge that Canada can get her cattle into these two countries, as against the United States.

We believe very strongly that a great number of these cattle that are being brought from Canada originate in the States. We desire to ask you once more if you think there is any possibility, by making another strong effort with the Belgian Government, of overcoming the prohibition that now exists.

Trusting that we may hear from you at your earliest convenience,

Yours, very truly,

PATTERSON, RAMSAY & CO.

Mr. Ewing to Mr. Olney.

No. 139.] LEGATION OF THE UNITED STATES,
Brussels, August 22, 1895. (Received Sept. 3.)

SIR: Referring to dispatch No. 131, of May 31, 1895, I have the honor to state that such investigation as I have been able to make in an informal manner among the butchers and cattlemen with whom I have been able to communicate does not sustain the charge that Canadian cattle shipped from Canada to Havre find their way into Belgium.

I will, however, continue the investigation, and will report the result to your Department at as early a date as possible.

Referring to all the correspondence on the subject of the exclusion of American cattle from Belgium, I have the honor to state that I sent to-day the following communication to the Belgian minister of foreign affairs:

LEGATION OF THE UNITED STATES,
Brussels, August 22, 1895.

MR. MINISTER: Referring to all the correspondence on the subject of the exclusion of American cattle from Belgium, and referring especially to my communication of October 3, 1894, to his excellency, Count de Merode Westerloo, then minister of foreign affairs, and to his reply thereto of January 8, 1895, I have the honor again most respectfully to call the attention of your excellency's Government to the reconsideration of that matter.

In the answer to my last communication on the subject his excellency (the then minister of foreign affairs for Belgium) was pleased to say:

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

Relying upon this assurance, my Government has rested for many months, hoping that the ministerial decree of prohibition, which has been so detrimental to important interests of American citizens, would have been repealed.

I am now instructed by my Government to earnestly call the attention of your excellency to the great hardship of which it complains, and to request that the matter may be submitted to the consideration of the proper department of the Belgium Government.

In this connection I beg to communicate to your excellency a copy of a letter written by Hon. J. Sterling Morton, Secretary of Agriculture for the United States, to Mr. Burnett Landret, Bristol, Pa., in which the subject is very fully discussed.

A copy of said letter was sent to the State Department and inclosed to me in a dispatch in which I was requested to avail myself of any opportunity to recall the subject of the letter to the attention of the Belgian foreign office.

Mr. Minister, as the subject is the only one which in any degree affects the most friendly relations between Belgium and the United States, may I not earnestly express the hope that His Majesty's Government may find it practicable, in view of all the circumstances suggested in this and former communications, to withdraw the ministerial order of the 29th day of December, 1894? It would afford me great pleasure to be able to communicate such result to my Government.

Please accept, etc.

I assume that it is the desire of the State Department to have definitely determined the question whether the exclusion of American cattle from Belgium is to be final, and for economic reasons, or merely temporary and for sanitary reasons, as is claimed, and if the latter, that the order be repealed within a reasonable time; and unless I receive contrary instructions I will insist upon its speedy determination.

I will communicate the answer of the Belgian Government to my foregoing letter as soon as received.

I have, etc.,

JAMES S. EWING.

Mr. Adee to Mr. Ewing.

No. 158.] DEPARTMENT OF STATE,
Washington, August 26, 1895.

SIR: Referring to previous correspondence relative to the action of the Belgian Government in prohibiting the importation of American cattle into Belgium, I inclose for your information a copy of a letter of the 22d instant,[1] from the Secretary of Agriculture, inclosing a copy of a communication to him from Messrs. Patterson, Ramsay & Co., steamship agents of Baltimore, Md., on the subject, stating that the Belgian Government has revoked for the remainder of the season the decree by which the importation of Canadian cattle into Belgium was prohibited.

It would appear, as the Secretary of Agriculture well states, that if the prohibition of Canadian cattle into Belgium has been removed, the same concession should be granted to the trade of this country.

The prohibition was, as you are aware, imposed on the ground that the cattle from the United States had been declared affected with pleuro-pneumonia and Texas fever. This Government constantly gives the closest attention to the sanitary condition of cattle in all parts of this country. The official reports on the subject establish the fact that the allegation that pleuro-pneumonia exists among the cattle of the United States is unfounded and based upon errors of diagnosis, as there have been no cases of this disease in the United States for several years.

Our cattle are now equally free from Texas fever, but as the Secretary of Agriculture observes, even if we admitted that cattle affected with Texas fever had been found among our exportations, we should still protest against the prohibition of the trade on that account, as the disease is not disseminated by affected cattle. Although from 100,000 to 400,000 head of United States cattle have been exported to Europe annually during the past fifteen years, there is no case on record of any disease having been disseminated among European cattle by animals from this country.

You are, therefore, instructed to recall this subject to the attention of the Belgian foreign office; and in view of the action which has been taken with reference to Canadian cattle and in consideration of the

[1] Not printed.

present good sanitary condition of all kinds of live stock in this country, express the hope entertained by this Government that it may be found practicable to revoke the decree prohibiting the importation of American cattle into Belgium.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Olney to Mr. Ewing.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 18, 1895.

Department learns that Belgian Government has withdrawn prohibition against importation of cattle from Holland, subject to inspection on arrival. You will strongly urge similar withdrawal of prohibition against cattle from United States, adducing the rigid inspection to which they are subjected from the breeding grounds to the moment of shipment and the successful stamping out of pleuro-pneumonia and other contagious diseases. No country so effectively assures health of exported cattle as ours does, or has better ground to remonstrate against exclusion from foreign ports.

OLNEY.

Mr. Ewing to Mr. Olney.

[Telegram.]

BRUSSELS, *December 19, 1895.*

Have communicated substance of your instructions to Belgian Government on subject importation American cattle.

EWING.

Mr. Ewing to Mr. Olney.

No. 165.] LEGATION OF THE UNITED STATES,
Brussels, December 19, 1895. (Received Jan. 4, 1896.)

SIR: I have the honor to acknowledge the receipt of your cablegram of the 18th instant.

The ministerial order by which the importation of cattle from the Netherlands into Belgium is permitted went into effect on the 5th day of this month. I inclose herewith a copy of this order, together with a translation, from which it will be seen that the conditions therein imposed almost render the privilege nugatory. I inclose also herewith a copy of a communication which I have just addressed to the minister for foreign affairs, and of a cablegram just sent you.

I am compelled to express to you the opinion that the present policy of the Belgian Government is to prevent the importation of foreign cattle into Belgium, in the interests of the cattle breeders of this country. * * *

If the order of exclusion should be withdrawn, I am confident such conditions would be imposed on the shippers of American cattle as would render the privilege substantially worthless.

The methods adopted on this subject by the Agricultural Department are by no means approved by the people of Belgium, or indeed by a large number of the members of the Parliament.

The butchers, the meat vendors, the great body of meat consumers oppose them, and in various ways, by public meetings and petitions to Parliament, have protested against them.

In my judgment, there will be no immediate change in this policy.

* * * * * * *

I have, etc., JAS. S. EWING.

[Inclosure 1 in No. 165.—Translation.]

MINISTRY OF AGRICULTURE AND PUBLIC WORKS.

Direction of agriculture.—Sanitary regulations concerning domestic animals.—Importation and transit of cattle sent from the Netherlands.

The minister of agriculture and public works, considering the law of December 30, 1882, on the sanitary regulations concerning domestic animals, also the regulations of general administration of September 20, 1883, and October 30, 1895, adopted in execution of this law; reconsidering the ministerial orders regulating the importation and transit of cattle from the Netherlands, and notably the orders dated September 25, 1894, April 18 and November 15, 1895; considering the opinion of the minister of finance, orders:

ARTICLE 1. By modification of the ministerial order dated April 18, 1895, is authorized, until further notice, on the conditions hereafter determined, the importation by railway of bovine animals sent from the Netherlands to the destination of slaughterhouses of Brussels, Cureghem-Anderlecht, Antwerp, Ghent, Liege, and Bruges.

The importation will take place through the offices and suboffices of the custom-house designated in the table hereto annexed on the days and hours therein indicated.

The animals, after having submitted at said offices or suboffices to sanitary control, will be sent on toward one of the stations of Brussels (Midi), Brussels (Ouest), Cureghem-Anderlecht, Antwerp, Ghent, Liege, and Bruges, and conducted from there, under the surveillance of the local police, toward the slaughterhouses above designated in order to be there slaughtered at the latest within three days.

ARTICLE 2. The ministerial order referred to above of April 18, 1895, is withdrawn in that which concerns animals of the bovine species. However, the importation and the transit of these animals will not take place except through the offices and suboffices of the custom-house designated in the table hereto annexed, on the days and hours designated therein.

On their arrival at the said offices or suboffices the animals will be examined at the expense of the importers by the veterinary in control.

When the veterinary admits that the animals are in good health, he states it in a certificate in conformity to the form hereto annexed, which is delivered to the owner or the conductor in charge of the animals.

The direct transit, without unloading, by the railway of the animals of the bovine species is authorized through all the offices open to that effect and is subjected to no special formality of a sanitary character.

ARTICLE 3. The importation and transit of hogs coming from the Netherlands remain prohibited. However, the direct transit, without unloading, by railway of said animals is authorized without any special formality of a sanitary character.

ARTICLE 4. The orders of September 20, 1886, August 25, 1894, and of November 15, 1895, are withdrawn.

ARTICLE 5. The present order will go into force December 5, 1895.

Brussels, November 28, 1895.

LEON DE BRUYN.

[Inclosure 2 in No. 165.]

Mr. Ewing to Mr. De Burlet.

LEGATION OF THE UNITED STATES,
Brussels, December 19, 1895.

Mr. MINISTER: On the 22d day of August last I had the honor to address to your excellency a communication on the exclusion of Amer-

ican cattle from Belgium, in which I referred to my communication of October 3, 1894, and to the reply thereto, on January 8, 1895.

I beg, at this time, to call the attention of your excellency to my letter of August 22, 1895 (to which I received no reply), and to all the correspondence on the subject of the importation of American cattle into Belgium. In this connection, I refer to the ministerial order issued by the minister of agriculture and public works on the 26th day of November, 1895, permitting the importation of cattle from the Netherlands into Belgium.

I am in receipt of cabled instructions from my Government to strongly urge the similar withdrawal of the prohibition of importation of cattle from the United States.

I have therefore in the communications, to which I have above referred, called the attention of the Belgian Government to the rigid inspection to which all cattle are subjected in the United States, from the breeding ground to the moment of shipment, and to the successful eradication of pleuro-pneumonia and other contagious diseases, and I have furnished your department with information upon that subject.

In view of the great care and expense of the systematic and complete inspection of cattle for export provided by my Government, and in view of the very slight evidence of contagious disease claimed to have been discovered by the sanitary officials of Belgium, I respectfully, in behalf of the United States, remonstrate against the exclusion of American cattle from the Belgian ports.

In view of the ministerial order of the 26th day of November, 1895, permitting the importation of cattle from the Netherlands, my Government can but feel that the further continuance in force of the ministerial order of the 29th day of December, 1894, would be an unjust discrimination against the importation of American products.

I pray your excellency to accept, etc.,

JAMES S. EWING.

Mr. Olney to Mr. Ewing.

No. 189.] DEPARTMENT OF STATE,
Washington, January 8, 1896.

SIR: I have to inform you that your dispatch No. 165, of the 19th ultimo, relative to the prohibition of the importation of American cattle into Belgium, has been received.

The Department fully approves your note of the 19th ultimo to the Belgian foreign office on the subject.

I am, etc.,

RICHARD OLNEY.

BOUNDARY OF THE INDEPENDENT STATE OF THE CONGO.

Mr. Ewing to Mr. Gresham.

No. 99.] LEGATION OF THE UNITED STATES,
Brussels, January 22, 1895. (Received March 25.)

SIR: Referring to my dispatch No. 62,[1] in which I communicated the request of the King of the Belgians that the President of the United States would consent to act as mediator in the settlement of certain questions of boundary affecting the independent State of the Congo,

[1] Not printed.

I have the honor to say that those questions were amicably settled between the Congo and the French Republic by the arrangement of the 14th of August, 1894.

I transmit herewith the translation of a communication which I have just received from the independent State of the Congo, by which its territory is specifically bounded and described.

I have, etc., JAS. S. EWING.

[Inclosure in No. 99.—Translation.]

Mr. Eetvelde to Mr. Ewing.

BRUSSELS, *January 17, 1895.*

Mr. MINISTER: I have the honor to bring to the knowledge of your excellency that the condition of neutrality which was the object of the declaration notified to the powers by the independent State of the Congo on the 1st day of August, 1885, will be applied henceforth to the territory of the State bounded as follows, in consequence of the protocol of the 29th day of April, 1887, and of the arrangement of the 14th day of August, 1894, concluded with the French Republic, of the conventions concluded the 25th day of May, 1891, and of the declarations signed the 24th day of March, 1894, with the Government of His Very Faithful Majesty, and of the arrangement concluded on the 12th day of May, 1894, with the British Government:

On the north.

A straight line 950 meters long, beginning at a point on the beach of the Atlantic Ocean 300 meters to the north of the principal house of the Dutch factory of Lunga, the latitude of this point being 5° 47′ 14.31″ south, and joining in the direction southeast the mouth of the small river of Lunga, which empties into the lagoon of the same name; the course of the small river of Lunga to the pool of Mallongo, the villages of Congo, N'Conde, Tema, etc., remaining to the Independent State of the Congo, those Cabo-Lombo, McVenho Tabe, Ganzy, Taly, Spita-Gagandjime, N'Goio, M'To, Fortalisa, Sokki, etc., to Portugal; the course of the rivers Venzo and Lulofe to the source of the latter on the watershed of the mountain Nime-Tchiama, the geographical coordinates of this source being latitude south 5° 44′ 19.60″, longitude east of Greenwich 12° 17′ 25.28″; the parallel of the source to its intersection with the meridian of the confluence of the Lueulla and of the river called by some N'Zanze, and by others Culla-Calla, the coordinates of this confluence being latitude south 5° 10′ 49.30″, longitude east of Greenwich 12° 32′ 6.60″; the meridian thus determined, to its junction with the river Lueulla; the course of the Lueulla to its confluence with the Chiloanga (Loango-Luce); the river Chiloanga from the mouth of the Lueulla to its most northern source; the dividing crest of the waters of the Niadi-Knilon and of the Congo to beyond the meridian of Manyanga; a line to be determined and which, following as much as possible a natural division of the land, shall terminate between the station of Manyanga and the cataract of Ntombo-Mataka, in a point situated on the navigable part of the river;[1] the Congo to Stanley-

[1] This line has been partially determined as follows: The bottom of the ravine whose communication with the Congo is situated about 440 meters and to the south 43° east with respect to the flagstaff of the post of the Independent State of the Congo at Manyanga; the prolongation of this ravine to its junction with the road

Pool; the mediate line of Stanley-Pool; the Congo to the confluence of the Oubanghi; the thalweg of the Oubanghi to the confluence of the M'Bomon and of the Ouelle; the thalweg of the M'Bomon to its source; a straight line intersecting the crest of the watershed between the basins of the Congo and of the Nile.[1]

On the northeast.

The crest of the watershed between the waters of the Nile and of the Congo to its intersection with the thirtieth meridian east of Greenwich (27° 40′ Paris); the prolongation of the same crest to its second intersection with the above-named thirtieth meridian east of Greenwich.

On the east.

The thirtieth degree of longitude east of Greenwich to latitude 1° 20′ south; a straight line from the intersection of the thirtieth degree of east longitude with the parallel of 1° 20′ of south latitude to the northern extremity of Lake Tanganika; the mediate line of Lake Tanganika; a line extending directly from the extremity of Cape Akaluga, on Lake Tanganika, situated at the most northern point of Camarons Bay, in about latitude 8° 15′ south, to the right-hand shore of the river Luapula, at the point where this river leaves Lake Moero; from this point a line extending directly to the mouth of the Luapula River in Lake Moero, this line, however, deviating toward the south of the lake so as to leave the island of Kilura to Great Britain; the thalweg of the Luapula to the point where this river leaves Lake Bangwelo; the meridian of longitude, in a southern direction, passing through this point to the crest of the watershed between the Congo and the Zambesi.

On the south.

The crest of the watershed of the Congo and of the Zambesi to the source of that one of the affluents of the Kassai which takes its rise in Lake Dilolo; the course of this affluent from its source to its mouth; the thalweg of the Kassai to the parallel of 7° 17′ south latitude; the parallel of 7° 17′ south latitude to its intersection with the thalweg of the Chikapa; the thalweg of the Chikapa River to its intersection with the parallel of 6° 45′ south latitude; the parallel of 6° 45′ south latitude to its intersection with the thalweg of the Lovna; the thalweg of the Lovna to its intersection with the seventh degree of south latitude;

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from the post of Manyanga to the village of Nsonso; this road to its intersection with the Loufon; the Loufon descending the course of the river for a distance of about 400 meters; a line extending toward the north, leaving to the west the villages of Nsonso and intersecting the road of Manyanga; this road to its intersection with the first affluent of the river Ntimbo; this stream to its confluence with the said river Ntimbo; this river to its most western source; a sinuous line extending toward the north to the edge of the plateau of Kanyanga, and thence following the crest of a watershed to its junction with the basin of the Louaia to the north and west of the village of Koumbi; a line running to the bend of Louaia, near the village of Kilaunbon; the river Louaia to the village of Kaonga; the line thus determined leaves to the west—that is to say, on the territory of the Independent State of the Congo—the villages of Nsonso, Massangui, Nsanga, Kinkendo, and Kintombo; and to the east—that is to say, on the territory of France—the group of Ntombo, the village of Nsome, the market of Manyanga, the villages of Kinsonia, Bondo, Konyonga, the market of Konso, the villages of M'Cango, Banza-Baka, Kiloumbon, and Kaanga.

[1] The terms "M'Bomon" and "Sources of the M'Bomon" refer to the indications contained in the map Yunker (Gotha, Justus, Perthes, 1888).

the seventh degree of south latitude to its intersection with the thalweg of the Loanque; the thalweg of the Loanque to the confluence of the Kangulungu or Kame-Bomba with the Loanque; the thalweg of the Kangulungu to its intersection with the parallel of the confluence of the Kwilu and of the Luita (7° 34′ south latitude, approximately); this parallel to the confluence of the Kwilu and of the Luita; the thalweg of the Luita from the junction of its waters with the Kwilu to the eighth degree of south latitude; the eighth degree of south latitude to its intersection with the thalweg of the Kwengo; the thalweg of the Kwengo to its intersection with the parallel of 7° 55′ south latitude; the parallel of 7° 55′ south latitude to the thalweg of the Lucaia; the thalweg of the Lucaia to the eighth degree of south latitude; the eighth degree of south latitude to the thalweg of the Kamanguna, the river by which the waters of the river Lue enter into the N'Kombo; the thalweg of the Kamanguna and of the N'Kombo to its junction with the Uovo; the thalweg of the Uovo to its outlet in the Wamba; the thalweg of the Wamba from the mouth of the Uovo to its intersection with the parallel of the point of junction between the Komba and of the Lola (8′ west of the Wamba and 8° 5′ 40″ of south latitude, approximately); the thalweg of the canal by which flow the waters of the Lola to its intersection with the thalweg of the Tungila; the thalweg of the Tungila to its mouth on the Kwango (8° 7′ 40″ south latitude, approximately); the thalweg of the Kwango to its intersection with the parallel passing through the residence of Noki; the parallel passing through the residence of Noki (latitude south 5° 52′ 10.14″, longitude agreed upon east of Greenwich 13° 28′ 25.25″), from the Kwango to a point taken on this parallel 2,000 meters east of the left shore of the Congo; a straight line joining this last point to the point of intersection of the left bank of the Congo with the parallel passing 100 meters north of the principal house of the factory of Domingos de Lonza at Noki; this parallel to its intersection with the mean line of the channel of navigation generally followed by vessels of great draft; this mean line to the mouth of the Congo River, a line which at present leaves to the right and comprised between this line and the right shore of the river, especially and among others, the river islands named Bulambemba Mateba and Princes Island, and to the left and comprised between this line and the left shore of the river, especially and among others, the river islands known under the names of Bulicoco and the islands of Sacran Ambaca.

On the west.

The Atlantic Ocean from the point of termination in the sea of the mean line above described and the point situated 300 meters north of the principal house of the Dutch factory of Lunga.

I seize, etc.,

EDMUND VAN EETVELDE.

DISMISSAL OF BELGIAN MINISTER FROM VENEZUELA.

Mr. Uhl to Mr. Ewing.

No. 130.] DEPARTMENT OF STATE,
Washington, May 23, 1895.

SIR: The Venezuelan minister at this capital has communicated to the Department copies of the correspondence and documents in the

case of the dismissal from his country of the French and Belgian ministers, and has made known his Government's desire that the friendly offices of the United States be exercised to secure the reestablishment of good relations between Venezuela on the one side and Belgium and France on the other. The correspondence is somewhat voluminous, and it is not thought necessary to forward you copies.

You will observe from the inclosed copy of an instruction sent to our ambassador at Paris on the 23d instant,[1] that Venezuela asserts that the dismissal of the Belgian and French ministers was a purely personal act due alone to the circumstance that those individuals had joined with certain other foreign representatives not now accredited to Venezuela in signing a certain protocol of conference containing gratuitous and defamatory statements reflecting upon the honor of the State and the integrity of its executive, which protocol was subsequently made public by the Italian Government in the annual Green Book; that by so doing, of their own initiative and not in compliance with instructions from the friendly governments they represented, each of those gentlemen had rendered himself individually to the Government of Venezuela persona non grata; and that in acting upon the situation so created and in accordance with the usual course of independent States in such contingencies, Venezuela intended no affront to France or Belgium, whose flags she had conspicuously saluted on the same day that she dismissed their personally objectionable agents, but rather invited the continuance of the thitherto unbroken friendly relations through new agents who should more fittingly reflect what she is happy to believe are the true sentiments of friendship which those Governments feel for Venezuela.

The Venezuelan minister for foreign affairs in the note to the minister further observes that as Belgium has not in terms broken off diplomatic relations, the good offices solicited of our ambassador in Paris could be limited on this point to expressing to the Belgian representative in Paris the gratification with which Venezuela would receive a new minister from Belgium and the interest that American Republic feels in strengthening and making permanent the cordial ties that unite the two peoples.

It has been thought more convenient that this intimation should be conveyed to the Belgian Government through you, and you are accordingly instructed to make known to the minister for foreign affairs the expressed wishes of the Venezuelan Government in this regard.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Ewing to Mr. Uhl.

No. 128.] LEGATION OF THE UNITED STATES,
Brussels, June 14, 1895. (Received June 27.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 130, instructing me to express to the Belgian Government the gratification with which Venezuela would receive a new minister from Belgium and the interest that American Republic feels in strengthening and making permanent the cordial ties that unite the two peoples.

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[1] See France.

In reply to the communication I addressed on the subject to the Belgian minister of foreign affairs, I have just received a note, of which I herewith inclose a copy and a translation into English.

As will be seen, the Belgian Government, having experienced on the part of Venezuela the same treatment as France, wishes to consult with that Republic as to its action in the matter.

I have, etc., JAMES S. EWING.

[Inclosure in No. 128.—Translation.]

Mr. de Burlet to Mr. Ewing.

MINISTRY OF FOREIGN AFFAIRS,
Brussels, June 13, 1895.

Mr. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, dated the 6th of this month, by which you are so kind as to inform me of the desire expressed by the Government of Venezuela to see the United States employ its good offices in reestablishing relations between Venezuela and Belgium.

The representative of France having been treated in the same manner as the agent of Belgium, the Government of the King wishes in the first place to have an understanding with that of the French Republic. Moreover, it is awaiting the speedy arrival of M. Ledeganck, its consul-general chargé d'affaires at Caracas, who, for family reasons, was not able to leave that city as soon as the Marquis Ripert Monchar, envoy extraordinary and minister plenipotentiary of France.

Be so kind as to accept, etc.,

J. DE BURLET.

Mr. Uhl to Mr. Ewing.

No. 146.] DEPARTMENT OF STATE,
Washington, July 3, 1895.

SIR: I have received your No. 128 of the 14th ultimo in relation to the proposed renewal of the diplomatic relations of Belgium with Venezuela. It appears therefrom that the Belgian Government, having experienced on the part of Venezuela the same treatment as France, wished to consult with that Republic as to its action in the matter.

In a dispatch dated June 6, 1895, Mr. Eustis reports an interview had by him with Mr. Hanotaux in reference to the Venezuelan affair.

I have instructed Mr. Eustis, expressing the sincere hope here felt, that by his discreet and judicious representations he may contribute to a better understanding of this question and bring about a convenient resumption of the interrupted relations. It is trusted that you will lend your kindly efforts in the same direction in order that the awaited exchange of views between Belgium and France may tend to a satisfactory conclusion of this question.

I am, etc., EDWIN F. UHL,
Acting Secretary.

BRAZIL.

DECISION OF THE PRESIDENT IN THE DISPUTED BOUNDARY QUESTION BETWEEN ARGENTINE REPUBLIC AND BRAZIL.

(See Argentine Republic.)

REFUND OF EXPEDIENTE CHARGES.[1]

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Petropolis, December 19, 1894. (Received Dec. 20.)

I have been orally informed that the flour claims will be paid, but that it is necessary for Congress to make appropriation.

THOMPSON.

Mr. Thompson to Mr. Gresham.

No. 331.] LEGATION OF THE UNITED STATES,
Petropolis, January 15, 1895. (Received Feb. 23.)

SIR: Referring to my telegram of December 19, 1894, I have the honor to report that the minister for foreign affairs informs me under date of January 4, 1895, that the circular of May 21, 1894, from the treasury department declining to refund the moneys collected as expediente duties on American merchandise had been revoked, and inclosing copy of the Government's decision in the case.

This decision in the form of a circular from the treasury department, copy and translation of which are inclosed, reviews the origin of the claims and explains how the expediente duties came to be levied in the face of the express provisions of the commercial arrangement; revokes the circular of May 21, 1894, and directs the custom-houses to forward claims to the Treasury in order that the necessary credit may be provided for their payment, remarking that as the duties have been paid in past fiscal years it is impossible to return the sums without an appropriation.

I inclose copy of the additional correspondence had on the subject.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 331.—Translation.]

CIRCULAR NO. 1.

DEPARTMENT OF THE TREASURY,
Rio de Janeiro, January 2, 1895.

Considering the claims of divers origins arising from the decisions of this department upon the interpretation of the terms of the convention celebrated with the

[1] See Foreign Relations, 1894, pp. 73–76.

United States of America on January 31, 1891, and the regulation of its administration determined by decree No. 1338 and by circular No. 6, both of February 5 of the same year; and

Considering that article 1 of the above-mentioned decree only referred to the import duties, and the order sent to the custom-house of the federal capital on March 31, 1891, declared that the merchandise coming from the United States free of duty by the abovesaid arrangement could not be free from the duties of expediente, because according to our laws they have not the character of import duties, and are levied exclusively upon merchandise imported free of duty, while the circular No. 6 formally and expressly declared that this exemption extends to all duties, whether national, State, or municipal;

Considering that these expressions of the circular were copied from the text of article 1 of the convention and did not exclude any kind of duties, including all, without distinction of origin, type, or character;

Considering that notwithstanding this, in virtue of the above-named order sent to the custom-house, this understanding prevailed based on the incompleteness or on the omission of the terms of article 1 of the decree of the 5th of February attributing to the latter of right a force that the circular could not have and by this means was observed, instead of the amplitude of the circular, the restriction of the decree;

Considering that this practice gave rise to claims on the part of the American Government to which Brazil was compromised to satisfy if it was shown that in the United States of America merchandise coming from Brazil free of duties by the convention was not subjected to any other tax whatever and that, if such was shown to be the case, not only would the collection expediente dues cease but also all sums unduly paid would be refunded;

Considering that it was demonstrated that Brazilian merchandise imported into the United States of America free of duty was not subjected to any tax whatever, and that for this reason the circular No. 28, of May 23, 1893, was issued, the result of the deliberation of the Government and justified by the terms of article 1 under the head of importation and additional of law No. 125, of September 30, 1891, which gave to expediente duties the character of custom-house imposts, thus causing to disappear any possible distinction established between the two;

Considering that in the execution of a convention duly celebrated, accepted, and carried out, the reciprocal advantages, rights, and obligations should be strictly observed, in conformity with the aim which inspired the celebration of the same and of the spirit which predominated in its conception, and that moreover the circular of May 25, 1893, in an express, determinate, and authentic manner regulated the interpretation of its clauses in entire accord with the provisions of article 131 of the commercial code, especially in relation to the good faith, the spirit and nature of what was stipulated;

Considering that for such reasons we should consider the circular as incorporated in the convention as explanatory of the decree and of any others referring to the execution of the same;

Considering that the circular No. 19 of May 25, of the past year maintained, as it could not fail to sustain, these principles, determining the exemption of the imports of American merchandise from expediente duties, but it denied the right to the restitution of the sums which had been unduly paid as such;

Considering that the latter part is not in harmony with the promise solemnly made of restitution of undue payments, and besides once established a principle it is impossible to decline its logical consequences; and consequently from the provisions of the circular of May 25, 1893, restitution naturally and legally follows, since the execution of the international convention can not fail to be uniform, nor can it depend on circumstances which have not been expressly modified by means of an agreement of the contracting parties;

Considering that the convention has been abrogated, as appears from the circular No. 43 of October 25, 1894, and all its effects declared to cease on the 1st of January, 1895, it is fit and proper that these claims should also cease to exist, as the procedure of the Brazilian Government should be absolutely free from any suspicion in the carrying out of all parts of its treaties;

I declare that the circular No. 16 of May 21 of the year past is hereby revoked in the part relative to the restitutions which may have been made in virtue of circular No. 28 of the 25th of May, 1893, that are thus hereby approved and maintained.

And whereas it is impossible to apply to the restitution of duties paid in past fiscal years the provisions of article 552 of the consolidated laws of the custom-houses, it being necessary to ascertain exactly the value of the restitutions claimed in order to furnish the necessary appropriation for the restitutions, under which heading this disbursement must be paid;

I hereby direct all custom-houses, when receiving the claims of parties interested in such claims, to forward them to the treasury after being passed on for the purpose of obtaining the proper credit and making the respective payments.

FRANCISCO DE PAULA RODRIGUES.

[Inclosure 2 in No. 331.]

Mr. Thompson to Mr. Carvalho.

LEGATION OF THE UNITED STATES,
Petropolis, November 29, 1894.

Mr. Thomas L. Thompson, minister of the United States, begs to refer to the conversation had with His Excellency Dr. Carlos de Carvalho, minister for foreign affairs, on Tuesday the 27th instant, in regard to the return of certain duties collected by the Government of Brazil on articles which should have been admitted free of duty under the commercial arrangement of January 31, 1891, and to submit for his consideration a few further remarks in the premises.

Representations having been made to this legation in the early part of 1893 that the Government of Brazil had been collecting an expediente tax on American merchandise which, by the terms of the accord above referred to, should have been admitted free, Mr. Markell, chargé d'affaires ad interim, acting under the instruction of the honorable Secretary of State, brought the matter to the attention of the minister for foreign affairs, protesting against this violation of the accord, asking for the revocation of the decree directing the collection of these duties, and for the restoration of the money illegally collected. (Mr. Markell to Dr. A. F. Paula Souza, February 27, 1893.)

A reply to the substance of this note was made subsequently, in which the minister stated that if no duties similar to this expediente tax were collected by the custom-houses of the United States on goods exempted by the commercial arrangement proceeding from Brazil, then the "expediente tax" would cease, and the moneys collected under its operation would be refunded "cessará no Brasil a cobrança em questão e serão restituidos as quantias individamente pagas." (Dr. A. F. Paula Souza to Mr. Conger, April 12, 1893.)

Mr. Conger, replying to this note, after ascertaining directly that no such duties were collected in the United States, conveyed the information to the then minister for foreign affairs, and after some weeks' delay he was informed, May 31, 1893, that no further duties would be collected upon the merchandise exempted by the commercial arrangement.

This very satisfactory action of the Brazilian Government closed the first part of the question originally raised.

The importers of American merchandise who had been subjected to the illegal tax, acting upon the assurance given by Dr. A. F. Paula Souza that the money illegally collected would be refunded, prepared claims and presented them through the regular channels, expecting that they would be early disposed of. But, on the contrary, they laid without adjudication, or apparently any action whatever, until May of this year, when there appeared in the public journals a circular from the minister of the fazenda reviewing the cases and deciding that they were not entitled to favorable consideration upon many grounds. The two apparently upon which most stress was laid I will briefly notice, viz: (1) "That similar duties (for the dispatch of merchandise) were collected by the custom-houses of the United States; (2) That the North American importers, having sold the goods at a time when the duty was in operation, had added the amount of the duty to the selling price of the goods, and were consequently fully reimbursed by the national consumer."

As to the first of these grounds Mr. Conger's note of April 19, 1893, fully disproves the premises, as well as mine of October 22, 1894, and it consequently fails, as does the second, when we consider that the

selling price of goods is regulated by the market in which the goods are sold, and it is impossible to determine whether they are sold at a loss or a gain. But leaving this entirely out of the question, the imposition of the tax was a discrimination against American merchandise illegally collected in violation of an accord, and the money received under it can not justly be retained, as it is one of the first principles of law that property acquired through an illegal act can not be withheld from its rightful owner under any circumstances. It does not appear nor can it appear that the American importers have been reimbursed for the losses which the collection of the "expediente tax" entailed. The losses are innumerable and can not be estimated, not only to the importer but to the market for American goods, which was the only object the arrangement was designed to conserve. The effect of the tax was certainly to favor importations in competition with American goods. For this, and in full compensation, all that is asked is to have the money unduly collected refunded, a simple request which both equity and justice demands. The Government of Brazil has acknowledged that the collection of these duties was irregular, and the money obtained by or through that act should be refunded.

While this circular has never been officially brought to my knowledge, I do not refrain from adverting to its provisions because it has been given an official character by publication in the Diario Oficial and is a decision on the merits of this case by one department of the Government. The impossibility of accepting the reasoning expressed in it as a bar to the final restitution of the money must be apparent, as it contravenes the letter and spirit of the accord as well as the principles of law and equity.

Following this circular I had the honor, acting under instructions from my Government, to call the attention of your excellency's esteemed predecessor to the explicit and distinct agreement of the Government of Brazil to refund these moneys, as expressed in the note of April 12, above referred to and quoted. Accordingly, in my notes of June 7, August 31, and October 22 the matter was discussed and a speedy disposition of the cases requested, as the Government of the United States had a right to expect. But, notwithstanding the notes and several personal solicitations, no response has been given to the essence of the representations. Now, I am in receipt of more imperative instructions, which makes it necessary to urge favorable and speedy action on them.

Mr. Thompson offers, etc.

[Inclosure 3 in No. 331.—Translation.]

Mr. Carvalho to Mr. Thompson.

DEPARTMENT OF FOREIGN AFFAIRS,
Rio de Janeiro, January 4, 1895.

I have the honor to communicate to Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, in response to his notes of October 22 and November 29, last, relative to the collection of expediente duties, that the Government, on the 2d instant, determined to revoke the circular of the department of the treasury dated May 21, last, as appears from the inclosed cutting from the Diario Oficial.

I renew, etc., CARLOS DE CARVALHO.

Mr. Thompson to Mr. Olney.

No. 394.] LEGATION OF THE UNITED STATES,
Petropolis, August 7, 1895. (Received Aug. 30.)

SIR: Referring to my No. 374,[1] of June 19 last, I have the pleasure to state that I have been orally informed by the minister for foreign affairs that an appropriation has been requested of the National Congress for the refund of the expediente duties illegally collected on American flour.

I have, etc., THOS. L. THOMPSON.

Mr. Thompson to Mr. Olney.

No. 415.] LEGATION OF THE UNITED STATES,
Petropolis, October 3, 1895.

SIR: I have much pleasure in informing you that the National Congress has passed a resolution authorizing the refund of the duties collected on American merchandise in contravention of the commercial arrangement between the United States and Brazil of January 31, 1891.

The resolution has been sanctioned and promulgated by the President, as you will observe from the inclosed copy.

I have, etc., THOS. L. THOMPSON.

[Inclosure in No. 415.—Translation.]

Decree No. 299—30th of September, 1895.

Authorizes the opening of a supplementary credit of 1,700,000$000 to the article "Reposições and restituições," article 7, No. 29, of the law No. 266, December 24, 1894.

I, the President of the Republic of the United States of Brazil, make known that the National Congress decrees and I sanction the following resolution:

ARTICLE 1. The Government is authorized to open for the department of the treasury a supplementary credit of 1,700,000$000 ($357,000) to the section "Reposçõies and restituiçõies" of the current appropriation law, article 7, No, 29, of law No. 266, of December 24, 1894, not only to return the expediente duties collected by the custom-houses on American merchandise entitled to free admission under the respective (commercial) arrangement, but as well to give execution to article 9, line 3, of the cited law, and further to dispose of reclamations from the States until the end of the present fiscal year.

ARTICLE 2. All provisions to the contrary are revoked.

Capital Federal, 30th of September, 1895, seventh of the Republic.

PRUDENTE J. DE MORAES BARROS.
FRANCISCO DE PAULA RODRIGUES ALVES.

REESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN BRAZIL AND PORTUGAL.[2]

Mr. Mendonça to Mr. Gresham.

[Translation.]

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, March 16, 1895. (Received March 18.)

SIR: The minister of foreign relations of Brazil, by cable of this date, directs me to communicate to your excellency that the diplomatic rela-

[1] Not printed.

[2] See Foreign Relations, 1894, p. 64.

tions between Brazil and Portugal have been reestablished, and assigns to me the agreeable duty of offering to the President of the United States the sincerest thanks of the Government of Brazil for the protection extended by the American minister at Lisbon to the Brazilian citizens resident in Portugal and its possessions during the suspension of the diplomatic relations between the two countries.

Accept, etc.,

SALVADOR DE MENDONÇA.

Mr. Uhl to Mr. Mendonça.

No. 6.] DEPARTMENT OF STATE,
Washington, March 19, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, announcing the reestablishment of diplomatic relations between Brazil and Portugal, and offering the sincere thanks of your Government to the President for the protection extended by the minister of the United States at Lisbon to citizens of Brazil resident in Portugal.

I have taken pleasure in communicating the contents of your note to the President and beg to express his gratification at the announcement made.

Accept, etc., EDWIN F. UHL,
Acting Secretary.

MONUMENT TO MONROE.

Mr. Thompson to Mr. Gresham.

No. 316.] LEGATION OF THE UNITED STATES,
Petropolis, November 21, 1894. (Received Jan. 5, 1895.)

SIR: On the 15th instant the corner stone of the pedestal of a monument proposed to be erected to the memory of Monroe was laid in the city of Rio, in the Largo (square) da Lapa, in the presence of a number of military and civil officers of the Government and a large concourse of civilians.

The ceremonies were conducted by a committee of citizens known as the Monroe Monument Committee, and their aim is to erect a monument in honor of the great American statesman and the doctrine that bears his name. It is also their desire to bring about the solidarity of the American Republics, carrying them from without European influence or interference.

The pavilion in which the ceremonies were conducted was erected in the center of the square, polygonal in form, each side bearing at the arch the name of one of the American republics, and pillars extending its entire height were handsomely decorated with flags and bright-colored cloths. The general effect was very beautiful.

I inclose clippings, with translations from local papers, which I understand give a fair account of the proceedings, and are in the main correct.

I could not attend the ceremonies, having previously accepted an invitation from the President of the Senate to be present at the inaugural.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 316.—Translation.—From the Paiz, November 15, 1894.]

THE MONROE STATUE.

The American Solidarity Monument Committee has sent the following invitation to the ministers of American nations, which it causes to be published for fear that on account of the festivities it may not be received in time by the persons to whom it is addressed and whose presence it earnestly solicits:

"CITIZEN:

"In commemoration of the attitude assumed by the Government of the United States of North America during the deplorable insurrection of September 6, the undersigned committee purposes erecting with popular aid a monument to American solidarity, chiefly represented by Monroe.

"The ceremony of laying the corner stone will take place on the 15th instant at 11 o'clock a. m. on Largo da Lapa.

"You are invited, Citizen Minister, to attend the ceremony, and we hope that as the representative of one of the links of the great chain of American Republics you will give us the moral support of your illustrious presence.

"The concurrence of your country in our enterprising undertaking will be an incentive to our efforts and a source of gratitude to Brazilian republicans.

"Health and fraternity.

"THE COMMITTEE.

"P. S.—The committee begs that you will do it the favor of bringing a small memento of your country to be inclosed in the corner stone."

The American Solidarity Monument Committee invites all Brazilian republicans, republican clubs, patriotic battalions, and American colonies to be represented at the ceremony of laying the corner stone. Not having had time to send invitations to all associations, the committee begs to be excused for the omission, which, in view of the greatness of the cause, it hopes will be overlooked.

[Inclosure 2 in No. 316.—Translation.—From the Jornal do Commercio, November 16, 1894.]

AMERICAN UNITY.

At an elegant pavilion on Largo da Lapa there took place yesterday the ceremony of laying the corner stone of the Monroe statue.

This ceremony was attended by senators, deputies, the Uruguayan and Brazilian commissions, the municipal council, the prefect of the Federal district, deputations from the military and polytechnic schools and from the fire corps, the acting chief of police, generals and other officers of different grades in the army and navy, and representatives of all social classes.

Marshal Floriano was represented by Captain Siqueira.

Gen. J. W. Avery was also present, accompanied by Dr. R. Cleary, deputy consul-general of the United States.

After an important address from Dr. Trajano de Medeiros, General Avery, in response thereto, made in English the following speech, which we translate:

* * * * * * *

This speech was heartily cheered.

Mr. Joao Clapp then read the official record of the ceremony, which was signed by the committee and other persons present.

Dr. Prudente de Moraes, who passed through Largo da Lapa on his way to the senate, alighted from his carriage and attached his signature to the record in the midst of loud cheers.

The Thirty-eighth Battalion of Infantry was on duty as a guard of honor at the ceremony.

[Inclosure 3 in No. 316.]

SPEECH OF GENERAL AVERY.

Fellow-Americans of the Grand Republic of the United States of Brazil: I esteem it a high honor and great privilege as an humble citizen of the United States of North America to have the opportunity of saying a few words to the people of this Republic.

The citizens of my country feel a profound interest in the welfare and perpetuity of the South American Republics, and desire to establish the most cordial commercial and social relations with them.

It is a large compliment for the Republic of Brazil to erect a monument to a distinguished President and citizen of my country that every patriotic citizen will be proud to know, and it will strengthen the already close bond of fraternity between our two great nations.

I have come to you representing an important international exposition of the United States, whose main object is to enlarge the commercial relations and establish warmer social and personal bonds between our countries. We remember your magnificent building and comprehensive display of your affluant resources and products at our Columbian World's Fair, in Chicago, and we hope that you will take the same part and make an even larger exhibit at this important business exposition.

I have brought the enterprise before your Government and invite your cooperation in this vast movement for our common good, and desire to say that we feel an especial sentiment for Brazil, to whose Government I have first come.

It has been the policy of the United States of North America from the very beginning of its existence to pursue an unchangeable neutrality to all foreign countries, seeking the friendship of all and incurring the hostility of none, and its ambition is to always act as an arbiter of peace and harmony between those that may differ.

I thank you for your attention and invoke the blessing of Almighty God upon your noble Republic and upon the new administration that has come into its control.

Three enthusiastic cheers were given for the United States of North America, a ringing cheer for Grover Cleveland, and a cheer for General Avery.

[Inclosure 4 in No. 316.—Translation.—From the Paiz of November 17, 1894.]

THE MONROE MONUMENT.

We publish to-day the official address read by Dr. Trajano de Medeiros at the laying of the corner stone of the monument to be raised on Largo da Lapa, and a copy of the official record, documents which for want of space we were unable to publish yesterday.

The address is as follows:

"The corner stone of the monument to American solidarity, which is now to be laid, is a tribute of friendship and gratitude of Brazilian republicans to the great country of Jefferson and Monroe and the solemn affirmation of our intelligent adoption of the principles proclaimed to the world in the memorable message of this illustrious statesman.

"We are not governed at this moment by any narrow feeling of Americanism; on the contrary, it is because we are intensely interested in the spread of universal fraternity that we are now led to proclaim the necessity of nonintervention of Europe in the peculiar affairs of American Republics.

"Yes, gentlemen, occidental anarchy is vast and profound; originating in the absence of any general doctrine, freely accepted in conformity with the teaching of Auguste Comte, it threatens to hurl the world into chaos, bursting all the bonds of human fraternity.

"Europe, the cradle of our civilization, whence has come the dawn of our redemption, is, nevertheless, writhing in a terrible struggle with this horrible hydra.

"The blindness of the people and the still blinder empiricism of governments who fail to discover the luminous path that leads to universal peace cause them to endeavor to ward off internal dangers by means of the exodus of population in conjunction with external predomination.

"Hence the thousands of questions to which these nations in consequence of their strength are constantly giving rise in the world—on this subject let Asia, Africa, Oceanica, and even America speak.

"The colonial policy of Europe, it must be said, is the most shameful feature of the present century.

"If the vigorous generation of 1789 could rise at this moment from the bosom of the earth, it would cover its face in sorrow and shame at the sight of so degrading a spectacle and would loudly exclaim: Renegade sons, you have belied your traditions!

"It is necessary to have faith, it is necessary to believe in the supremacy of the grand phalanx of the dead over the living in order to trust that from the midst of the present struggle, from the midst of these nations that drift without a compass on the vast sea of disorder, may emerge that future era of human felicity so brilliantly sketched by Condorcet.

"While awaiting its advent, it behooves us Americans to unite politically to save the continent of Columbus from the widespread devastations of the foreign policy of Europe.

"It was the noble attitude of Monroe, advised by Jefferson, and the resolute man-

ner in which his doctrine has been interpreted that have created for America an almost privileged position among the other parts of the earth in relation to the degrading intervention of European nations.

"Casting a retrospective glance at the political life of the present century, we see that the remarkable theory has been confirmed by the lessons of history.

"To us South Americans, to us Brazilians, who have just passed through a dolorous crisis in our history, belongs especially the duty of proclaiming this fact by erecting the monument which materially represents it.

"Seeking political union as the best safeguard for our autonomy and independence, we Americans also labor for a reign of peace, renouncing war as a means of solving international problems.

"Thus obtaining a comparative degree of harmony and order, we shall be able to meditate on social problems and follow the road to human felicity.

"To complete, Messrs. Ministers and Gentlemen, the picture of our motives and aspirations, we will explain to you our conception of the proposed monument. Around the principal figure, which personifies our views, will be grouped the great national liberators of America—Washington, Jefferson, Juarez, Toussaint L'Ouverture, Bolivar, Jose Bonifacio, and Benjamin Constant.

"The construction of the monument will be contracted by means of public tenders received in the United States of North America, where the statue will be made, its pedestal to be constructed in Brazil.

"In this manner the two great countries will be united in the work of glorifying the idea that now brings us together; North American art will aid us Brazilians in perpetuating in bronze and granite the resolute soaring of the aspirations for concord and fraternity among the nations of the continent of Columbus.

"As to you, illustrious representatives of American Republics, may your presence on this occasion and the mementoes which you deposit in the cavity in this stone at the base of the monument be the pledge of your cooperation in this work, so that your aspirations, when war shall have been extinguished in the midst of our mother countries, will converge toward rendering not merely a hope but a reality, in the life of the Republics of the new continent, the motto of order and progress.

"Fellow-citizens, the step which we are about to take is decisive. In your name we assume a solemn obligation. You must aid us in every way, so that on this spot may be raised, in conformity with the noble aspirations of Brazilian hearts, the first monument to the brotherhood of nations.

"If you accomplish this, you will have given the best proof of your republicanism, confirming once more the maxim of Vauvenargues that 'Great thoughts come from the heart.'

"In this belief, Mr. Minister of the United States, convey to your countrymen the protestations of the friendship of the Brazilians and our gratitude for the decisive interpretation of their policy, together with our cordial wishes for human peace and concord.

"All hail the continent of Columbus!

"All hail the Republic of the United States of North America!

"All hail the American Republics!

"All hail the Republic of Brazil!"

The copy of the official record is as follows:

Official record of the laying of the corner stone of the monument to American solidarity, represented by the eminent James Monroe.

At 11 o'clock a. m., on the 15th day of November, 1894, fifth year of the foundation of the Republic of Brazil, one hundred and nineteenth year of the Declaration of Independence of the United States of North America and one hundred and sixth year of the French revolution, last day of the administration of Marshal Floriano Peixoto and first day of that of citizen Dr. Prudente Jose de Moraes e Barros, in the presence of the representative of the said marshal, Dr. Prudente Jose de Moraes e Barros, minister and consul of the United States of North America, diplomatic and consular representatives of the various American Republics, whose signatures are hereunto attached, the Positivist Apostolate in Brazil, deputations from the Senate and Chamber of Deputies, representatives of the Federal district, various republican clubs, representatives of all social classes, and the committee for promoting the erection of the monument, was laid, on Largo da Lapa, in the city of Rio de Janeiro, this corner stone of the monument to American solidarity.

The monument which will be erected on the spot in which this stone is laid, and which will symbolize the political union of the different nations of the continent of Columbus, will be surmounted by the figure of James Monroe, author of the celebrated doctrine known by his name, which teaches that the nations of the new continent should unite for the purpose of preventing any undue interference of the nations of Europe in the internal affairs of America. Around the principal figure will be grouped the

great national liberators of America—Washington, Jefferson. Juarez, Toussaint L'Ouverture, Bolivar, Jose Bonifacio, and Benjamin Constant. In remembrance of this auspicious day, we inclose within this stone the original of this official record, the commemorative medals of this ceremony, the commemorative medal of the inauguration of the second President of the Brazilian Republic, the coins of the period, the journals of the day, and the mementoes contributed by the various representatives of the American Republics here present.

Mr. Gresham to Mr. Thompson.

No. 204.] DEPARTMENT OF STATE,
Washington, January 7, 1895.

SIR: I have received your No. 316, of November 21 last, reporting the ceremonies attending the laying of the corner stone of a monument to be erected in memory of President Monroe at Rio de Janeiro.

This tribute to the memory of an American statesman can not fail to be appreciated by the Government and people of the United States.

I am, etc.,

W. Q. GRESHAM.

ASSAULT ON AMERICAN SEAMEN AT SANTA CATHARINA.

Mr. Thompson to Mr. Gresham.

No. 326.] LEGATION OF THE UNITED STATES,
Petropolis, December 23, 1894. (Received Jan. 25, 1895.)

SIR: I have the honor to confirm my telegram to you of the 19th instant, reporting that three sailors from the schooner *Isaiah K. Stetson* were badly wounded at Santa Catharina by soldiers and that one of the sailors died from the effects of his wounds, as follows:

PETROPOLIS, *December 19, 1894.*

GRESHAM, *Washington:*

Have received a telegram from the consul at Desterro, reporting that three sailors from American vessel *Isaiah Stetson* were wounded by soldiers at Santa Catharina and that one died. Have asked an investigation.

THOMPSON.

The information reported in the above telegram was received from Consul Grant on the 18th instant. The facts were immediately presented to the minister for foreign affairs and an investigation of the occurrence requested.

I have received no further information, but will report more fully by next mail.

Correspondence upon the subject which has thus far taken place is inclosed.

I have, etc., THOS. L. THOMPSON.

[Inclosure 1 in No. 326.—Telegram.]

Mr. Grant to Mr. Thompson.

SANTA CATHARINA, *December 18, 1894.*

Three seamen of American schooner *Isaiah K. Stetson* badly wounded Sunday night by soldiers; one died last night. Protested to-day; soldiers were recognized; affair in hands of police. Particulars by mail.

GRANT,
U. S. Consular Agent.

[Inclosure 2 in No. 326.]

Mr. Thompson to Dr. Carvalho.

LEGATION OF THE UNITED STATES,
Petropolis, December 18, 1894.

Mr. MINISTER: A telegram from the United States consul at Santa Catharina has just reached me, reporting that three American sailors from the schooner *Isaiah K. Stetson* were badly wounded by soldiers at that place Sunday night and that one of the sailors had subsequently died. The consul further states that he has protested against this unlawful act, and the soldiers guilty of the crime have been recognized.

I hasten to bring this matter to your excellency's attention, soliciting your good offices, with the view of obtaining an early and thorough investigation of this regrettable occurrence and the prompt punishment of the guilty, reserving for my Government the option of claiming such reparation and satisfaction as the merits of the case warrant.

Trusting that your excellency's high sense of justice will bring this matter to an early and equitable solution, I have, etc.,

THOMAS L. THOMPSON.

Mr. Thompson to Mr. Gresham.

No. 329.] LEGATION OF THE UNITED STATES,
Petropolis, January 1, 1895. (Received Jan. 25.)

SIR: Referring to my No. 326 of December 23, giving such information as I had at hand concerning the wounding and killing of American sailors at Santa Catharina, I now have the honor to inclose copy and translation of a note from the foreign office upon the subject. I am still without a full report from Consul Grant.

I have, etc. THOS. L. THOMPSON.

[Inclosure in No. 329.—Translation.]

Dr. Carvalho to Mr. Thompson.

MINISTRY OF FOREIGN RELATIONS,
Rio de Janeiro, December 31, 1894.

I have duly received the note which Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to address to me on the 18th instant, informing me of the maltreatment, by soldiers of the State of Santa Catharina, of three sailors from the schooner *Isaiah K. Stetson*, one of whom has since died, and requesting that steps might be taken to secure the speedy punishment of the guilty parties.

On the receipt of the aforesaid note, I requested the president of that State to report immediately, not only concerning the facts, but also concerning the action taken with a view to bringing the accused parties to justice.

The president confirms the report of the occurrence in question, which is deeply regretted by the Federal Government, and states that it took place during a street brawl in the vicinity of a drinking saloon and house of prostitution. The police authorities examined the injuries

of the wounded men and took measures to discover their assailants, as they are still unknown, and it has been impossible to secure any witnesses.

Meanwhile the search is continued, and I shall hasten to bring its result to the knowledge of the minister.

I have, etc., CARLOS DE CARVALHO.

Mr. Thompson to Mr. Gresham.

No. 335.] LEGATION OF THE UNITED STATES,
Petropolis, January 24, 1895. (Received Feb. 23.)

SIR: Referring to my No. 326 of December 23, 1894, reporting that three sailors from the American schooner *Isaiah K. Stetson* had been assaulted by soldiers at Santa Catharina, I have to transmit an account of the occurrence forwarded by Consular Agent Grant.

It appears from Mr. Grant's report that the men assaulted were Nils Johnson, Ingvald Ramstad, Charles Jonson, and Fred Jensen, regularly shipped seamen but not American citizens; that two died from the result of their wounds; that they were on shore contrary to the master's orders, and that the perpetrators of the crime have been apprehended and will be brought to trial.

The minister for foreign affairs expresses regret at the occurrence; states that from the information he has received the crime was committed during a general street row, in a low part of the city, and that efforts are being made to apprehend the culprits.

I will send you as soon as received a report on the origin of the occurrence, which I have asked the consul to make, but will take no further action until instructed, for apparently every effort is being made to have the affair speedily adjusted.

I have, etc., THOS. L. THOMPSON.

[Inclosure in No. 335.]

Mr. Grant to Mr. Thompson.

FLORIANOPOLIS, *December 27, 1894.*

SIR: In explanation of my telegram of the 18th instant, I have to inform you of the following occurrence:

The American schooner *Isaiah K. Stetson*, Capt. Charles F. Trask, having been unloaded, was cleared on Saturday, the 15th instant, bound for Barbadoes.

Early on Monday morning, 17th, the captain came to me and reported that on the previous day, at about 1 o'clock p. m., he had given leave to four of his crew, namely, Nils Johnson, Ingvald Ramstad, Charles Jonson, and Fred Jensen, to go on shore, but with injunctions to return on board before dark. He, the captain, went on shore at about 6 p. m., and meeting the men, ordered them to go on board, but they refused to go, saying that they would get on board later with the assistance of the crew of the *Elcho*, an English bark that lay moored at a wharf.

The captain returned on board without the men, and between 8 and 9 o'clock he was called for by the crew of the bark *Elcho*. He went on board the said bark and there found three of his crew—Ingvald Ramstad, Charles Jonson, and Fred Jensen—dangerously wounded and the other, Nils Johnson, slightly wounded, the wounds having been, according to

the men's declaration, inflicted by a group of soldiers armed with knives or other sharp instruments. He, the captain, stated that he had tried to obtain medical aid for the wounded men, but had been unsuccessful, as several doctors to whom he had applied refused to go with him to see the men. He afterwards, with the aid of the police, who appeared on the spot, had the three men who were dangerously wounded transferred to the hospital, where they arrived between 12 and 1 o'clock in the night, Nils Johnson, who was very slightly wounded, proceeding on board the ship.

On hearing this report I immediately applied to the chief of police and requested him to take the necessary measures for the capture and punishment of the soldiers who had committed the crime. The chief of police assured me that all the necessary steps would immediately be taken. I then, with the captain, procured a physician and proceeded to the hospital, where I found the three seamen mentioned, all stabbed in different places, and two of whom were in a very precarious condition, one, Charles Jonson, having part of the bowels protruding from a wound in the stomach.

They were all attended to by the physician I took with me in conjunction with the physician of the hospital, who arrived some time after we did. Charles Jonson died during the night of the 17th, and Ingvald Ramstad on the next morning, and both were buried in the afternoon of the 18th. The two men who died, Charles Jonson and Ingvald Ramstad, were Norwegians by birth. Fred Jensen is a Dane, and Nils Johnson a Swede; but as they were all regularly shipped at New York on board the vessel, which is American, they are of course all considered American seamen.

Considering the seriousness of the case, I thought it my duty to telegraph direct to you, informing you at once of the matter, and I beg you to advise me whether I have done rightly.

Several of the soldiers, in fact I believe all who perpetrated the crime, have been discovered and imprisoned, and will be duly tried and punished. The case is proceeding in due course, and if you wish it I will from time to time inform you directly how the affair goes on. If there is anything else that I ought to do, please to instruct me, for the case is new to me.

The *Isaiah K. Stetson* sails to-morrow, three seamen having arrived from Rio and shipped.

Fred Jensen, who was severely stabbed in the left arm and the back, being unable to proceed, although much better and completely out of danger, remains in the hospital discharged. Nils Johnson, quite well, proceeds with the ship.

Awaiting your instructions, I am, etc.,

ROBERT GRANT,
United States Consular Agent.

Mr. Thompson to Mr. Gresham.

No. 338.] LEGATION OF THE UNITED STATES,
Petropolis, January 31, 1895. (Received March 11.)

SIR: I now have the honor to transmit the additional report from Consular Agent Grant, mentioned in my No. 335, of January 24, on the wounding and killing of the American sailors at Santa Catharina. From the report the crime appears to be more vicious and heinous than I had

at first supposed, and to have been committed entirely without provocation. Mr. Grant also mentions that the witnesses had been threatened and that it was only with much difficulty they could be induced to testify.

I will advise you of the result of the trials.

I have, etc.,

THOMAS L. THOMPSON.

[Inclosure in No. 338.]

Mr. Grant to Mr. Thompson.

FLORIANOPOLIS, *January 24, 1895.*

SIR: Your telegram of the 3d instant was duly received, but as I wished to give you some definite information I delayed answering until I could see the papers relating to the police investigation of the case, in which I have only succeeded to-day.

In addition to my letter of December 17, I found the wounded men in such a bad condition that they could scarcely answer any questions.

The information I could get from them at the time was to the effect that at about 8 o'clock on the evening before they were all four of them together in a street at the end of the town which turns down to the quay, one of them playing an accordion and the others standing around or dancing. There were also some soldiers in the street, who suddenly and without any provocation attacked them and commenced stabbing them with knives. They, feeling themselves wounded, ran down the street and to the wharf, where the English bark *Elcho* was moored, and took refuge on board her, the soldiers pursuing them and murderously stabbing them all the way to the ship, or very near to her.

Ingvald Ramstad had eight wounds, two of which were mortal; Charles Jonson four, one of them being mortal, and Fred Jensen also four dangerous. Nils Johnson had a number of slight cuts in his back. The clothes of all of them had a number of cuts which did not reach their bodies.

When Fred Jensen got better I questioned him more closely and he stated that on the said evening, when the captain told them to go on board, they had not positively refused to go, but had simply said that they would get on board later with the assistance of the crew of the bark *Elcho*, on which the captain left them.

They then continued their walk toward the end of the town, and on reaching the street that turns down in the direction of the wharf where the *Elcho* was lying they went into a tavern and had a glass or two of wine and sat together in conversation for a short time until it got dark. At this time, the owner of the tavern wishing to close for the night, they went out and stayed a short time in the street, one of them playing an accordion and the others listening and talking. None of them were intoxicated. There were also a few soldiers standing about the street, some talking to women at the windows of the houses round about. They (the sailors) not understanding the language of the country, took no notice of the soldiers, but just continued amusing themselves as described. He (Fred Jensen) walked down the street a little way, thinking of going on board, when suddenly he heard the noise of a scuffle, and turning back he saw his companions attacked by a number of soldiers. One of the sailors was lying on the ground and the soldiers striking at him.

He (Fred Jensen) immediately went to the rescue and assisted his companion to get on his feet, he being in his turn attacked by the soldiers. Feeling himself wounded, he made for the bark *Elcho*, defending himself as best he could from the soldiers, who pursued him, and took refuge on board the bark, where he found his companions wounded, and all remained until, with the aid of the police, they were removed later on to the hospital.

From all information the seamen were all orderly and well-conducted men, not given to drinking, and were none of them intoxicated, nor did they give the slightest provocation to anybody.

During the police investigation fourteen witnesses have been examined. In the beginning the proceedings were very difficult, as the first who were examined, fearing the revenge of the soldiers on the witnesses who should denounce them, denied all knowledge of the affair. Some of them who had seen it all had, in fact, been threatened with death by the soldiers in case they should make any disclosures. Fortunately indications were discovered which forced some of them to confess that they had witnessed the crime and to name the perpetrators, who are proved to have been Durval Peixoto, Manoel Cerino, Joao Galdino de Oliveira, and Elias Torquato da Roza, all soldiers of the Seventh Battalion of Infantry, stationed at this city, who seem to have been led to the perpetration of this odious crime only by their perverse instincts, as it has been impossible to discover any other motive.

The evidence of a number of the witnesses confirms the statement of the sailors, viz, that they were in the said street, which is called Padre Roma, one playing the accordion and others listening and some dancing, when without any previous altercation or provocation whatever, they were attacked and wounded by the said soldiers, who pursued them as far as the English ship, on board of which they took refuge.

The case is proceeding slowly in spite of all my efforts to get things done more rapidly.

The murderers have not yet been committed for trial, but I believe they will be within the next three or four days.

Fred Jensen is now quite well, and I send him to Rio to day. He will present himself to you and personally state all about the case.

I am, etc.,

ROBERT GRANT,
Consular Agent.

Mr. Uhl to Mr. Thompson.

No. 210.] DEPARTMENT OF STATE,
Washington, February 5, 1895.

SIR: I have received your No. 326 of December last and your No. 329 of the 1st ultimo, reporting the wounding by Brazilian soldiers of three sailors from the American schooner *Isaiah K. Stetson* at Santa Catharina and the subsequent death of one of them.

Your action is approved and the full report of the investigation promised by the Brazilian Government is awaited.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Thompson.

No. 217.] DEPARTMENT OF STATE,
Washington, March 12, 1895.

SIR: I have received your No. 338, of January 31 last, inclosing the report of Consular Agent Grant concerning the killing and wounding at Santa Catharina of certain sailors from the American schooner *Isaiah K. Stetson.*

The affair as thus reported presents features of atrocity and wantonness which can not fail to call forth the severest condemnation of justice, and it is confidently expected that its vindication will be speedy and complete.

You will continue to impress upon the Brazilian Government the interest with which the case is here watched, and urge prompt and satisfactory action.

I am, etc., EDWIN F. UHL.

Mr. Thompson to Mr. Olney.

No. 385.] LEGATION OF THE UNITED STATES,
Petropolis, July 18, 1895. (Received Aug. 15.)

SIR: Referring to my No. 338, of January 31, 1895, in regard to the killing of American seamen at Santa Catharina, I have the honor to inclose copy and translation of a note from this Government showing the efforts made by the authorities for the punishment of the guilty.

Of the four soldiers originally charged with the crime one has been acquitted and another is dead, thus leaving only two, who it appears were convicted in the lower court but have taken an appeal, the result of which is yet unknown. The authorities are apparently using all diligence to secure a conviction, and I have no doubt but what the result will be satisfactory.

I have, etc., THOS. L. THOMPSON.

[Inclosure in No. 385.—Translation.]

Mr. Carvalho to Mr. Thompson.

DEPARTMENT FOR FOREIGN AFFAIRS,
Rio de Janeiro, July 2, 1895.

In addition to my note No. 6 of December 31 last, permit me to bring to the knowledge of Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, the result of the efforts of the authorities of the State of Santa Catharina in regard to the case of the three sailors belonging to the crew of the schooner *Isaiah K. Stetson.*

From an investigation made by the police it appears that the attack on the sailors Charles Jonsen, Ingvald Ramstad, and Fred Jensen, in consequence of which two of them died, was made by the soldiers of the seventh battalion of infantry, Durval Peixoto, Manoel Cerino, Joao Galdino de Oleveiro, and Elias Torquato da Roza, who were arrested last December. The State's attorney proceeded against them on February 21 of this year, but during the trial, at which six witnesses were examined, it was shown that Elias Torquato da Roza was innocent, and the

judge, after due diligence in ascertaining the truth, acquitted him and decided that the other three had incurred the penalties provided for in article 294, section 1, together with those in article 66, section 3, of the penal code.

Recourse to the State supreme court from this judgment not having been had, notice was served on the State's attorney, who filed the accusatory complaint on April 26 and June 25, was fixed by the judge for the second session of the jury, at which should be tried only Manoel Cerino and Joao Galdino de Oliveiro, Durval Peixoto having died on May 3.

As soon as I am informed of the result of this trial I will inform you.

I approve, etc.,

CARLOS DE CARVALHO.

Mr. Thompson to Mr. Olney.

No. 425.] LEGATION OF THE UNITED STATES,
Petropolis, October 14, 1895. (Received Nov. 5.)

SIR: Referring to my No. 385, of July 18, 1895, I have the honor to state that I have been informed by the minister for foreign affairs that the two soldiers charged with the killing of the American seamen at Santa Catharina, and who, after being adjudged guilty by the lower court, appealed their case, have been convicted and sentenced to eight years each in the penitentiary.

I have, etc.,

THOS. L. THOMPSON.

LAW REGULATING FOREIGN LIFE INSURANCE COMPANIES.

Mr. Thompson to Mr. Olney.

No. 418.] LEGATION OF THE UNITED STATES,
Petropolis, October 7, 1895. (Received Nov. 5.)

SIR: I have the honor to transmit herewith copy and translation of decree No. 294, of September 5, 1895, providing regulations for the operation of foreign life insurance companies in Brazil.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure in No. 418.—Translation.]

Decree No. 294, of September 5, 1895, regulating the foreign life insurance companies operating in the territory of Brazil.

I, the President of the Republic of the United States of Brazil, make known that the National Congress has decreed and that I sanction the following law:

ARTICLE 1. Life insurance companies authorized to operate in Brazil, and whose head offices are situated in a foreign country, shall present to the Government and publish in the press, within sixty days of the promulgation of this law, a minute relation of all the insurances guaranteed by them and in force within the territory of the Republic, indicating with the number of each policy the name of the person insured, as well as the amount insured, the premium or yearly payment, and the amount of reserve belonging to the said policy on the 1st of January, 1894.

ARTICLE 2. The total of the reserves of all the policies in force in Brazil on that date shall be invested in national securities, such as real estate within the territory of the Republic, mortgages upon property and real estate, railroad shares, banks, or industrial enterprises or others established in Brazil, or in deposits for the term of one year at least in banking establishments operating in Brazil.

ARTICLE 3. Such life insurance companies shall prove before the Government, within sixty days of the promulgation of this law, that the total of the reserves treated of in the preceding article is employed in conformity with the requirements of said article, publishing such proof in the press, in order to secure the inspection of those interested.

ARTICLE 4. From the date of the promulgation of this law, after the necessary amount for general expenses, death losses, dividends, and other payments to the insured shall have been deducted from the total of the premiums received by those companies in Brazil, all of the balance shall be converted in the manner set forth in the said article 2.

ARTICLE 5. The said insurance companies shall be obliged to require their principal agency in Brazil to decide upon all insurance applications made here, rejecting or accepting the same, and in the latter case issuing the definite policies.

Sole paragraph: If, within fifteen days of the receipt of the application by the principal agency, it be not rejected and the amount corresponding to the first premium paid by the applicant be received by the agency, the insurance will have full effect the same as if the policy were issued, the company then being unable to reject the same.

ARTICLE 6. The recognition and liquidation of the death losses, and of the reclamations of the insured, must also be considered and definitely decided upon by the principal agency in Brazil.

ARTICLE 7. The companies must, at the end of each half year, and within the two months following, present to the Government and publish in the press a minute relation of all the premiums received corresponding to the life insurances contracted to date, from sixty days after the promulgation of this law.

ARTICLE 8. Within sixty days of the promulgation of this law the companies to which it refers shall communicate officially to the minister of finance that they accept the execution of the obligations prescribed in it.

Sole paragraph: To the company failing to do so, will be suspended the permission of making new insurance contracts in Brazil, being limited henceforth to receiving the premiums on the insurances in force up to that date, and to execute the compromises taken in accordance with the respective contracts.

ARTICLE 9. Given this hypothesis, if, later on, the company should decide to accept the obligations of the present law it shall petition the Government for authorization, the same as by the present laws must be done by foreign companies that desire to operate in the territory of the republic, and the authorization being conceded, it shall make a new guarantee deposit in the national treasury.

Sole paragraph: The company which without authorization and given the hypothesis of article 8 and its paragraph accepts new contracts of insurance will have to turn over to the treasury 10 per cent of the premiums which it may have received for the same until the referred to authorization shall have been solicited and obtained.

In case of nonpayment within fifteen days of the intimation by the fiscal department the required amount shall be collected from the deposit which, as a guaranty in virtue of the law, the company may have made in the national treasury when it commenced to operate.

ARTICLE 10. The Government will expedite regulations for the good execution of this law.

Capital Federal, 5th of September, 1895, seventh year of the Republic.

PRUDENTE J. DE MORAES BARROS.
FRANCISCO DE PAULA RODRIGUES ALVES.

Mr. Thompson to Mr. Olney.

No. 441.] LEGATION OF THE UNITED STATES,
Petropolis, November 19, 1895. (Received Dec. 20.)

SIR: I have the honor to inclose herewith a copy of the regulations promulgated by the minister of the fazenda for the execution of the law recently passed by the National Congress in regard to foreign life insurance companies.

I also inclose an article from the Rio News upon the withdrawal of the New York Life Insurance Company.

I have, etc., THOS. L. THOMPSON.

[Inclosure in No. 441.—Translation.]

DECREE NO. 2153, OF NOVEMBER 1, 1895.

The President of the Republic of the United States of Brazil, in consideration of the provisions of article 10 of law No. 294, of September, this year, regarding the foreign life insurance companies doing business in the territory of Brazil, decrees that the regulations hereto annexed be observed for the faithful execution of said law.

Federal Capital, November 1, 1895, the seventh year of the Republic.

PRUDENTE J. DE MORAES BARROS.
FCO. DE PAULA RODRIGUES ALVES.

Regulations for the enactment of law No. 294 of September 5, 1895, which legislates on foreign life insurance companies and to which above decree No. 2153 of this date refers.

CHAPTER I.—*Of the foreign insurance companies.*

ARTICLE 1. Life insurance companies, which have their social seat in foreign countries, can not operate in Brazil without a previous authorization of the Government, in accordance with the legislation in force and the dispositions of these regulations.

ARTICLE 2. The company desiring such authorization must solicit it from the Government through the intermedium of the secretary of the exchequer, accompanying the petition:

(*a*) With documents proving its legal existence in the country where it has its social seat.

(*b*) With a copy of its statutes.

Only paragraph: These documents must be legalized by the representative of Brazil, in the country where the company has its social seat, or by the respective consul. The company may further accompany its petition with all such documents as it may deem convenient to establish its rights.

ARTICLE 3. When the authorization is granted by a decree of the President of the Republic, the secretary of the exchequer will grant the charter, compiled in the directory of the treasury, signed by the director, and countersigned by the minister.

Only paragraph: Before the company can commence operations, it must file an authentic copy of the charter and a copy of its statutes with the chamber of commerce of the Federal District, and publish them in the Diario Official, in accordance with section 3 of article 47 of decree 434 of September 4, 1891. A failure to do so involves the invalidity of acts performed.

ARTICLE 4. In its petition for the charter, the company must assume the obligation to maintain in the city of Rio de Janeiro its principal agency, with full powers to decide all questions that may arise with either private parties or with the Government.

The company must further agree:

SEC. 1. To maintain in the capitals of the States, where it intends to accept insurance, an agent with the necessary powers to assume the responsibilities which pertain to the principal agency according to these regulations.

SEC. 2. To respect and submit to the Brazilian laws and courts in everything regarding its relation to the Government or to private parties.

ARTICLE. 5. After deliberation on the petition for permission to operate in the country, and bearing in mind the condition of the company and the guaranties it offers as to solvency and good administration, the Government will resolve.

CHAPTER II.—*Of the operations of the companies.*

ARTICLE 6. When the principal agency is established in the Federal District and the agents in the State capitals in accordance with article 4, section 1, after receiving the charter and having complied with the conditions contained in the only paragraph of article 3, the foreign life insurance companies may do business in the whole territory of the Republic after having made the deposit required by article 21.

ARTICLE 7. The principal agency is obliged, and must have the necessary powers for that purpose, to decide all applications for insurance made in Brazil, rejecting or accepting them, and, in the latter case, to issue the definite policies. (Law, art. 5.)

Only paragraph: If an application has not been rejected within fifteen days after being received at the principal agency, and the agency accepts from the applicant the amount corresponding to the first premium, then the insurance shall have full force though the policy be not yet issued, and the company can no longer reject the risk. (Law, art. 5 already quoted, only paragraph.)

ARTICLE 8. The respective agency shall give to the applicant or to the person representing him a receipt, stating date of entry and receipt of the application.

ARTICLE 9. The examination and settlement of death claims and of reclamations, made by assured, must also be made and decided by the principal agency in Brazil. (Law, art. 6.)

ARTICLE 10. After deducting from the total amount of premiums received by the companies the sum required for general expenses, death claims, dividends, or other payments to the assured, then the remainder shall be invested in national securities, such as bonds of the national debt, debentures guaranteed by the Union, landed property in the territory of the Republic, mortgages on lands and properties, shares of railroad companies, banks, or industrial establishments or others in Brazil, or in deposits for not less than one year in banking establishments operating in the Republic. (Law, arts. 2 and 4.)

ARTICLE 11. At the end of every half year, and within the two subsequent months, the companies shall present to the secretary of the exchequer and publish in the Diario Oficial a minute statement of all the premiums received for life insurance risks assumed during the said half year. (Law, art. 7.)

CHAPTER III.—*Of the companies which already operated in Brazil before September 5 of this year.*

ARTICLE 12. The foreign insurance companies which already operated in Brazil before the promulgation of law No. 294 of September 5 this year are obliged:

First. To present to the Government through the secretary of the exchequer, and to publish through the press, within sixty days of the promulgation of law No. 294 of September 5 this year, a nominal list of all the insurance risks assumed and in force in the territory of the Republic, indicating with the number of each policy the name of the assured, the amount assured, the annual premium, and the amount of the reserve corresponding to said policy on January 1, 1894. (Law, art. 1.)

Second. To invest the total amount of the reserves on all the policies in force in Brazil on that date in national securities, such as bonds of the national debt, stock guaranteed by the Union, landed property in the territory of the Republic, mortgages on lands and properties, shares of railroad companies, banks, and industrial or other establishments in Brazil, or in deposits for not less than one year in banking establishments operating in the Republic. (Law, arts. 2 and 4.)

ARTICLE 13. Within the same period of sixty days after the promulgation of the said law No. 294 the said companies shall also prove to the secretary of the exchequer and publish in the press that the total reserves, of which the preceding section 2 speaks, are employed in the manner therein required in order to guarantee inspection by interested parties. (Law, art. 3.)

ARTICLE 14. The companies shall further communicate, and within the same period, officially to the secretary of the exchequer that they accept the responsibilities for the obligations prescribed by law No. 294 of September 5 of this year.

Only paragraph: The company which does not make this communication will have its permission to effect new insurance contracts in Brazil canceled, and must restrict itself thereafter to collect the premiums on the risks until then in force and to meet the obligations assumed in accordance with the respective contracts.

ARTICLE 15. When the permission of a company to effect new insurance is once canceled by virtue of the preceding paragraph and the company decide later to submit to the obligations of the law and of these regulations, it must petition the Government, in accordance with Chapter I, for a new authorization to operate, making a new guarantee deposit in the treasury. (Law, art. 9.)

ARTICLE 16. The company which, without a new authorization and given the hypothesis of article 14, only paragraph, accept new insurance contracts, shall deposit in the treasury 10 per cent of the premiums it has collected on such new business until it has petitioned for and obtained such authorization.

Only paragraph: If the company should refuse to make such deposit within fifteen days after receiving an intimation from the investigating committee of the treasury, then the amount due will be deducted from the deposit which the company may have in the treasury. (Law, art. 9, only paragraph.)

ARTICLE 17. The company which has thus violated the law can not obtain a new charter for operations in Brazil.

CHAPTER IV.—*Of the control.*

ARTICLE 18. Whenever the minister of the exchequer considers it necessary, he may order some of his confidential employees to proceed to a minute examination of the accounting department, etc, of the foreign insurance companies, in order to verify whether everything is kept with the necessary regularity, whether the companies observe all the provisions of the law and of these regulations, as also whether the statements made in their reports, balance sheets, and official communications are exact.

ARTICLE 19. Having made such examination, the employees that were in charge of it shall make a detailed report to the minister of the exchequer, who, after submitting it to the investigating committee of the treasury for study, will adopt the measures he may deem convenient.

CHAPTER V.—*General dispositions.*

ARTICLE 20. When the authorization for operating in the territory of the Republic has been granted to a foreign insurance company, the charter will not be issued until the company has deposited in the federal treasury on an order of the investigating committee the amount of 200,000$000 in currency or in bonds of the public debt as a guarantee for the contracted obligations.

ARTICLE 21. If that deposit should at any time be diminished by the application of some legal decision, the company is obliged to cover the deficiency immediately under penalty of not being allowed to continue its operations.

ARTICLE 22. The decree of authorization and the charter, mentioned in article 3 of these regulations, must contain the explicit declaration that the respective company, when establishing its principal agency in the Federal District and agencies in the State capitals, where it intends to contract insurance, all with the necessary powers, submits without reserve to the laws and courts of Brazil in all its relations to the Government and to private parties.

ARTICLE 23. Under penalty of having its authorization for operating canceled, the company can not alter any disposition of its statutes to take effect in Brazil without a permission from the Government, in accordance with the respective provisions of decree No. 434, of July 4, 1891.

ARTICLE 24. In the case foreseen by these regulations, that the companies which already operate in Brazil before September 5 last should desire a new concession, it may be granted to them under the same conditions and with the same formalities as are required in regard to the companies which establish themselves for the first time in Brazil.

ARTICLE 25. The conversion of the reserves, of which article 10 speaks, of the companies which may establish themselves after these regulations will be made proportionately as the insurance premiums are being collected, so that the dispositions of article 7 of the law and article 11 of these regulations may be complied with.

ARTICLE 26. The concession granted to companies to operate in the country may also be canceled:

First. If they refuse to present their books and documents for examination by the comptrollers of the Government.

Second. If they should make false declarations in their statements, balance sheets, and other official communications with the intention of evading the obligations imposed by the law and the present regulations.

ARTICLE 27. The companies are obliged to communicate in this capital to the investigating committee of the treasury, and in the States to the fiscal delegates or to the custom-houses, the names of their agents, the place in which the agencies are established, and the alterations occurring thereafter.

ARTICLE 28. All dispositions to the contrary are herewith revoked.

Federal Capital, November 1, 1895.

FRANCISCO DE PAULA RODRIGUES ALVES.

BRITISH OCCUPANCY OF THE ISLAND OF TRINIDAD

Mr. Thompson to Mr. Olney.

[Telegram.]

PETROPOLIS, *July 19, 1895.*

It is understood that a British force has occupied the island of Trinidad off the coast. Representations have been made by the Government to Great Britain and a war vessel dispatched to the island.

THOMPSON.

Mr. Thompson to Mr. Olney.

[Telegram.]

LEGATION OF THE UNITED STATES,
Petropolis, July 28, 1895.

Correspondence between the two Governments asserts British claim to the island of Trinidad, which is disputed earnestly by Brazilian minister for foreign affairs. The people express indignation.

THOMPSON.

Mr. Thompson to Mr. Olney.

No. 391.] LEGATION OF THE UNITED STATES,
Petropolis, July 30, 1895. (Received Aug. 26.)

SIR: Referring to my telegrams to you of the 19th and 28th instant, wherein I briefly reported the occupation of the island of Trinidad by a British force, I have the honor to give the following information, gathered from the correspondence between this Government and the British minister:

The island of Trinidad lies 651 geographical miles off the coast of Brazil, in latitude 20° 31′ south and longitude 13° 47′ 57″ east of the Rio de Janeiro meridian. It was discovered by the Portuguese in 1501, visited by the British in 1700, and again in 1775. In 1781, during the war between Great Britain and Spain, it was occupied by the British as a base for operations against the commerce of Spain with her River Plate colonies. This occupation led to serious protest on the part of Spain to Portugal, and the Vice-King of Brazil was directed to send an expedition to retake the island. The British having in the meantime retired, a Portuguese military post was then established there and measures taken to maintain regular communication. This post was kept up until 1795.

The island ceased to be Portuguese with the independence of Brazil, and in 1825 the Brazilian corvette *Itaparica* visited there for the purpose of an examination into the usefulness of the island. For the same purpose it was again visited by the *D. Isabel* in 1856, the *Bahiana* in 1871, the *Nictheroy* in 1871 and 1884, and lastly by the *Penedo* in 1894. In January or February of this year the British cruiser *Baracuta* landed a small force on the island and raised the British flag. No information was received of this act until publication in the Rio News of the 17th instant of an extract from the London Financial News.

Protest was immediately made by the minister for foreign affairs, who receives the instances which I have given above as evidence of occupation and acts of sovereignty, as well as the circular from the minister of justice of July 11, 1891, directing use of the island as a penitentiary, and the decree 9334 of November 24, 1884, conceding to a Brazilian citizen the right to mine, establish salt works, etc., on it.

The British minister, after reporting these facts to Lord Salisbury, replies "that possession of the island in question was first taken by Great Britain in the year 1700. No evidence was then found of Portuguese possession and no protest was made by Portugal. In the opinion, therefore, of the Marquis of Salisbury there can not be any Brazilian title superior to that of Great Britain. When Her Majesty's Government resumed possession of that island and Martin Vaz, in January last, no trace of foreign occupation was found, and as Trinidad is required as a telegraph station Her Majesty's Government can not consent to waive her rights to it."

The minister for foreign affairs replies to this note, transmitting copies of the documents relating to Brazil's title, submitting them with the hope that the British claim will be abandoned. The matter now awaits the consideration of the British minister for foreign affairs.

The island is arid, and of little value except as a cable station, which undoubtedly was the motive for its occupation. The last Brazilian budget provided for the purchase of the cable lines of the Western and Brazilian Telegraph Company, and in order to secure a landing place for an opposition English company it is stated the island was seized.

Considerable excitement was created, but the moderation and caution

of the Government has prevented any serious outbreak. It is generally understood and hoped that the British claim will be abandoned in due time, and I anticipate that the question will be satisfactorily and speedily settled.

I have, etc., THOS. L. THOMPSON.

Mr. Thompson to Mr. Olney.

No. 393.] LEGATION OF THE UNITED STATES,
Petropolis, August 7, 1895. (Received Aug. 30.)

SIR: Referring to my No. 391, of July 30, 1895, in regard to the occupation of the island of Trinidad by a British force and inclosing a copy of the published correspondence on the subject between the minister for foreign affairs and the British minister accredited to this Government, I now have the honor to inclose a translation of that correspondence which appeared in the Rio News of July 30.

There are no further developments of importance, and, as stated in my former dispatch, the matter awaits the consideration of the British Government.

Meetings of protest and indignation continue to be held throughout the States, and the entire country is aroused to the apparently unjust and untenable pretensions of Great Britain.

Our Government has come in for some criticism by the local press on account of the supposed knowledge we had of the occupation at the time and the absurd report that the British took it only in anticipation of an American occupation which had been planned and was about to take place.

I have, etc., THOMAS L. THOMPSON.

[Inclosure in No. 393.—Extracts from Rio News.]

DOCUMENT A.—Telegram.

To the Brazilian Legation, London:

Financial News gives account of occupation of island of Trinidad in name of English Government. Inform without delay.

MINISTER OF FOREIGN AFFAIRS.

DOCUMENT B.—Telegram.

LONDON, *21, 7, '95.*

Minister of Foreign Affairs, Rio:

Lord Salisbury absent. Learned from foreign office that island of Trinidad has been occupied in name of Government since last January for Argentine submarine cable; no publicity nor official notification. First English occupation 1700, Dr. Halley. English colony established 1781; afterwards abandoned our people, English immigrants, 1789. Since then regular visit English war vessels, last being *Ruby* 1889, which left signs of visit without protest any nation. It is asserted there was no vestige of other occupation.

CORREA.

DOCUMENT C.

On the 19th instant I had the honor of learning from Mr. Constantine Phipps, envoy extraordinary and minister plenipotentiary of Her Britannic Majesty, in regard to the account published by various journals of the occupation of the island of Trinidad in the Atlantic Ocean between South America and the west coast of Africa by subjects of Her Majesty, that the report did not seem to him to be unfounded. I immediately remarked that since this island belonged to the Republic of the United States of Brazil, the occupation would be illegitimate and inoperative (nao poderia prevalecer). I asserted that such control was inadmissible, as I would prove at the

proper time. I informed him that not only had I telegraphed to the Brazilian legation at London for information on the subject, but also that the public mind would be agitated at a time like this in which other facts of an international character are moving and exciting the natural and noble feeling of nationality.

The Paiz having on the following day announced the intention of the Federal Government to send to that island a war vessel for the purpose of ascertaining whether the occupation had been really effected, Mr. Phipps had the courtesy to call on me at 3 o'clock p. m. to say that, more fully informed, he was able to state that since last February the island had been occupied in the name of the English Crown as abandoned territory on which there were no signs of its possession by any other nation. I did not conceal my surprise, not to say annoyance, on hearing this, and I renewed the statements which I had made on the previous day, supported by historical antecedents and the evidence of geographers.

All doubt as to the reality of the occupation being thus removed, Mr. Phipps said that it would be well to suspend the order for sending the man-of-war, since he would inform his Government of my remarks and within forty-eight hours would probably receive instructions for his guidance in regard to this incident, so disagreeable to the relations which are fortunately maintained between the two countries, Brazil and England.

I now proceed to perform the duty of stating here, as I promised Mr. Phipps, the reasons which led me to classify as illegitimate the recent occupation of the island of Trinidad. Permit me, however, to say, in the first place, that by telegram received yesterday the Brazilian legation in London informed me that it had learned from the foreign office that the occupation took place in last January in the name of the English Government for the service of the Argentine submarine cable, without publicity or any notification whatever.

The island of Trinidad, as Mr. Phipps is aware, is situated in 20° 31′ south latitude and 13° 47′ 57″ longitude east from Rio de Janeiro, and according to the Practice of Navigation and Nautical Astronomy of H. Rapper (lieutenant, Royal Navy, 7 London, 1862), is 651 geographical miles from the point situated in the same latitude on the coast of the State of Espirito Santo. It was discovered in 1501 by the Portuguese, and it was only on April 15, 1700, that the English captain, Edmund Halley, arrived there, J. Cook touching there on his second voyage, on May 31, 1775.

In 1781 the Government of Great Britain, being then at war with that of Spain, caused the island to be occupied for the purpose of harassing the Spanish trade with the colonies of the Plate. This led to serious complaints addressed by Spain to Portugal, which ordered the viceroy of Brazil to send an expedition to cause it to be disoccupied. There was then formed, in the year 1782, a Portuguese military establishment, and on the 16th of September of that year the viceroy received orders to open regular communications with the island.

In the voyage of La Perouse in 1785, a Portuguese flag was seen on a mountain, and it was only on February 6, 1795, that the detachment and arms were withdrawn, being conveyed by the frigate *Princeza da Beira*, which arrived at Rio de Janeiro on October 11 of the same year.

With the independence of Brazil the island of Trinidad ceased to belong to Portugal.

In 1825 the Brazilian corvette *Itaparica*, commanded by Capt. Diogo Jorge de Brito, visited the island in commission of the Brazilian Government. In 1831 the regency in the name of the Emperor caused surveys and investigations to be made with a view to making use of the islands. Moreover, in commission from the Government, the corvette *D. Isabel* visited it in 1856, the corvette *Bahiana* in 1871, the corvette *Nictheroy* in the same year and in 1884, and recently the transport *Penedo*, in April, 1894, under the command of first lieutenant of the navy, Joaquin Sarmanho.

Before sending the transport *Penedo* on this commission in 1894 the Government of the Republic had taken steps intended to make use of the island for penitentiary service, as appears from dispatches from the department of justice, dated July 11 and October 14, 1891.

Not to mention Pierre Larousse (Dict. Univ. T. XV), Malte-Brun and Elisee Reclus (the latter as late as 1894) enumerate the island of Trinidad among the possessions of Brazil.

I must also state to Mr. Phipps that under the régime of the Empire the Brazilian Government, by Decree No. 9334, of November 29, 1884, granted permission to Citizen Joao Alves Guerm to explore mines, extract natural products, and establish salt pits on the island of Trinidad, considering it a dependence of what was then the province of Espirito Santo. All this is conclusive.

Occupation is a legitimate method of acquiring domination only with relation to things that have no owner, res nullius, and such are those which are not under the dominion of anyone else, either from never having belonged to anyone or from having been abandoned by their former owner.

In conformity with the rule of nemo suum jactare proosumitur, abandonment is something which is not to be presumed. It depends on the intention of relinquishing,

or on the cessation of physical power over the thing, and must not be confounded with simple neglect or desertion. A proprietor may leave a thing deserted or neglected and still retain his ownership. The fact of legal possession does not consist in actually holding a thing, but in having it at one's free disposal. The absence of the proprietor, neglect, or desertion does not exclude free disposal, and hence animo retinetur possessio.

Gaius (Inst. C. 4, sec. 154) teaches * * * "quoniam possidemus animo solo quum volumus retinere possessionem."

"Neque vero deseri locum aliquem satis est, ut pro derelicto habendus sit, sed manifestis apparent indicus derelinquendi affectio," adds Muhlenbruck. (Doctrina pandect, secs. 241 and 251.

Abandonment can only result from the expressed manifestation of the will, for the animus is the possibility of repeating the first will to acquire possession, and, as Savigny teaches (sec. 32), there is no necessity of having constantly the consciousness of possession. Abandonment requires a new act of the will in a contrary direction to that of the first will, animus, in contrarium actus. "Pro derelicto autem habetus quod dominius ea mente adjecerit ut id rerum suarum est molit," in the language of the Institute.

When the thing whose abandonment is alleged in order to legitimize occupation belongs to the dominion of a nation, still more rigorous becomes the necessity of causing the act to rest on some positive and express manifestation of the will of the owner, showing that he does not desire to continue in possession, for in questions of territorial dominion abandonment is not to be presumed. The presumption is not that the thing is a res nullius, as in the case of the Institute. "Insula quae in mare nata est (quod raro accidit) occupantis fit: nullius enim esse creditur."

If the island of Trinidad was discovered by the Portuguese, whose military occupation thereof continued until 1795; if the facts are historical (and the memory of nations excludes the idea of their being unknown); if the Government by public and positive acts has always shown its conviction that the island of Trinidad is national territory, then the condition of res nullius, which justifies occupation, does not exist.

Possession is lost corpore only when the ability to dispose of a thing is rendered completely impossible, after the disappearance of the status which permits the owner to dispose of the thing possessed.

If Brazil has not displayed by any express act the intention (vontade) of abandoning the island, which had been adjudicated to the Brazilian continent by the act of this country's acquiring its political independence; if there does not exist, as Mr. Phipps will agree, a status preventing it from disposing or making use of the island when and as it pleases; if Brazil has preserved intact, together with its dominion, its possession of that island, which is not a res pro derelicto, then its occupation in the name of the English Government is not a legitimate means of acquiring dominion.

Presenting these reflections to Mr. Phipps, I believe that he will not decline to lay them before the Government of Her Majesty, the Queen of England, as a protest against the occupation of the island of Trinidad, which forms a part of Brazilian territory, and I am convinced that, after the removal of the mistaken impression that the said island was abandoned and consequently res nullius, that Government will issue orders for its disoccupation, which will be due homage to the principles of justice and will once more emphasize the mutual desire of the two countries, Brazil and England, to maintain unaltered the relations between them.

However little may be the value of the island of Trinidad, the Federal Government considers itself bound to act in this way, for in any case, if there were conscious or intentional wrong national honor would not be less affected.

I renew to Monsieur le Ministre the assurances of my high consideration.

CARLOS DE CARVALHO.

DOCUMENT D.

PETROPOLIS, *July 20, 1895.*

MONSIEUR LE MINISTRE: I did not fail, subsequent to my interview with your excellency on Friday and Saturday last, to communicate to Her Majesty's principal secretary of state for foreign affairs your excellency's observations relative to the assumption by Her Majesty's Government of the island of Trinidad.

I am instructed to inform your excellency that the possession of the island in question was first taken by Great Britain in the year 1700. No evidence was then found of Portuguese possession and no protest was made by Portugal. In the opinion, therefore, of the Marquis of Salisbury there can not be any Brazilian title to the island superior to that of Great Britain.

When Her Majesty's Government resumed possession of that island and of Martin Vaz in January last no trace of foreign occupation was found, and as Trinidad is required as a telegraph cable station Her Majesty's Government can not consent to waive their rights to it. I have great pleasure in informing Lord Salisbury that your excellency had, in the most friendly manner, shared the view which I did myself the honor of expressing, that it was inexpedient, pending my reference of the question

to Her Majesty's Government, that a Brazilian ship of war should be sent to Trinidad, and I feel convinced that your excellency will not fail to perceive that there can now be no question of sending a ship to assert a right to sovereignty over an island in the possession of Her Majesty's Government.

I avail myself of the opportunity, Monsieur le Ministre, to renew to your excellency the assurances of my very high consideration.

CON. PHIPPS.

DOCUMENT E.

[2d section, No. 22.]

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, July 23, 1895.

At this moment, 25 minutes to 1 o'clock p. m., I have the honor of receiving the note dated the 20th instant, in which Mr. Constantine Phipps, envoy extraordinary and minister plenipotentiary of Her Britannic Majesty, communicates to me, by order of his Government, that possession of the island of Trinidad was first taken by Great Britain in the year 1700 without protest from Portugal, and that, consequently, in the opinion of Lord Salisbury, principal secretary of state for foreign affairs, there can not be any Brazilian title to the island superior to that of Great Britain. Mr. Phipps adds that the Government of Her Majesty the Queen of Great Britain, having occupied the island of Trinidad and that of Martin Vaz for the purpose of maintaining there a telegraph station, can not consent to relinquish its right thereto.

Mr. Phipps will permit me to say in the reply to be transmitted to Lord Salisbury, that the best proof of the right of Brazil to the island of Trinidad is the solemn, positive, and practical acknowledgment of that right by the English Admiralty, which, on August 22, 1782, issued peremptory orders to the English officer in charge of the island of Trinidad to evacuate it forthwith and deliver it to the Portuguese Government as a part of the possessions of the Kingdom of Portugal in South America subject to the viceroyalty of Brazil.

Mr. Phipps will thus see that Lord Salisbury, in dating the English title from the year 1700, in which Capt. Edmund Halley touched at the island of Trinidad, discovered by the Portuguese in the beginning of the sixteenth century, labors under a mistake which may be readily corrected by having recourse to documents in the archives of the British Government.

I present to Mr. Phipps's consideration a copy of the instructions given to the captain commanding the ship *N. S. dos Prazeres*, on December 7, 1782, by the viceroy of Brazil, Luiz de Vasconcellos Souza, for the military establishment on the island of Trinidad which was to follow, as it actually did follow, the withdrawal of the English forces that were intrusively occupying the island. All this the viceroy communicated to his Government on December 20 of the same year.

By these instructions Mr. Phipps will see that Great Britain yielded to justice and reason in disoccupying the island of Trinidad and proclaiming the rights to which Brazil succeeded in virtue of its political independence and in view of the island being under the jurisdiction of the government of Rio de Janeiro.

The title of 1700, alleged by Lord Salisbury, can not resist the evidence of anterior and posterior facts.

I also submit to Mr. Phipps's appreciation the royal letter of February 22, 1724, in which D. John, King of Portugal, gave orders for taking steps to prevent the English company of Guinea from using the island of Trinidad for the slave trade. It was undoubtedly a solemn protest against the act of Captain Halley in 1700.

I appeal, as behooves me, to the sentiments of justice of the Government of the Queen of Great Britain to remove this cause of disturbance in the friendly relations that it maintains with the Republic of the United States of Brazil. I have no doubt that, after the verification of what I state, the Government of Her Britannic Majesty will spontaneously order the evacuation of the island, as it did in 1782.

And, since Mr. Phipps in the concluding part of his note alludes to the suggestion, which he made to me, of suspending the order for sending a war vessel for the purpose of investigating what is occurring there, and declares that, in view of what is set forth in the name of his Government, there is no longer any necessity for sending it to ascertain whether in occupying the island Her Majesty's Government is performing an act of sovereignty, I earnestly protest against that assertion, reserving all and any rights of the Republic of the United States of Brazil; and I beg permission to say to Mr. Phipps, confirming what I verbally declared to him to-day, at 11.30 a. m., that, strong in the consciousness of its right, the Republic of the United States of Brazil will not abandon it, confiding, in the first place (antes de tudo), in the sentiments of the Government of Her Majesty the Queen of England.

I renew, Mr. Minister, the assurances of my high consideration.

CARLOS DE CARVALHO.

DOCUMENT F.

Order issued by the Admiralty of Great Britain for disoccupying the island of Trinidad.

By the commissioners who hold the office of the Lord High Admiral of Great Britain, Ireland, etc.

In obedience to the order of the King, which was communicated to us by Lord Grantham, one of the principal secretaries of state of His Majesty, you are ordered by the present Government to evacuate the island of Trinidad and embark with His Majesty's subjects and effects there existing on board the vessel which shall deliver you this order, so that you and they may be conveyed to Lisbon, or to England, as may be most expedient to the court of Portugal.

Given under our signet on the 22d day of August, 1782.

KEPPEL.
CH. BRETT.
I. I. PRATT.

To Capt. Philip d'Auvergne, or to the officer commanding His Majesty's Britannic forces, left on the island of Trinidad by Commodore Johnstone.

By order of their lordships:

PH. STEPHENS.

Three documents in addition to the foregoing accompany the second note of Minister Carlos de Carvalho.

The first of these three documents is a copy of the instructions given by the viceroy of Brazil on December 7, 1782, to the commander of the ship *Nossa Senhora dos Prazeres*, who is placed in charge of an expedition composed of his own vessel and a frigate, together with three transports, and is ordered to proceed to the island of Trinidad, deliver to the English commander of that island the order of the Admiralty for its evacuation, and take on board the British subjects occupying it, using force if, for unknown reasons, they should fail to obey the order.

The next document is a dispatch from the viceroy of Brazil to the Portuguese Government, dated December 20, 1782, giving an account of the preparations for the expedition and of its departure on the 16th of that month.

The last of the documents offered by the Brazilian minister of foreign affairs as a proof of Portuguese dominion in the island is a royal letter, dated February 22, 1724, and addressed by the Portuguese Government to the captain-general of Rio de Janeiro. This letter alludes to information received by that Government of the landing of English on Trinidad for the purpose of colonizing the island. The vessel which left these colonists proceeded to Ilha Grande for the purpose of trading. This purpose it failed to accomplish because it was twice driven away by Portuguese forces. It then returned to the port of Ajuda and landed its merchandise. The English afterwards loaded with slaves a vessel belonging to the Guinea company, which was supposed to have proceeded to the coast of Brazil.

The Portuguese Government expresses the belief that the object of the English in colonizing Trinidad is to land slaves there, on account of the facility with which the latter may be conveyed from that point to Ilha Grande. It accordingly issues orders for preventing the harm which this trade, in its opinion, would cause to Portugal and Brazil.

Mr. Thompson to Mr. Olney.

[Telegram.]

RIO DE JANEIRO, *November 30, 1895.*

Through the Brazilian minister at London and the British minister here, the Government is informally advised of a proposal coming from Great Britain to arbitrate Trinidad question. The President has the question under consideration. Minister for foreign affairs' legal opinion against it, but considerations of policy may induce an acceptance.

THOMPSON.

Mr. Thompson to Mr. Olney.

[Telegram.]

PETROPOLIS, *January 8, 1896.*

Brazilian Government has declined to arbitrate Trinidad question.

THOMPSON.

CONFLICT WITH A FRENCH FORCE IN AMAPA.

Mr. Thompson to Mr. Olney.

No. 368.] LEGATION OF THE UNITED STATES,
Petropolis, June 6, 1895. (Received August 10.)

SIR: Telegrams from Paris, received here on May 26, report a conflict between the French and natives on the northern frontier. It appears to have been precipitated by the entrance of a French force into the disputed territory of Amapa and resulted in some loss to both sides.

The territory of Amapa, lying between the Oyapok and Amapa rivers, has been the subject of a dispute between Brazil and France for many years. From the publication of official and other information, it appears that the original question of jurisdiction arises from the uncertainty of the Guiana boundary line as fixed in the treaty of Utrecht. French forces occupied it between the years 1836 and 1840 and they were only withdrawn after earnest representations from Brazil; both Governments agreeing that it should remain unoccupied, i. e., remain neutral ground until the boundary lines were settled. The settlement has been delayed from time to time. In 1892 the French Government through its minister here suggested that a mixed commission be named to explore the territory. This was at first declined, but afterwards an appropriation for the purpose was voted by Congress to be used during the fiscal year 1895 and on February 18 of this year the French legation was informed that Brazil was prepared to proceed with the negotiations. The subject is also mentioned in the President's message of this year and the importance of an early settlement remarked.

The area of the territory is 80,000 square kilometers and contains above 18,000 people, principally Indians, negroes, and creoles. They are governed by a chief, who makes laws and collects taxes. His tenure, however, is only by sufferance and is tolerated only until the boundary dispute can be disposed of. The present chief, Veiga Cabral, said to be an adventurer, has organized a small force and is endeavoring to establish a republic called Cunani.

This Government announces that the conflict will in no way affect the good relations existing between the two countries, although the local press intimate that recent discoveries of rich gold fields are the cause for the aggressive movement.

I inclose excerpts from the Diario Oficial and Jornal do Commercio treating of the subject.

I have, etc., THOS. L. THOMPSON.

PASSPORTS.

Mr. Adee to Mr. Thompson.

No. 260.] DEPARTMENT OF STATE,
Washington, August 8, 1895.

SIR: I have received your No. 378,[1] of June 30 last, accompanied by ten passport applications covering a period from January 1 to June 30, 1895. They have been examined and found to be correct.

There are, however, six cases to which I will direct attention for the future guidance of your legation and for convenience. I will here enumerate their essential features, as follows:

No. 41, J. A. Carlton, of Alabama, where he was born November 28, 1846. His permanent residence is given at Meridian, Miss., where he follows the occupation of railroading. He left the United States April 12, 1868, and says that he intends to return within a year. He has been absent twenty-seven years, and wants the passport for protection and travel. Has five minor children, all born in Brazil.

No. 42, B. Hammond Green, a native of Louisiana, born September 1, 1857. His permanent residence is Winn Parish, in that State, where he follows the occupation of a farmer. He left the United States January 10, 1867, and expects to return in eighteen months. He has been absent twenty-eight years, and desires the passport for protection and travel. Has five minor children, all born in Brazil.

No. 43, Joseph E. Whitaker, a native of Alabama, where he was born June 1, 1845, but is now a permanent resident of Georgia, where he follows the occupation of farmer. He left the United States January 31, 1867, and expects to return within a year. He has been absent twenty-eight years, and wants the passport for protection and travel.

No. 44, James M. Pyles, a native of Georgia, where he was born November 9, 1856. Is now a resident of Mariana, Fla., and a farmer by occupation. He left the United States January, 1867, married at Santa Barbara, and has three minor children. He intends to return to the United States within one year, and desires a passport for protection and travel. He has been absent about twenty-eight years.

No. 45, John F. Whitehead, a native of Tennessee, where he was born April 6, 1835. His permanent residence is Columbus, Tex., where he follows the occupation of a farmer. His nine minor children were all born in Brazil. He left the United States June 20, 1868, and expects to return in one year. He wants the passport for protection and travel. He has been absent twenty-seven years.

No. 46, Patrick H. Scurlock, a native and resident of Alabama, having been born there February 13, 1853. He left the United States January 23, 1867, and has had eight children born in Brazil. He has been absent twenty-eight years, and expects to return to the United States within one year; wants the passport for protection and travel.

These cases have heretofore been under consideration. The Department's No. 134, of May 31, 1894, approved your action in declining to issue passports to these gentlemen, based upon the fact of their long residence in Brazil, where they have each been upward of thirty years, and of the apparent absence of any intention on their part to return to the United States and perform the duties of citizens thereof. This action was taken without prejudice to their American citizenship in case of their desire to return or of their right to ask the intervention of this Govern-

[1] Merely transmits passport applications.

ment should they be drafted into the Brazilian army. Each case, in such a contingency, could only be decided on its special merits.

Subsequently the Hon. John T. Morgan, of Alabama, on June 24, 1894, transmitted to the Department a letter from Mr. Joseph E. Whitaker, whose present application is No. 43, complaining of your action in refusing him a passport. Senator Morgan was given a copy of your No. 233, of May 3, 1894, and of the Department's No. 137, of May 31 of that year, in order to demonstrate that Mr. Whitaker's criticism of your action was undeserved. (See Instruction No. 145, of June 29, 1894.) It also stated that the Department's action, as expressed in its No. 137, contemplated joining the fact of twenty-seven years' residence in a foreign country with the absence of any definite intention to return to the United States, and observed that in case a reasonable intention of the applicant to return was established to your satisfaction, it should not be overborne by the circumstance of such long residence abroad, to which your No. 137 referred.

"While," says Mr. Uhl, in his No. 145, "these persons may not be able now to fix a date in the near future for their return, obvious preparations on their part to return to their native land may properly be taken into account."

Your No. 377, of June 24, 1895, announced that you had issued passports to the following American citizens, residing with their families at Santa Barbara, viz: Messrs. B. H. Green, J. E. Whitaker, J. M. Pyles, and P. H. Scurlock. My reply of July 23, 1895 (No. 253), intimates that no opinion could be expressed as to the propriety of your action pending the receipt of the usual quarterly returns of the applications from which the merits of the several cases appear.

It is evident that the Department intended to give these gentlemen the benefit of every consideration, notwithstanding their long residence abroad, to receive a passport in case they were able to declare their intention to return to the United States within a reasonable time. Acting upon that theory and comformably to the spirit of your instructions, you issued them passports.

I find the time specified within which each expects to return to the United States is as follows: Mr. Carlton, within a year; Mr. Green, within eighteen months; Mr. Whitaker, within a year; Mr. Pyles within a year; Mr. Whitehead, within a year, and Mr. Scurlock, within a year.

Under all the circumstances, therefore, it is the Department's reasonable expectation that these gentlemen will be able to fulfill their expressed intentions to return to the United States within the periods named. In case, however, either should apply to you for the renewal of his passport, you will, before issuing it, promptly report the case to the Department, accompanied by such statement of facts in support of his application as the applicant may determine to present for the Department's full understanding of such case.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Thompson to Mr. Olney.

No. 420.] LEGATION OF THE UNITED STATES,
Petropolis, October 10, 1895. (Received Nov. 5.)

SIR: I have received from the consul at Santos six applications for passports, which I have found it necessary to reject, and on which I

request the revisionary action of the Department. The applications are as follows:

Henry C. Whitaker, born of American parents at Santa Barbara, Brazil, February 3, 1874, where he has since resided. He claims domicile in the United States, with permanent residence in Harris County, Ga. He expects to return to the United States within two years, and desires the passport for purposes of protection.

Imloch N. Whitaker, born of American parents at Santa Barbara, Brazil, October 3, 1867, where he has since resided. He claims domicile in the United States, with permanent residence in Harris County, Ga., and expects to return to the United States within six months, and desires the passport for purposes of traveling and protection.

James Carlton, born of American parents at Santa Barbara, Brazil, January 18, 1871, where he has since resided. He claims domicile in the United States, with permanent residence at Meridian, Miss. He expects to return to the United States within a few years, and desires the passport for the purpose of protection.

John H. Rowe, born in Warren County, Ga., February 22, 1846. He claims domicile in the United States, with permanent residence in Warren County, Ga., where he follows the occupation of farmer. He left the United States May 22, 1867, and is now residing at Santa Barbara, Brazil. He expects to return to the United States within a few years, and desires the passport for purposes of protection.

William F. Pyles, born July 13, 1845, in Abbeville County, S. C. He claims domicile in the United States, with permanent residence in Jackson County, Fla., where he follows the occupation of farmer. He left the United States April 2, 1867, and is now temporarily residing at Santa Barbara, Brazil. He expects to return to the United States within a few years, and desires the passport for purposes of protection.

Charles C. Finley, born at Mariana, Fla., June 10, 1859. He claims domicile in the United States, with permanent residence at Mariana, Fla. He left the United States April 2, 1867, and is now residing at Santa Barbara, Brazil. He expects to return to the United States within a few years, and desires the passport for the purpose of protection.

As I understand the policy of the Department, it is not customary to issue passports to persons born of American parents without the territory of the United States when the laws of the country of their birth and residence declare them to be citizens. Article 69 of the constitution of Brazil declares that natives of Brazil, though of foreign parentage, shall be Brazilian citizens. The applicants James Carlton, Henry C. Whitaker, and Imloch N. Whitaker are by this article Brazilian citizens, and while they remain voluntarily within its territory can not properly claim a passport from this legation. The applicants have, however, been informed that they apparently fall within the provisions of section 1993 of the Revised Statutes, and may avail themselves of its provisions upon their return to the United States.

The applications of John H. Rowe, William F. Pyles, and Charles C. Finley apparently fell within the Department's instructions No. 260, of August 8, 1895, and in the absence of any definite intention to return to the United States have been denied passports.

I have, etc.,

THOS. L. THOMPSON.

Mr. Olney to Mr. Thompson.

No. 295.] DEPARTMENT OF STATE,
Washington, November 12, 1895.

SIR: I have recieved your No. 420, of the 10th ultimo, in regard to six applications for passports transmitted to you by the consul at Santos.

The question you propound belongs to the well-known province of international jurisprudence commonly styled the conflict of laws. The statute of the United States, in regard to citizenships of persons born within its jurisdiction, is substantially the same as that of Brazil, so that the claim of Brazil to the allegiance of James Carlton, Henry C. Whitaker, and Imloch N. Whitaker is capable of being asserted while they voluntarily remain within Brazilian jurisdiction.

As to the remaining applications of John H. Rowe, William F. Pyles, and Charles C. Finley, the Department's previous instructions in regard to a sufficient declaration by the applicants of intention to return to the United States appear to be correctly applied by you. As has been often stated heretofore, such declaration does not require a statement of a fixed date of return, but the manifestation of a fixed intention to return within some reasonable time, which intention shall not be conspicuously negatived by the circumstances of the foreign domicile of the declarant.

The general status of international and American municipal law with regard to children born abroad of parents who at the time were or are citizens of the United States, was very fully considered by Attorney-General Hoar in an opinion submitted to Mr. Secretary Fish on the 12th of June, 1869, which will be found printed in the Opinions of the Attorneys-General, Volume XIII. I inclose copy of that opinion for your more convenient information, merely observing that like all general statements of doctrine, the circumstances of the particular case should be weighed in estimating its applicability.

I am, etc., RICHARD OLNEY.

ANNIVERSARY OF THE PROCLAMATION OF THE REPUBLIC

Mr. Thompson to Mr. Olney.

No. 440.] LEGATION OF THE UNITED STATES,
Petropolis, November 19, 1895. (Received Dec. 20.)

SIR: The diplomatic corps having been informed by the minister for foreign affairs that the President would receive them on the 15th of November, the anniversary of the proclamation of the Republic, they attended in a body. As senior member of the corps and on its behalf, I addressed the inclosed congratulatory remarks, to which the President replied, a copy of which is also transmitted herewith.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 440.]

Remarks by Mr. Thompson.

On behalf of my colleagues of the diplomatic corps, whom it is my highly esteemed privilege to present to your excellency on this pleasant occasion, and on my own behalf, I have the honor to congratulate

you, Mr. President, on the recurrence of this, the sixth anniversary of the proclamation of the Republic, and the auspicious opening of the second year of your excellency's administration of the Government of the United States of Brazil.

This, Mr. President, is a richly endowed country; prolific in natural resources, as it is great within the confines of its territorial boundaries, and we regard with interest and pleasure the development of its great agricultural, mineral, and other productions.

My colleagues and myself rejoice that within the year the blessed mantle of peace has spread over this beautiful land, and unite in the hope that your excellency may live long to enjoy the fruits of that wisdom which has contributed to the life, sustenance, and growth of the Republic, and distinguished your excellency in the affairs of the Government.

[Inclosure 2 in No. 440.]

Remarks by President Moraes.

The congratulatory words which you have directed to me in the name of the illustrious diplomatic corps, in connection with which you enjoy the signal privilege of its dean, and in your own name, Mr. Minister, imposes upon me the double duty of thanking you.

The sixth anniversary of the Republic, and the commencement of the second year of my government, are motives for the expression of sympathy for it and of good wishes for its President.

In truth its riches are great, its territory is vast; the advancement, however, of all these, the cooperation which should contribute to the attainment of the necessities of civilization, depend upon the original condition of peace, which ought to be founded upon the sentiment of right within the country and in international relations without.

It should depend neither upon the curtailment of liberty, nor upon losing sight of the position held by Brazil in the society of civilized nations.

Happily—and pleasant to me are the references which you deem worthy to make, Mr. Minister—I have had the foresight not to forget this duty; but at this moment permit me to say to you that the hopes you entertain will not be disappointed, and that this result will not be obtained by the actual President of the Republic—mere accident in the life of a people—but by the energy of this nation, who will live progressing, through the consciousness of their responsibility, and to you, thus manifesting my thanks, I make sincere and cordial wishes for the prosperity of the nations which you, Mr. Minister, and your worthy colleagues with so much honor and brilliancy represent on this occasion of joy for my country, the United States of Brazil.

PRESIDENT'S MESSAGE RELATIVE TO VENEZUELAN BOUNDARY DISPUTE.

Mr. Mendonça to Mr. Olney.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, December 20, 1895.

SIR: I have the honor to communicate to your excellency, under instructions of my Government, that yesterday both houses of Congress

of the United States of Brazil passed unanimously a motion of congratulation on the subject of the message of President Cleveland of the 17th instant, and that the Federal Senate of Brazil asks that its motion be transmitted through the usual diplomatic channel to the Senate of the United States of America.

I therefore request your excellency to convey to the Senate of the United States of America the following motion of the United States of Brazil:

The Federal Senate of the United States of Brazil sends its greetings to the Senate of the United States of America upon the worthy message of President Cleveland, who so strenuously guards the dignity, the sovereignty, and the freedom of the American nations.

Accept, etc., SALVADOR DE MENDONÇA.

CHILE.

UNITED STATES AND CHILEAN CLAIMS.[1]

Mr. Gana to Mr. Gresham.

[Translation.]

LEGATION OF CHILE,
Washington, February 28, 1895.

SIR: I have had the honor to receive the esteemed note which your excellency was pleased to address to me under date of the 22d of December last,[2] in reply to my notes of November 15, 1894, in relation to the pending claims.

Although the incident to which the first part of your excellency's note has reference is not of special importance, it may not, perhaps, be out of place to recall certain facts which render it perfectly clear.

As your excellency will recollect, three days after the conclusion of the labors of the commission, that is to say, on the 12th of April, I had the honor to call at the Department of State for the purpose of learning your excellency's opinion with regard to the manner in which the services which Mr. Claparede had just rendered were to be remunerated. At the close of our conversation on this subject your excellency was pleased to ask me how the claims which the commission had left undecided would be settled, and I told your excellency in reply that I would write to my Government for instructions by the next steamer, which was to sail from New York on the 20th of that month. We did not speak on that occasion of a new convention, or of any other arbitrator in regard to the manner of settling those claims, confining ourselves to the exchange of the phrases to which I have referred.

Consequently, when I addressed the note in question to my Government (it went by the mail of April 20), after stating the amount of the claims decided, and that of those left undecided by the commission, I said:

> As to these latter the Secretary of State has recently expressed a desire that some settlement may be reached. I told him in reply that I proposed to report to you the result of the work of the commission, and that I should obtain your instructions touching the claims which have been left pending.

This communication, which was received by my Government in the latter part of May, is the same which the minister of foreign relations of Chile, Mr. Sanchez Fontecilla (not Mr. Bascuñan, as erroneously stated in your excellency's note), had in view when he answered Mr. McGarr on the 31st of the aforesaid month of May, to the effect that the negotiations were being conducted at Washington, and that he would send me his instructions, which were sent to me under date of June 12, and which reached me about the middle of the following month of July.

[1] See Foreign Relations, 1894, pp. 87–94. [2] See Foreign Relations, 1894, p. 93.

While this was going on in Chile your excellency was pleased to invite me to a conference, which took place on the 27th of June. Your excellency therein favored the settlement of the claims by means of another commission. I explained to your excellency that, having asked instructions from my Government by the mail of April 20, the time that had elapsed was not sufficient for me to have received those instructions. Having made this remark, whereby I reserved the liberty of my Government in respect to its ulterior action, and being actuated by a desire to express views which, in case of their acceptance by your excellency, would have been submitted to my Government for consideration, thereby facilitating an agreement, I asked your excellency whether you would agree to the organization of a new commission that should sit at Santiago and should be authorized to take cognizance of the claim of the Government of Chile on account of the capture and detention of the steamer *Itata*.

Your excellency did not see fit to say what you thought concerning those views, and thought best to wait until I had received the expected instructions.

A few days afterwards your excellency, by your note of July 9, did me the honor (referring to our conference of the 27th of the previous month) to state that you trusted that we should be able in due time to reach an arrangement that would be mutually satisfactory.

Your excellency's note, to which I am now replying, renders it more difficult to reach that arrangement, and has been a disappointment to the legitimate hopes entertained by my Government relative to the settlement of the claims which were left undecided by the late commission.

Your excellency will permit me to remark that the commission organized under the convention of August 7, 1892, would have been able to finish the work that was had in view when it was negotiated, within the six months fixed by the contracting parties as the time for its existence, if, in the practical execution of that instrument, the agent of the United States had not deviated in a manner that was to be regretted from the official antecedents which preceded the conclusion of that convention. It is doubtless on record in the archives of the Department of State that when the diplomatic representative of the United States at Santiago expressed to the Government of Chile in 1890 the wish of your excellency's Government to settle the American claims against Chile in an equitable and friendly manner the suggestion was well received, and Mr. Egan was requested to furnish a written list of all those claims, stating the grounds on which they were based and the amount claimed. By his notes of September 30 and December 13 of the same year the United States minister complied with that request of my Government and presented a list of all the pending claims with names and particulars.

The Government of Chile then knew accurately, and in duly authorized form, the number of the claims that were supported by the official action of your excellency's Government, and the amount of money which it was expected to pay. With these antecedents before it, the Government of Chile took into consideration the two methods of settlement that were offered to it, viz, that of a direct examination of each claim and that of an international commission, and chose the latter. The number and nature of the cases that the commission was to settle being known, it was thought that a period of six months would be sufficient for that purpose. Subsequently, however, when the convention began to be executed, my Government learned with well-founded alarm that the agent of the United States was not only lending his support before the commission to the claims which had served as a basis to the

negotiation of the convention, but that he was also supporting many others which had never come to its knowledge, and relative to which it had no antecedent whatever. Thus it was that the way was opened for claims that were based upon acts committed more than half a century ago, and which, during that lapse of time, had not been able to secure the support of any administration in this country.

Thus it was, moreover, that the alleged indebtedness of the Government of Chile which, according to the official word of the American minister at Santiago, took a sudden leap to more than $28,000,000.

This grave situation, which could not be foreseen from the antecedents of the agreement, and still less from the statements your excellency was pleased to make to me touching the spirit of friendly accord which animated your Government toward mine, and the assurance that no claim would be supported which was not clearly justified, unexpectedly forced upon the Chilean Government a most embarrassing situation, constraining us to precipitately transfer to Washington our original archives covering half a century; thus depriving us until their return, upon the expiration of the commission, of necessary data for the transaction of its business in Chile.

My Government, nevertheless, abstained from making formal remonstrance in this regard, and its agents in Washington did not for this cause cease to cooperate with the utmost activity and in good faith in the labors of the commission during the time appointed for its existence.

The convention of the 7th of August, 1892, having come to an end, and both parties having thereby regained complete liberty of action, the Government of Chile began to consider the diverse honorable means which might lead to a satisfactory solution of the pending claims, and duly transmitted to me the conclusions which it had reached.

In conformity with those instructions, I permitted myself to propose to your excellency, in a note of the 28th of July last year, the resort of putting an end to the existing claims by means of the payment of a considerable sum, which should be fixed by taking as a basis the same proportion that was reached between the sums claimed and the sums which the commission had awarded in the cases already decided. My Government considered that this resort rested upon a reasonable foundation of equity, that it could save needless expense, and that it would conduce to an immediate solution. It recalled, in this relation, that the new expedient was of practical utility and had been resorted to by the Governments of France, Italy, England, and Spain, for the adjustment of analogous questions with Chile, and this even after having negotiated conventions for submitting the settlement of those claims to international commissions, and during the progress of these very commissions. This suggestion did not have the fortune to obtain favorable welcome from your excellency.

This attempt having gone astray, I had the honor to submit to your excellency's benevolent consideration, in conformity with the instructions which I had received, the resort of submitting to an examination these pending claims, in order to eliminate such as might appear to be lacking in foundation, and to determine with respect to the rest an equitable compensation.

This resort, which is that usually employed in the natural and regular order of international arrangements, and which was suggested to the Government of your excellency during the last Administration, likewise failed to find favor with your excellency on that occasion.

The expedient suggested by my Government having been rejected, your excellency deems that the most adequate resort to decide the existing claims would be a new commission of arbitration, and in this

sense your excellency invites my Government to accept this proposal, in order that a new commission, to meet in Washington, shall complete the labors of the former commission.

The Government of Chile has likewise contemplated the possibility of seeking in arbitration the solution of the pending claims. To that end it had examined the nature of the claims and the essential circumstances thereof as bearing upon the arbitration.

I have the honor to note that besides the American claims, for the settlement of which the convention of August 7, 1892, was signed, there were presented, to the surprise of my Government, before the commission which that treaty created, other claims, which, had they been known at the time, would have called forth well-grounded remonstrance.

The Government of Chile would not now have, as it has not before had, any objection to consider as proper subjects for a new convention the claims comprised in the first category; that is to say, those claims which having been indicated by the representative of the United States at Santiago were duly presented, but were not decided by the commission. But, examining the claims which succeeded in getting before the commission without having been included in the list of claims presented by the American minister, my Government has found that even though some of them belonged originally to the first class, there is another—the claim of the North and South American Construction Company—which essentially differs from the others, and belongs to the category of claims which according to international usage are not entitled to the official protection of friendly governments.

It would seem equitable that, taking into account the antecedents of the negotiation for the extinct convention of the 7th of August, 1892, there should only be considered as falling under the protection of your excellency's Government those claims which were presented in due season, and which were comprised in the list of the cases for the settlement of which the negotiation of the aforesaid convention was proposed to Chile. Nevertheless, my Government, moved by a spirit of conciliation, abstains from formulating the general objection to the other claims, limiting its observations to the said claim of the North and South American Construction Company.

The origin of this claim springs from a contract which that company concluded with the Government of Chile at Santiago in the year 1888 for the construction of certain railways in the Chilean territory.

It was speedily seen that the company lacked the indispensable resources to execute its pledges, and in view of such a situation it transferred its rights and obligations to a Mr. Bernstein, of German origin but naturalized in Chile. My Government approved that transfer, and since then has dealt with the concessionary for the liquidation of the contract.

Without entering upon the details of this claim, it will suffice for me to point out the circumstances in which it originated in order that your excellency may be persuaded that even leaving out of sight the assignment by the company of its rights to a third party, an act which annulled its personal right to appeal to Chile, it had not, in any event, a right to solicit the official protection of the United States.

The policy of your excellency's Government has been invariable in this regard, and has been fully confirmed in all the cases submitted to its consideration.

Thus the Secretary of State, Mr. Seward, wrote on the 27th of June, 1870, as follows:

> It has not been the custom in this Department to intervene officially in favor of citizens of the United States who have entered into contracts with foreign govern-

ments which the latter have failed to execute. The Department has ordinarily confined its intervention to authorizing, respectively, diplomatic agents in the foreign country to employ his personal good offices in the sense of obtaining reparation for the claimant. This policy is founded on the consideration that claims growing out of contracts are regarded as very different from those arising from injuries to person and property committed by the authorities of any foreign government.

The Secretary of State, Mr. Evarts, confirmed the same principle when he sent the American minister, Mr. Thompson, in September, 1878, the following instructions:

The infraction of a contract virtually entered into between a citizen of the United States and a foreign government with which this Government maintains diplomatic relations is not considered as ground for official action in favor of the citizen.

The Secretary of State, Mr. Blaine, likewise took occasion to express his opinion upon this point, and in a note addressed to the American minister, Mr. Logan, on the 22d of March, 1881, he expressed himself thus:

With respect to claims of this character (arising from contracts), it is a universally accepted and practiced rule that the person who has voluntarily entered into a contract with the government of a country should appeal in any complaint he may make, or for injuries which he may have suffered by reason of such contract, to the laws of the country with whose government or citizens he may have contracted.

Later, in 1884, Mr. Secretary Frelinghuysen expressed himself as follows:

It is not among the duties of this Government to enforce fulfillment of such contracts nor to demand damages as the result of their violation. Every contract must in general be regulated by the laws of the country in which it is concluded. Natural justice, mutual convenience, and the practice of all civilized nations require that contracts be regulated and interpreted as to their fulfillment in accordance with the laws which were in view when it was negotiated. Otherwise the rights and responsibilities of the parties would entirely depend upon the laws of the country whose protection might be eventually sought.

Mr. Secretary Bayard, confirming the same principle, in January, 1886, expressed himself thus:

The rule thus laid down is not new. It has been applied by this Department in innumerable cases, many of them involving great injuries. As a general rule, a claim growing out of a contract is not a subject for diplomatic discussion, and this rule is strictly applicable in cases wherein the claimant has voluntarily gone to the debtor country to establish a business strictly connected with the mercantile interests of that country. This Government would absolutely reject any claim of a European sovereign to exercise an international supervision over any of our railways or commercial corporations in the United States which might belong to subjects of that sovereign. A rule which this Government would refuse to recognize itself, it can not properly impose upon others. The rule so established does not, however, prevent our diplomatic representatives in foreign parts from using their good offices under the instructions of this Department, commending before the Government to which they are accredited, such claimants as this Government may deem justifiable creditors of the foreign Government. Both parties must, however, understand that such good offices are not official acts.

The claim of the North and South American Construction Company is one of those not protected by the official action of Governments, and is not a subject for presentation or action in a diplomatic way. That company went to Chile for the sole purpose of concluding a contract with the Government, and by the mere fact of concluding that contract, it was subject to the exclusive jurisdiction of the Chilean law and authorities.

Claims growing out of contracts, as Mr. Seward observed, are in a very different condition from those arising from injuries caused to person or property of individuals by act of a foreign Government. These latter claims, and not the former, are sheltered by diplomatic protection of the interested Government.

When the company went to Chile to conclude the contract it knew that upon its conclusion it would forthwith become subject to the legislative jurisdiction of the country in all relative to the execution of the contracted obligations. By its spontaneous act it thus accepted the consequences of a situation which it itself had created. And, in order that in no case could there be any doubt of this, it was stipulated in the contract itself that the company should be deemed a Chilean citizen for all the effects of the contracted obligations.

In considering the possibility of negotiating a new convention of arbitration, my Government can not forbear to take into account the peculiar character of that claim, and it has reached the conclusion that it would be neither just nor in conformity with international usage to accept it on the same footing as the others and submit it to similar proceedings of adjustment. My Government believes that if the said company alleges any right against Chile, it should freely resort to the Chilean laws and courts under whose rule the contract was concluded. Any other way would tend to introduce a lamentable disturbance into the principles so well established which regulate this class of transactions.

As for the place where the commission of arbitration should sit, I have already had the honor to state to your excellency that, in the view of my Government, it should be the city of Santiago. The fact that it has already once consented that the former commission should sit at Washington permits it to hope that, by way of reciprocity at least, your excellency will now accept its proposal that the proposed commission be organized in Santiago. Almost all the pending claims being those of American citizens against the Government of Chile, a reasonable application of the principles which regulate the bringing of civil suits under the common law would indicate Santiago, the local headquarters of the Government upon which the claim is made, as the natural and proper place for the proceedings of the tribunal. This has been so understood and practiced in the relations with Chile, and under similar circumstances, by the Governments of France, Germany, Great Britain, Italy, and, in general and without exception by all the European nations who have concluded with Chile conventions intended to settle similar claims. The circumstance that in this city are found the greater part of the documents concerning the claims would not be a sufficient reason to depart from a principle based upon considerations of justice and international courtesy. The removal of those papers, which are not numerous, and of which the greater part are in print, would occasion no considerable material inconvenience, whereas in the proceedings of a new convention to be effected in Washington the Government of Chile would be obliged to transport a part of its archives to justify its action in regard to such claims as remain incompletely or insufficiently proved.

It would seem also natural that the Government upon which a claim is made should be left at liberty to furnish, without exceptional embarrassment and difficulty, justification for its acts, and this is ordinarily found in its own archives, which obvious reasons of convenience prevent from being transferred to other places.

The Government of Chile ardently desires to remove, by honorable and equitable means, every motive of disagreement between the two countries; and your excellency's well-known integrity leads it to hope that you will find fully justified the reasons which move it to accept the arbitration, provided it shall take place at Santiago, and provided there be eliminated therefrom the claim of the North and South American

Construction Company, for the settlement of which there exist more adequate means, and more conformable to international practice.

I improve, etc.,

DOMINGO GANA.

Mr. Olney to Mr. Gana.

No. 6.] DEPARTMENT OF STATE,
Washington, June 28, 1895.

SIR: My attention has been called to your note of the 28th of February last, in relation to the proposal made by my predecessor for the establishment of a new commission of arbitration to consider and finally dispose of those cases which were presented to the late commission, but which it, for want of time, failed to dispose of finally.

You state that the number of claims presented on behalf of American citizens before the late commission was much larger than your Government had been led by Mr. Egan, our late minister to Chile, to anticipate, and you intimate that some of them should not have been presented. You also refer to several propositions made by you to my predecessor, since the termination of the late commission's existence, looking to the adjustment of the unsettled claims by methods which you, under the circumstances, thought preferable to arbitration. Finally, however, waiving these considerations, you consent, on behalf of your Government, to a new commission, but suggest two conditions, namely: (1) That the claim of the North and South American Construction Company against the Republic of Chile shall be excluded from the commission's consideration; and (2) that the commission shall sit in the city of Santiago.

I am constrained to say that I do not feel justified in assenting to either of these conditions. I note the arguments advanced by you in behalf of your suggestion that the North and South American Construction Company's claim should be excluded. These objections were in substance made before the late commission, and were not considered by it sufficient to exclude the case from its jurisdiction. One of the principal reasons advanced by you for excluding that case from the new commission is that the claim is in its nature contractual. If this were true your objection might be sufficiently answered by calling attention to the fact that a purely contractual claim asserted by a citizen of Chile against the United States was entertained by the commission, a demurrer which the agent of this Government made to the same having been overruled.

I refer to the case of Mr. Trumbull, who filed a claim for $6,000 for service rendered by him as attorney in securing the extradition from Chile of a fugitive from the justice of this country. In point of fact, however, the construction company's claim is not, properly speaking, based upon the contract, but upon conduct of the Chilean Government, amounting to a practical confiscation of its property.

But the question whether any particular claim is a proper one for the consideration and decision of an international commission is necessarily one which the commission itself must determine. The conventions under which such commissions are organized usually describe in general terms the class of cases of which the commission is to take jurisdiction, and whether any particular case presented to it comes within this class the commission must, of course, determine. The deci-

sions of the late commission, both interlocutory and final, are binding upon both Governments, the latter absolutely so, the former unless reversed, after proper proceedings for a rehearing. That commission having overruled a demurrer interposed by your Government to the construction company's claim, any new commission must take up the question just where the former commission left it, subject to the right of your Government to move for a rehearing. It certainly would not be proper to exclude the claims entirely from the consideration of a new commission.

Passing now to the question of the place of session for the proposed new commission, I am unable to acquiesce in your argument in behalf of Santiago, and among other reasons for this, which seems to me conclusive: The convention under which the late commission was organized was undoubtedly entered into by both parties in good faith, for the purpose of procuring a settlement by means of an international commission sitting in this capital of all claims between the two countries of the character described in the convention. This was the leading purpose. The limitation of the period for the commission's sessions was altogether subordinate to this leading purpose, and the consummation of this purpose should not be frustrated because experience has shown that the period fixed was inadequate for its accomplishment. Good faith, in my opinion, requires that a new commission should be created to take up all the cases which were brought before the former commission, but not finally decided, exactly in the condition in which they were left by it; and the same good faith requires that the hearing and decision of these cases should be completed in this city, as contemplated by the former treaty.

The situation is the same as if the labors of the commission had, by some inevitable accident, been cut short in their midst; and in the actual case the duty of both Governments to reinstate affairs in just the position in which they were left when the functions of the late commission ceased is as clear as if they had been terminated by inevitable accident in the manner supposed.

Accept, etc., RICHARD OLNEY.

Mr. Olney to Mr. Gana.

No. 7.] DEPARTMENT OF STATE,
Washington, September 28, 1895.

SIR: I have the honor to call your attention to the fact that no answer has been received to a note of this Department of June 28 last, relating to the extension of the functions of the United States and Chilean Claims Commission, constituted pursuant to a treaty signed at Santiago August 7, 1892.

All the facts and considerations bearing upon the request of the United States for such extension are so well known to you that there can be no occasion for now repeating them.

The claims of its citizens can not be ignored by the United States, and I feel constrained to request that the subject will be taken up and dealt with by you at the earliest practicable moment.

Accept, etc.,

RICHARD OLNEY.

Mr. Gana to Mr. Olney.

[Translation.]

LEGATION OF CHILE,
Washington, September 30, 1895.

SIR: Referring to the note which your excellency was pleased to address to me, dated yesterday, in relation to the pending claims, I have the honor to inform your excellency that the dispatch which your excellency addressed to me on the 28th of June last, in reply to the one which I had the honor to send to your Department under date of February 28 was duly submitted to the consideration of my Government, whose further instructions I am expecting.

I am confident, moreover, that the Government of Chile, to which I shall forward the request of your excellency, will not delay to enable me to answer your above-mentioned note.

I avail, etc.,

DOMINGO GANA.

SETTLEMENT OF THE CLAIM OF THE NORTH AND SOUTH AMERICAN CONSTRUCTION COMPANY.

MEMORANDUM.

The honorable Richard Olney, Secretary of State, and Don Domingo Gana, envoy extraordinary and minister plenipotentiary of Chile, having met in the Department of State, the latter stated that certain terms had been agreed upon for the final settlement of the claim which the North and South American Construction Company filed against the Government of Chile before the United States and Chilean Claims Commission which sat in Washington, which claim grew out of the contract made on the 17th of October, 1888, for the construction of certain railroads in the Republic of Chile; that pursuant to said informal agreement on file in the State Department the said company relinquishes every and all right or rights it has or may have against the Government of Chile growing out of the said contract of October 17, 1888, and grants and transfers to the said Government of Chile rights and actions in the form established by Articles II, III, and IV of said agreement; that the relinquishment by the company of the rights it has or may have against the Government of Chile, as well as the grant and transfer to the latter of the rights and actions mentioned in the said Articles II, III, and IV, are contingent upon the condition that the Government of Chile shall deposit in the hands of the Secretary of State the sum of one hundred and fifty thousand dollars ($150,000) and officially declare cancelled the guarantee of one million pesos (1,000,000) which the Banco Nacional de Chile gave to the Government of Chile to secure the performance on the part of the company of the obligation stipulated in the contract of October 17, 1888; that in consideration of the foregoing he places in the hands of the honorable Secretary of State a check drawn on Messrs. August Belmont & Co., of New York, for the sum of one hundred and fifty thousand dollars ($150,000), and officially declares in the name of the Government of Chile that the said guarantee of one million pesos (1,000,000) given by the Banco Nacional de Chile to secure the performance of the obligations the said company assumed pursuant to the said contract of October 17, 1888, for the construction of certain railroads is cancelled and released; that he delivers the said check and

makes the foregoing declaration with the positive understanding that he shall receive through the honorable Secretary of State a formal and legal written instrument from the company in accordance with the terms of the informal instrument on file in the State Department, and that the Government of the United States will not hereafter take cognizance of any claims growing out of the transactions of which this payment is to be taken as a final adjustment.

The honorable Secretary of State announces his assent to the foregoing statement, receives the check for the sum named, and delivers to the envoy extraordinary and minister plenipotentiary of Chile the formal deed setting forth the relinquishment of rights by the company to the Government of Chile pursuant to the terms of said informal agreement.

Signed in triplicate, in Washington, D. C., on the fifteenth day of the month of January, 1896.

RICHARD OLNEY.
DOMINGO GANA.

RESUMPTION OF SPECIE PAYMENT.

Mr. Strobel to Mr. Uhl.

No. 26.] LEGATION OF THE UNITED STATES,
Santiago, June 1, 1895. (Received July 12.)

SIR: I have the honor to report the resumption of specie payment in Chile on this date. This is the result of two laws, one passed by Congress on February 11 last, providing for the redemption by the Government of its paper money on June 1, in gold, at the rate of 18 pence to the peso, and the second, passed on May 28, providing for a loan of £2,000,000. As it was feared that the redemption at the above rate by the Government, as provided for by the law of February 11, might cause a drain upon the banks in view of the low rate of exchange ruling prior to the date fixed for conversion, the loan was authorized for the purpose of helping the banks in case of need and therefore to strengthen public confidence in the operation. This loan has been taken by the Rothschilds at 93½, with interest at 4½ per cent.

The resumption of specie payment closes a question that has been agitating the people for a number of years past, and places the country once more on a gold basis, for the first time since 1878.

I have, etc.,

EDWARD H. STROBEL.

CHINA.

ANTIFOREIGN RIOTS.

Mr. Denby to Mr. Uhl.

No. 2256.] LEGATION OF THE UNITED STATES,
Peking, June 4, 1895. (Received July 11.)

SIR: I have the honor to inform you that extensive riots have within the last few days taken place at Chengtu, the capital of the Province of Szechuan. The Catholic mission buildings and those of the China Inland and Canadian missions were destroyed. No foreigner was injured except the Catholic bishop, and he not seriously.

No news has reached me officially as to this occurrence. I know of but one American who is at Chengtu. His name is Virgil C. Hart, and he is connected with the Canadian mission.

Strong measures have been taken by the Government of China to prevent the spread of this riotous spirit to the Yangtze towns. Chengtu is situated on the river Min. Its population is supposed to approach 1,000,000. It has great wealth and political importance, and as far back as the time of Marco Polo was noted for its beauty. It is the home of a viceroy.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Uhl.

No. 2263.] LEGATION OF THE UNITED STATES,
Peking, June 13, 1895. (Received July 18.)

SIR: The riots in Chengtu, Szechuan, on the 29th, 30th, and 31st ultimo have excited widespread consternation in China.

I have received no direct information from Chengtu or any point on the Yangtze touching these riots. My information was that we had no mission at Chengtu, and on this theory I accounted for the fact that the consul at Hankow had not wired me as to the riots. It appears now that there were the following missions at Chengtu: The Roman Catholic mission, called the "Missions Etrangères de Paris;" the Canadian Methodist mission, of which Rev. V. C. Hart, an American, is a member; the China Inland mission, the Church Missionary Society, and the Methodist Episcopal mission of the United States. The members of the last mission are Rev. H. Olen Cady and Mrs. Cady, Dr. H. L. Canright and Mrs. Canright, and another newly married couple.

These riots are inexplicable except on the theory of official connivance. The Missions Etrangères was a strong, powerful mission, numbering many members, having three great churches and all appliances necessary for charitable and religious work. I think it was established at Chengtu in 1715.

It is difficult to conceive how, after nearly two centuries of successful labor, there could exist at Chengtu any popular animosity sufficient to account for such a terrible uprising against the foreign missionaries. The world is forced to conclude that these riots were fomented by the viceroy, Liu Ping-chang. He has been viceroy of Szechuan during the past nine years, and he has always antagonized Christian and foreign methods. He has now been superseded, and it is surmised that he desired to signalize his departure by outrages against the detested foreigner. The Catholic bishop has added his testimony to other proof that Liu Ping-chang was the organizer of these outrages.

I will take appropriate official action as soon as I receive an official statement of the facts. Meantime measures have been taken by the Imperial Government to prevent the spread of riotous sentiment to the towns along the Yangtze.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Uhl.

[Telegram.]

PEKING, *June 15, 1895.*

Riots still occurring in Szechuan. Mission at Chengtu not much damaged. Have asked imperial edict awarding death penalty to rioters. Central Government seems to have lost control over people. No American hurt.

DENBY.

Mr. Denby to Mr. Uhl.

No. 2268.] LEGATION OF THE UNITED STATES,
Peking, June 15, 1895. (Received July 31.)

SIR: I have the honor to confirm my telegram of this date.

The Imperial Government is doing what it can to check the spread of the riots, but it seems to be powerless. Great fears are entertained for the safety of the foreigners at Chungking. This port is inaccessible to steamers, so that no assistance can be furnished by the foreign powers.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2278.] LEGATION OF THE UNITED STATES,
Peking, July 1, 1895. (Received Aug. 7.)

SIR: I have the honor to inclose a copy of a communication sent by me to the Tsung-li Yamên relating to a proposal of the mode of settling the matters growing out of the recent riots in Szechuan.

In 1886, when riots occurred at Chungking, I requested the English consul at that port to take charge of and arrange for the settlement of matters affecting American interests. He acted very satisfactorily, and his conduct was approved by the Department and all the interested parties.

I have in this case requested Mr. Tratman, Her Britannic Majesty's consul at Chungking, to do what is necessary to secure damages for the

American missionaries, and Her Britannic Majesty's minister has kindly consented that he may act for us. The proposition sent to the Yamên provides for the appointment of a commission composed of certain Chinese officials and one British and one American commissioner to take all the facts and circumstances into consideration and to report to Peking. As our nearest consul is at Hankow and it would take him two or three months to reach Chungking, this course seemed advisable. I submit my action for your approval. The Yamên has not yet approved of the mode of settlement proposed.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2278.]

Mr. Denby to the Tsung-li Yamên.

PEKING, *July 1, 1895.*

A commission should be appointed, composed of the new viceroy of Szechuan, the treasurer and judge of the province, with whom should be associated two missionaries—one British and one American—for the purpose of investigating on the spot the circumstances connected with the origin of the riots, for inquiring into and determining the losses sustained by British and Americans in consequence of the riot, and fixing the amount of the indemnity to which in each case the claimants are entitled, and for making such other arrangements and dispositions as on mutual consultation may be found necessary to secure the settlement of the present difficulties and the prevention of future trouble.

The commissioners should submit a report of the proceedings of the conference and of the conclusions at which they have arrived to their respective authorities at Peking, who should take into consideration the suggestions and recommendations they had made and pronounce a final decision.

In view of the fact that the United States have no consul nearer than Hankow, I have requested Her Britannic Majesty's minister to permit Her Britannic Majesty's consul at Chungking to take charge of American interests and to choose a suitable person to serve as the American commissioner.

I trust that telegraphic orders will be sent to the Chinese commissioners to hold themselves in readiness for the inquiry.

As soon as I am informed that this proposal is adopted by the Tsung-li Yamên I will notify Her Britannic Majesty's consul at Chungking to nominate the American commissioner and desire him to join his Chinese and British colleagues at Chengtu immediately.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2283.] LEGATION OF THE UNITED STATES,
Peking, July 8, 1895. (Received August 23.)

SIR: In my dispatch No. 2278, of July 1, I inclosed a copy of my proposal to the Tsung-li Yamên to refer the consideration of matters growing out of the Chengtu riots to a commission consisting of certain Chinese officials and an English and American missionary.

I have now the honor to inclose a translation of the answer of the

Yamên to that proposal, from which it will be seen that it has been accepted.

The personnel of the commission has been, however, modified to the extent that the Chinese members thereof shall consist of the judge, treasurer, and prefect of Chengtu, retaining an Englishman and an American as members. Possibly Her Britannic Majesty's consul at Chungking may sit on the commission should it meet at that port.

It is proper to state that should the proceedings before the commission develop the fact that the Viceroy Liu and other local officials failed to do their duty in protecting the foreigners their punishment will be insisted on.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2283.]

The Tsung-li Yamên to Mr. Denby.

No. 19.] JULY 6, 1895.

Upon the 1st of July the prince and ministers had the honor to receive a communication from the minister of the United States, wherein he stated that in the matter of the Chengtu missionary cases he indorsed the proposal of Her Britannic Majesty's minister, Sir Nicholas O'Conor, relating to the mode of procedure to be adopted in dealing with them, and asked that a commission should be appointed, composed of the new viceroy of Szechuan, the treasurer and judge of the province, with whom should be associated two missionaries, one British and one American, for inquiring into and determining the cases; that Her Britannic Majesty's consul, Mr. Tratman, at Chungking, would take charge of American interests and choose a suitable person to serve as American commissioner with his British colleagues, and the Yamên was requested to send telegraphic instructions to Chengtu for the Chinese commissioners to hold themselves in readiness for the inquiry, and that Her Britannic Majesty's consul at Chungking would be notified by wire to nominate an American commissioner who would be requested to proceed to Chengtu immediately, etc.

The Yamên would observe that since the riots took place at Chengtu all the missionaries have left the place, having been escorted to Chungking. The viceroy has telegraphed, ordering the Chuan Tung Taotai to confer with Her Britannic Majesty's consul and make satisfactory arrangements in this matter.

On the 28th of June the Yamên received a communication from Her Britannic Majesty's minister, Sir Nicholas O'Conor, in the same sense as the communication under acknowledgment. The Yamên have already wired to the high authorities of Szechuan to appoint proper and suitable deputies to meet the British and American missionaries appointed as commissioners on their arrival at the capital, and to act with them in considering and taking action upon the matters at stake. The said deputies are to report their action for the consideration of the high Chinese authorities, and after they have come to a decision, action will be taken accordingly.

As in duty bound, the prince and ministers send this communication for the information of the minister of the United States.

Necessary communication addressed to His Excellency Charles Denby, etc.

Mr. Denby to Mr. Olney.

No. 2284.] LEGATION OF THE UNITED STATES,
Peking, July 8, 1895. (Received August 23.)

SIR: I have the honor to inclose a copy of a report made by the Protestant missionaries at Chengtu to Her Britannic Majesty's consul at Chungking, describing the recent riots at that city.

The consul, Mr. J. W. Tratman, calls attention to the following points in the report which are especially worthy of notice:

1. Though evil rumors had been current for a month before, no precautions were taken on the day of the outbreak, the 5th of the fifth moon or Dragon boat festival, which is notoriously a dangerous day.

2. The riot, which ceased sometime after dark the first day, was allowed to break out again on the next day.

3. The Canadian mission compound was held for one hour and over against the mob by two missionaries with guns, showing that a moderately strong force of soldiers might have suppressed the disturbance.

4. A point-blank refusal to do anything was met with in two cases: First, when the Methodist mission applied to the Lung Men Taotai Ch'ang, and secondly, when the French priest applied to the viceroy.

5. Proclamations were refused, a feebly worded one on the second day of the riot being the only response to requests extending over three weeks.

6. The French mission premises, closely adjoining the viceroy's Yamên, were looted and destroyed.

The consul proceeds to say that—

It does not seem possible to draw any other deduction from a consideration of the above points than that of complicity on the part of the officials. There are at Chengtu—at least on paper—12,000 troops of different kinds, Manchu and Chinese, many armed with foreign rifles. A hundreth part of that number could have prevented or quelled the riot, but neither in the missionaries' report nor in the evidence which I have obtained from two or three messengers is any mention made of the movement of troops. The viceroy's feeling against foreigners is well known. He is already dismissed from his post and only awaiting the arrival of his successor to return home.

There is a general opinion that this is his parting blow, and it is certainly a heavy one.

This report and these comments thereon justify the contention that I have always maintained with the Yamên, that if the local authorities chose to prevent antiforeign riots they could do so.

The above-mentioned papers were kindly furnished me by Her Britannic Majesty's minister, Sir Nicholas R. O'Conor.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2284.]

Report of the missionaries.

CHENGTU, *May 30, 1895.*

DEAR SIR: The property of all Protestant and Roman Catholic missions in this city is completely destroyed. All dwellings, chapels, hospitals, and schools are razed to the ground. Some buildings were burned, others carried away piecemeal till nothing remained but broken tiles. Several of our number had very narrow escapes with their lives, but at the moment of writing the eighteen Protestant missionaries of the city with eleven children and two of the three Roman Catholics are

safe in the Hwa Yang Hsien Yamên. With the exception of one or two coolie loads, all hospital supplies and household goods of every description were looted by the mob.

About 4 p. m. of May 28, the day of the Twan Yang [or Dragon Boat] festival, rioting began at the premises of the Canadian Methodist mission on the street called Sz Shen Tsz. Two cards were sent in succession to the Hwa Yang Hsien Yamên, calling on the Pao-kia on the way. Stones were thrown at the main gate of the mission compound and a mob rapidly gathered. No show of resistance was offered until the strong gates were battered down about 5 p. m. From that until long after 6 o'clock the mob was held in check by three missionaries, two carrying guns. The only assistance sent was a force of about twelve men in civilian dress and three soldiers in red, although between 5 and 6 o'clock our messengers had returned from the Yamên with the word that a large body of men would be sent at once. About 7 p. m. the four Canadian missionaries with four children and one C. M. S. missionary escaped under cover of darkness and fog to the city wall. They carried nothing but the clothes they wore. The C. M. S. missionary, Mr. Jackson, found his way to the China Inland mission alone. The other four left the city wall in chairs about midnight for the same compound. By midnight three dwellings, chapel, two large hospital buildings, and school buildings of the Canadian mission were completely destroyed with all their contents. During the evening a few Yamên runners were deputed to protect two of the mission compounds.

At daybreak of May 29 anything remaining of the wrecked compound was carried away, and by 6 a. m. the mob had re-formed in full force and turned its attention to another compound of the same mission directly across the street. So far as we know, no attempt whatever was made by the officials to scatter the mob or to protect this compound. In an hour or two the newly erected brick bungalow was in flames as well as every other building on the place. Mrs. Hartwell had escaped early in the morning to the U sha kai compound, while Mr. Hartwell climbed the wall and found refuge in the compound of a friendly native.

About 9 a. m. the two young ladies of the U sha kai compound (Canadian mission) together with Mrs. Hartwell arrived in chairs at the China Inland mission. They had escaped over their back wall. A few minutes later the big U sha kai compound was completely leveled to the ground, part of it having been burned.

There were then gathered in the China Inland compound one Church Missionary Society, three China Inland, and seven Canadian missionaries—in all eleven. The streets at that hour were, in the neighborhood of the China Inland mission, still comparatively quiet. The decision was made to go in chairs at once to the Hwa Yang Hsien Yamên. But the chief of police arrived just then with a retinue of twenty-six men and guaranteed protection if they would stay right there. By 10.30 the mob was growing larger and more difficult to control. Now the official advised removal to the Yamên. Six missionaries got away safely, two by two. Then at 11 o'clock the crisis came. Not a moment too soon the remaining five, with three children, climbed the back wall and quickly concealed themselves in a small mat house. Thirty taels handed over at once effectually shut the mouths of the people and secured immunity from immediate discovery. At 8 o'clock in the evening, covered by darkness, they were conveyed, one by one, in chairs to the Hwa Yang Hsien Yamên, where they joined the six previously arrived.

From 11 a. m. to about 2 p. m. these two men and three women, with

three little children, sat huddled together in a dark corner of a dark room, and were painfully aware, by the continuous booming and crashing, of the work of destruction proceeding just beyond a mud wall. By 2 p. m. China Inland compound was a complete ruin.

While these things were in progress in this quarter, the Methodist Episcopal mission near the south gate did not fare very differently. In the evening of May 28 an urgent request for protection in case of trouble was sent to the Lung Men Taotai. The reply was a refusal, point blank, to have anything to do with the case. Before daylight the six Methodist Episcopal missionaries with four children took chairs, arriving just at daybreak of May 29 at the Hwa Yang Hsien Yamên. They were asked to return to their own compound at Shan hi kai, and guaranteed full protection. They accordingly returned home. Early in the forenoon the people began to gather, and notwithstanding the presence of a chief of police and twenty-two men, at 10 o'clock a. m. the attack on the compound began. The missionaries and their children, by invitation of an immediate neighbor, jumped the wall of their compound and were at once concealed in a small, dirty loft. Here they remained safely for about twelve hours, unwilling witnesses of the spoiling of all they possessed and the rapid demolition of all buildings of every description on the mission compound. About midnight all six Methodist Episcopal missionaries, with their four children, arrived in chairs at the Hwa Yang Hsien Yamên. About the same time Mr. Hartwell, Canadian missionary, arrived in a chair from the house of the friendly native who had secreted him. This made the total of eighteen Protestant missionaries in the city at the time of the outbreak. Some time later in the night of May 29, two of the three Roman Catholic missionaries of the city were brought safely into the yamên.

Evil rumors against us have been growing in the city for a month back. All three missions asked for proclamation against these rumors from two to three weeks ago. Repeated requests for a proclamation failed to secure one until yesterday afternoon, when about nine out of eleven mission premises had been wrecked. Then a mild proclamation was put out.

We have ample evidence that the officials openly connived at the work of destruction yesterday. The only restriction placed in the way of rioters was that, for obvious reasons, they should not set fire to the buildings. The help asked for, if sent at all, was in every case sent in a very dilatory manner, and when it arrived was ridiculously insufficient and inefficient. Repeated requests for additional protection met with no response.

At present writing (noon May 30) we are in cramped but fairly comfortable quarters in this yamên. The Hsien tells us to remain quietly for a few days, and the understanding is that as soon as some of the excitement subsides throughout the city we are to be escorted out of the city and started away, either by chairs or boat.

All sorts of the vilest rumors are afloat that we killed a child, or children, baking their bodies, using their eyes for medicines, taking out their bones, etc. We hear now (2 p. m.) that a human head, human hand, and human eye have been nailed upon the wall of one of the wrecked compounds. Red paint has been spattered on the walls and exhibited as evidence of crimes committed by the missionaries. We hear that bones are being dug from graves and shown at the governor-general's Yamên as further evidence of our guilt.

It is significant that one of the Roman Catholic priest's residences was within a stone's throw of the governor-general's Yamên. His

repeated requests for assistance from that yamên met with just as many refusals. His place was wrecked and burned. Another rumor says the city gates, four in number, are being guarded by soldiers lying in wait to cut off all escape from the city.

Our message by telegraph was received at the office and we believe was forwarded yesterday morning, 29th. This morning, 30th, our telegram was met with the statement that the wires are down. This is believed to be false.

Canadian Methodist Mission (George E. Hartwell, wife, and two children, Omar L. Kilborn, wife, and babe, David W. Stevenson, wife, and three children); Methodist Episcopal Mission (H. Olin Cady and wife, H. L. Canright, wife, and two children, J. F. Peat, wife, and two children); Church Missionary Society (O. M. Jackson); China Inland Mission (Joshua Vale, James G. Cormack, wife, and one child); total, 9 men, 9 women, 11 children.

Mr. Denby to Mr. Olney.

No. 2286.] LEGATION OF THE UNITED STATES,
Peking, July 10, 1895. (Received August 23.)

SIR: I have the honor to inclose a copy of a communication sent by me to the Tsung-li Yamên the 9th instant, asking that the ex-viceroy, Liu, be ordered to come to Peking to await an investigation into his conduct, so that he may be punished should the evidence to be taken show that he is guilty of complicity in the riots.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2286.]

Mr. Denby to the Tsung-li Yamên.

No. 16.] PEKING, *July 9, 1895.*

I have heretofore requested that troops should be sent from Chengtu to Chungking to assist in preserving order. If this request is not acceded to, the responsibility will rest with the Government of China, and this I desire to place on record. I think it desirable also that the examination at Chungking should be postponed, and this also I place on record.

I desire also to reiterate the ideas heretofore conveyed to the Yamên that the time has come to China when officials who are negligent or criminal in their conduct toward foreigners must be punished, and that simple payment of damages is not enough to secure future immunity from destruction. To that end I request that the late viceroy of Szechuan be ordered to come to Peking, in order that if inquiry into the causes of the riots shows him to have been in fault he may be properly punished. I will make the same demand as to all other officials who may be shown to be guilty.

Unless the guilty officials are punished, no settlement of matters appertaining to the riots will be satisfactory. It is clearly in the inter-

est of China to make a grave public example showing her intention that riots shall be prevented.

The experience of many years shows that this can not be done unless there be condign punishment of guilty men.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2288.] LEGATION OF THE UNITED STATES,
Peking, July 12, 1895. (Received August 23.)

SIR: I have the honor to inform you that I have designated Rev. Spencer Lewis, a resident of Chungking, to act as the American member of a commission to examine into the causes and results of the Szechuan riots.

I have addressed to Mr. Lewis a communication, of which a copy is inclosed, wherein the purposes of this commission, the constitution thereof, and its duties are set forth.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2288.]

Mr. Denby to Mr. Lewis.

PEKING, *July 11, 1895.*

SIR: It has been arranged by the Chinese Government, Her Britannic Majesty's minister, Sir N. R. O'Conor, and myself that a commission consisting of three Chinese officials—probably the prefect of Chengtu, the provincial treasurer, and the judge—Her Britannic Majesty's consul, Mr. J. W. Tratman, an English missionary, and an American missionary, should sit either at Chengtu or Chungking for the purpose of inquiring into the causes and results of the recent riots in Szechuan.

I have designated you as a member of this commission and hope, in the general interest, you will consent to serve.

It is proper to state that I have consented to the organization of the commission without consultation with my Government, there being no time to do so fully, and that I can not hold out any inducement that any compensation will be paid to you, or even that your expenses will be reimbursed. All that I can say is that when the labors of the commission are concluded, and a report made of services rendered, I will represent the matter to the State Department for its consideration.

The duty of the commission will be to inquire into the causes and origin of the riots; to find the facts and to determine from them whether the provincial officials took adequate measures to prevent disorder and to suppress it after it broke out, and to assess the damages suffered by each individual and corporation.

The findings of the commission will not be final and conclusive, its object being to find the facts and submit them for the further action of the two foreign representatives chiefly interested therein.

It is desired that a full report of the proceedings of the commission be made and forwarded to this legation.

I am, etc., CHARLES DENBY.

Mr. Adee to Mr. Denby.

No. 1113.] DEPARTMENT OF STATE,
Washington, July 19, 1895.

SIR: I have to acknowledge the receipt of your No. 2263 in regard to the antimissionary riots at Chengtu.

You state that "these riots are inexplicable except on the theory of official connivance." If the connivance of high Chinese officials in this antiforeign demonstration be reasonably shown, stern reprobation and punishment must be expected, with due reparation and safeguards for the future. You will continue your efforts to elicit the truth, and act accordingly within your standing instructions.

I am, etc.,

ALVEY A. ADEE.

Mr. Denby to Mr. Olney.

No. 2291.] LEGATION OF THE UNITED STATES,
Peking, July 23, 1895. (Received Sept. 6.)

SIR: I have the honor to inform you that riots occurred during the last days of May and early in June in Szechuan at the following places: Chengtu (the capital), Kuan Hsien, Hsin-tu Hsien, Kiung Chou, Kia-ting, Ya Chou, Mei Chou, Sui Fu, Lu Chou, Pao-ning, P'eng shan, and Hsin-king.

The Methodist Episcopal mission (American), the American Baptist mission, the China Inland mission (English), the Canadian Methodist mission, and the Roman Catholic mission were the sufferers. All their property was wrecked.

I shall furnish you with a detailed statement prepared by American missionaries as soon as it reaches me.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2293.] LEGATION OF THE UNITED STATES,
Peking, July 26, 1895. (Received Sept. 6.)

SIR: In my dispatch No. 2288, of the 12th instant, I informed you that I had appointed Rev. Spencer Lewis, of Chungking, to sit with the British consul and an English missionary, on a commission to assemble at Chengtu, for the purpose of examining into the causes of the recent antiforeign riots in the province of Szechuan, and matters connected therewith.

I have received to-day from the consul-general a report of the proceedings of a large meeting held by Americans at Shanghai, at which resolutions were adopted praying the Government of the United States to appoint a commission, headed by a consul of the highest rank, to examine into the whole subject. The report of these proceedings has been forwarded to you. After reflection, and somewhat influenced by the action of the Americans above mentioned, I have concluded that the commission proposed by the British minister would not be sufficiently impressive, and that public sentiment in the United States would not approve of there being only one American on so important a commission. I have accordingly notified the British minister that

the appointment of Lewis was countermanded, and that I would take no part in any commission until I had received instructions from you. The question before you now is whether you will direct the organization of a commission composed exclusively of Americans for the purposes indicated.

The question at issue, that is, the protection of foreigners in China, is one of the utmost gravity. It is known to you that no mode has ever been devised for the prevention of riots, which occur almost continuously in some part of the Empire. They involve, of course, great danger to life, enormous destruction of property and suspension or cessation of foreign residence in the localities where they occur. In antiforeign outbreaks no distinction is made by the mob between persons of different nationalities.

It follows that all nations are interested in the questions involved. I am, therefore, of the opinion that, instead of organizing one commission for each nationality, a commission representing all the Western Powers should be created. There is no reason why they should not all take part in such action, except, perhaps, in the case of Russia, whose laws as to foreign ecclesiastics are peculiar.

I inclose a clipping from the North China Daily News of the 18th instant, embodying certain resolutions passed by a meeting of foreigners at Hankow, which strike me as sensible. Should you approve of the idea of holding an international commission it occurs to me that you might with great propriety take the initiative in the movement. The reasons are too obvious to require mention why the lead of the United States in so important a matter would be agreeable to China as well as to the other powers.

I suppose that the plan indicated would produce as little delay as would the appointment of a commission composed of Americans alone, as it is not likely that the President would appoint such a commission unless he were authorized to do so by Congress.

I respectfully await your instructions on the whole subject. It is proper to state that, unless otherwise directed by you, I will present any claim of any sufferer by the riots for payment, without referring the same to you. I will also support any of my colleagues who shall demand the punishment of delinquent officials.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2293.—Clipping from North China Daily News, July 18, 1895.]

The Rev. David Hill, Wesleyan Mission, moved the second resolution, which was as follows:

Whereas for many years past numerous and extensive riots have occurred in many parts of China, directed against missionaries and other foreigners, whereby serious damage has been done to health and property, while in some cases lives have been taken; and

Whereas no effectual measures have thus far been adopted for the prevention of these outbreaks; and

Whereas foreign property has lately been destroyed on an unprecedented scale, both in Chengtu, the provincial capital, and in other cities of the Szechuan Province (where hitherto the people have always manifested an exceptionally quiet and friendly spirit), thus breaking up the homes of many missionaries and interrupting for an indefinite period important missionary work; and

Whereas these periodical outbreaks have been frequently caused, and ill-feeling has been continuously fomented by the wide circulation of blasphemous and calumnous literature which has emanated chiefly from the province of Hunan.

We venture most respectfully to urge upon the ministers and representatives of the Governments concerned the following suggestions for their consideration:

(*a*) That a searching investigation into the Szechuan riots be undertaken by accredited officials representing each of the governments involved; that this investigation be conducted at Chengtu, in the place where the trouble commenced, and that one missionary at least of each mission involved should be present at the investigation.

(*b*) That the missionaries and the missions should be fully indemnified for their losses. The indemnity shall not be limited to the actual cost of the things destroyed.

(*c*) That the missionaries shall be reinstated, with official recognition at all the places from which they have been ejected.

(*d*) That in dealing with those criminally concerned in the riots, whether by personal instigation, culpable neglect, or actual violence, strict impartiality should be preserved, irrespective of rank or position.

(*e*) That the right of missionaries to reside in the interior should be placed on a clearly defined treaty basis, and this right should be made known by imperial proclamation throughout all parts of the Empire.

In addition to the above, we would respectfully state that, in our opinion, as long as the province of Hunan is allowed to maintain its present condition of isolation and exclusiveness, it is likely that the antiforeign riots will continue, and we would suggest that no step is better calculated to bring these riots to an end and insure peace in future than the definite opening of that important province.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 3, 1895.

Jernigan reports riot Kutien; American lady wounded. Ask instant protection.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2295.] LEGATION OF THE UNITED STATES,
Peking, August 3, 1895. (Received Sept. 23.)

SIR: I have the honor to inclose herewith a copy of a dispatch addressed by me, this date, to the Tsung-li Yamên, with reference to the riots at Chengtu.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2295.]

Mr. Denby to the Tsung-li Yamên.

No. 20.] AUGUST 3, 1895.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to call your attention to facts connected with the recent riots in Szechuan, which are completely established by proof made by persons who were present when the riots occurred.

First. There can be no doubt that the local officials are responsible for these disturbances.

This appears from the following written documents, among others: A proclamation issued by Li Taotai, general manager of foreign affairs, which repudiates the recent Berthemy convention; a proclamation issued by Chou Taotai, a Hunan man and chief of police for the two

hsiens of the capital, wherein he states the horrible falsehood that foreigners decoy and kidnap small children; the proclamation of the Viceroy Liu, May 29 last, that foreigners caused trouble at the "Tuan yang" feast; placards which were put up, and not removed by the police, to the effect that foreign "barbarians" are hiring evil characters to kidnap small children, that they may extract oil from them for their use, and that the English, French, and Americans did not drive out the Japanese, and therefore they must be driven out.

Second. All these things were done or suffered to be done by the authorities. They all tended to excite and encourage the rioters.

Third. From proof in my possession, it also appears that the rioters assembled at the northeast corner of the city and had to go the entire length of the parade ground and past the soldiers' camp to the first point of attack—the Canadian Methodist mission. No effort was made to stop them, and when the missionaries fled to the camp for protection they were driven out, and one lady was brutally kicked by a soldier.

Fourth. The Roman Catholic mission, only a stone's throw from the vice-regal yamên, was boldly looted and demolished.

Fifth. Until the above-mentioned proclamations issued, the attitude of the people was friendly.

Sixth. There were thousands of soldiers stationed in and about the city, and there were three camps, with several hundred foreign-drilled troops in each, and they did not attempt to protect the foreigners.

Seventh. The destruction and looting at Chengtu extended over thirty-six hours, and during all this time the officials did nothing; and this notwithstanding the fact that there was a cessation of rioting for five hours.

Eighth. The soldiers and yamên runners participated in the rioting.

Ninth. When at daylight the second day of the riots some missionaries went to the yamên of the Hwa-yang Hsien magistrate for protection they were told he was asleep.

Tenth. The telegraph operator at Chengtu was forbidden to transmit messages for the missionaries, while at the same time messages were being sent, it is said by the viceroy, that a mutilated child had been found. It was ten days before the fate of the missionaries was known at Shanghai. Imagine the horror of the suspense!

Eleventh. The local officials did nothing to restore order until orders reached them from Peking.

Twelfth. It is apparent from the immediate occurrence of riots at many other places in Szechuan that there was concerted action between the capital and outlying towns. There is no doubt that, with the knowledge of the officials, a general plan was organized to drive out of the province all foreigners.

Thirteenth. These riots swept away in a few days the fruit of years of toil and sacrifice, done and endured with no other object except to do good to the Chinese people. They made homeless and wanderers 24 adult American citizens, and they subjected to violence, insult, and injury many helpless women and innocent children.

These facts are indisputable. It remains to discuss the remedies, if there can be remedies for the wrongs and sufferings above detailed.

I demand of the Government of China:

(1) The prompt, condign, and adequate punishment of the guilty officials, whatever their rank or station may be.

(2) That by the imperial proclamation the foreigners be permitted immediately to return to Szechuan to take and occupy their property,

and that, until they can rebuild their homes, they be furnished by the local officials with suitable abiding places.

(3) That the viceroy of Szechuan be ordered to issue a proclamation that the foreigners have the right to reside and prosecute their work in that province.

(4) That an imperial proclamation issue rehearsing the right of missionaries to reside in and carry on their work in every part of China, and that copies of this proclamation be put up in every yamên by the orders of the viceroys themselves.

(5) That when the demands for damages are presented, as they will be, they be promptly paid, and if possible, that they be paid out of the local treasuries, so that the local authorities may suffer primarily for their crimes.

(6) That the author of one of the placards mentioned, one Chou, who has been promoted to be acting taotai at Yachou, be immediately degraded and rendered incapable of ever holding office again.

(7) That a proper and suitable military force be kept, under stringent orders, at Chungking.

(8) That Li Taotai be kept at Chungking.

It is still uncertain what combined action the Western Powers will take on the questions involved in the Chingtu riots. That something open, bold, and aggressive must be done is apparent. Riots in which peaceable foreigners are periodically burnt out of house and home and subjected to untold sufferings must cease. If these things can occur the treaties and Imperial proclamations are waste paper.

China at this time owes it to herself, if not to the foreign powers, that riots should be made impossible.

I submit that, unless the Imperial Government is willing to admit that it is unable to control the provinces that are remote from the capital, the Western Powers must look to it for protection. I should exceedingly regret to have to conclude that the Imperial Government is powerless in Szechuan, but if facts and results show that this conclusion is well founded, then the Western Powers will be compelled to devise other means to protect the foreigners who, under the treaties and with the open and avowed consent of the Imperial Government, are residents of China.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2297.] LEGATION OF THE UNITED STATES,
Peking, August 5, 1895. (Received Sept. 23.)

SIR: I have the honor to confirm your cipher telegram of the 3d instant, as follows:

Jernigan reports riots Kutien. American lady wounded. Ask instant protection.

And of my cipher telegram to you of this date, as follows:

I have received your cipher telegram of 3d. Ten English killed, three wounded in riots at Kutien. No Americans injured. Have demanded protection Americans.

Before receiving the Department's instruction above confirmed, I had received telegraphic information of this riot and its fatal result. At first it was reported that one American lady was wounded, but subsequent advices indicate that the killed and wounded are all English and that the American residents of the locality of the riot, without exception, escaped uninjured to Foochow.

Kutien is a Hsien city 90 miles northwest of Foochow in the Province of Fuhkien. In this city and vicinity there were several English and American mission stations. No details are yet at hand of the disastrous affair of which it has now been the scene, and we have no explanation of the origin thereof. It is known, however, that the murderers were a band of 100 Chinese of the vegetarian sect. The killed comprise eight women, one man, and one child; the wounded, one woman and two children.

I have expressed to the Yamên my horror at this outrage, and have demanded of them the protection of Americans.

I have, etc., CHARLES DENBY.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 7, 1895.

Hixon reports American property Yung-fu burned. Ask instant protection and repression.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2303.] LEGATION OF THE UNITED STATES,
Peking, August 9, 1895. (Received Sept. 23.)

SIR: I have the honor to inclose a translation of a commuication from the Tsung-li Yamên, relating to the recent riots at Kutien in the Province of Fuhkien. It will be seen that the Yamên has ordered the arrest and punishment of the murderers, and that protection be insured to foreigners.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2303—Translation.]

The Tsung-li Yamên to Mr. Denby.

PEKING, *August 7, 1895.*

YOUR EXCELLENCY: We had the honor on the 5th instant to receive your excellency's note stating that it had come to your knowledge that a riot of a serious nature had taken place at Kutien, in the province of Fuhkien, and that a number of foreigners had been murdered; that you desired to express your horror and regret at this outrageous occurrence against peaceable people, and to ask that telegraphic instructions be at once sent to the viceroy at Foochow to use every means in his power to give full and adequate protection to Americans residing in the province.

With regard to the riot at Kutien, where foreigners were murdered, we have the honor to state that on the 5th of August an imperial decree was issued, which was telegraphed to the governor-general of Foochow, ordering that officer to vigorously arrest the persons concerned in the riot and murder and to punish them according to law.

Further, the local officials have been instructed to spare no measure in giving due protection to foreigners and to prevent further riots. The

telegraphic reply received from Foochow does not give full particulars of the riot, and the Yamên again ordered that these be punished, but up to the present no further telegrams have been received.

Any further news that your excellency may have received during the past few days we will thank you to communicate to the Yamên and oblige.

Mr. Denby to Mr. Olney.

No. 2304.] LEGATION OF THE UNITED STATES,
Peking, August 10, 1895. (Received Sept. 26.)

SIR: In my dispatch No. 2303, of yesterday's date, I had the honor to inclose a translation of the Yamên's reply to my dispatch concerning the murders at Kutien. The subsequent disturbance at Yung-fu, resulting in the destruction of an American chapel, I found it desirable to bring to the Yamên's notice not in writing but in a personal interview.

To my remark to the Yamên that their previous promises of protection appeared, in view of the Yung-fu affair, to have been futile, they replied that they regretted to admit that such was the case. The disturbed condition of the province they said was such that local officials could not guarantee the safety of foreigners in remote places. They stated, however, that every effort would be made to restore order and secure redress for injuries already done; that to this end two imperial decrees had been sent by telegraph to the provincial authorities, and they requested me to rest in the assurance of their earnestness in the matter.

The consul at Foochow having telegraphed this legation that cholera was raging there, and having requested that orders be issued from Peking to prohibit the burying of the victims of this disease within the limits of the foreign settlement, I submitted this matter to the Yamên. They stated that they had not been previously informed of the prevalence of the disease, but they undertook to telegraph at once satisfactory instructions as to the burial of the dead.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 11, 1895.*

Have received your telegram 7. Yung-fu case was reported yesterday to Chinese Government. They promise protection, redress.

DENBY.

Mr. Adee to Mr. Denby

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 12, 1895.

Consult with minister of Great Britain and cooperate so far as conducive to security and welfare of United States citizens. Otherwise you will act independently and carefully; abstain from joining in any

course or policy which, however important to British interests, does not concern those of the United States. If not already done, make demands covering same points as British demand, especially as to punishment of delinquent high provincial officials. Demand for pecuniary indemnity to be deferred. Appoint consul at Foochow and a naval officer as the only American members of the Kutien investigating committee. Request admiral to detail naval member. Most cordial cooperation between yourself, the admiral, and the members of the commission is indispensable.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2305.] LEGATION OF THE UNITED STATES,
Peking, August 12, 1895. (Received Sept. 26.)

SIR: I have the honor to inclose a translation of an imperial decree which was published in the Peking Gazette the 9th instant, relating to antiforeign riots.

This decree was issued on the demand of Her Britannic Majesty's minister and myself. It is not as forcible or definite as we demanded, but in its general terms is satisfactory. It recites the friendly treatment of foreigners by China, the occurrence of riots in Szechuan and Fuhkien, the atrocity of the circumstances, the arrest of some criminals, instructions to capture the guilty, protective measures to be taken, and provides that proclamations be issued warning the people against rioting and against circulating or crediting slanders.

The Yamên has agreed to send this decree by telegraph to all the viceroys and governors of China. I will see that it is circulated among the American missionaries. The Yamên has also agreed that Chou Taotai should be degraded and that publication of his degradation should be made at Chengtu. He was chief of police for the two Hsiens of Chengtu, and he is accused of having put up a placard containing this sentence: "At the present time we have obtained clear proof that foreigners deceive and kidnap small children." As this publication incited the populace to rioting, I have been very urgent in demanding the degradation of its author, and will, if possible, secure his banishment.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2305.]

Decree published in Peking Gazette August 9, 1895.

From the time of commercial relations with all western nations up to the present, foreigners have sojourned in the interior, and peace and quiet have prevailed among them and the Chinese. We have treated them with the same kindly feeling as our own subjects, and have repeatedly issued our commands to the high officers of the provinces to render to them special protection as occasion made it necessary; but recently riots have occurred in the capital of Szechuan, resulting in the burning and destruction of missionary establishments. At the same time the flame of excitement in the minds of the people has spread to several districts—Chous and Hsiens.

Reports have now come to us from Foochow that several foreigners have been murdered at Kutien by outlaws; and, the worst of it is, women and children were massacred. The atrocious and wicked circumstances of the affair have caused us to cherish a bitter hatred toward the perpetrators of the crime. The criminals connected with the Szechuan riots have been apprehended and placed on trial. In the Foochow case the ringleaders have still to be arrested. Let Ching Yu (Tartar gen-

eral) and Pieu Pao-ti (governor-general) issue instructions to the officers of the military and civil districts with the utmost expedition to surround and capture the outlaws and not to allow them to escape punishment.

This class of worthless and reckless fellows fabricate rumors for the purpose of leading astray the people and instilling suspicions into their minds. They are to be found in most places. The main thing is for the local officers to be on the lookout and take protective measures and prevent this evil from taking hold on the minds of the people.

How is it? If officials perform their duties in a perfunctory manner the result will be that trouble will arise of a serious nature. Let the Tartar generals, governors-general, and governors of the provinces give instructions to all the officials in whose districts there are missionary establishments that they must energetically protect the missionaries and to proclaim for the information and guidance of the people that they must not give ear to false rumors, which are calculated to create doubts and misgivings in the minds of the people and thus lead to trouble. Anyone who dare create disturbances in the future will surely be severely punished according to law. Any local officers who are remiss in the discharge of their official duties will also have meted out to them severe punishment, and no leniency whatever will be shown.

Let this decree be promulgated throughout all the provinces for general information.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 13, 1895.*

Will you appoint a commission of Americans exclusively to investigate Szechuan riots as asked by Americans in China or create international commission?

DENBY.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 13, 1895.

Yesterday's instruction referred only to Kutien investigation by two American members concurrently with British. Szechuan investigation may go on as reported in your dispatch 2278, unless you have ground to distrust the result.

ADEE, *Acting.*

Mr. Yang Yü to Mr. Olney.

CHINESE LEGATION, *Washington, August 13, 1895.*

SIR: I have the honor to inform you of the receipt by me of a cablegram from the Tsung-li Yamên, dated yesterday (the 12th instant), which is to the following effect:

In the recent riot at Kutien, in the prefecture of Foochow, in which British subjects of both sexes, ten in number, lost their lives, no American suffered any injury. Five of those implicated in the riot have been arrested by the local authorities. In an imperial decree stringent orders have been issued to all officials concerned, and the people in general, that strenuous efforts are to be made to afford protection to all Christian missions within the Empire.

Notwithstanding this, the British minister at Peking is endeavoring to secure the cooperation of Minister Denby in pressing his demands

upon the Chinese Government. The Yamên is informed that the United States consul at Foochow has made representations, in rather emphatic terms, to the local authorities regarding the recent disturbance. In view of the very cordial relations existing between China and the United States, and the fact that the said riot involved no injury to any American citizen; inasmuch as His Imperial Majesty and the Imperial Government have taken prompt measures and will spare no effort to secure protection to all Christian missions in all parts of the Empire, to arrest and punish all disturbers of the peace, with a view to restoring tranquillity to the Christian missionaries and their converts, and in order that further trouble may be thus averted; and inasmuch as there is likely to be no difficulty or obstacle to hinder a prompt investigation of the Kutien incident and its satisfactory settlement at an early date, the Yamên expresses the hope that the honorable Secretary of State may be prevailed upon to issue instructions to Minister Denby not to unite with the British minister at Peking in causing difficulties to the Chinese Government, and thus hamper its action and seriously hinder the execution of its good intentions.

Having to-day telegraphed you the news of the safety of the Americans, I now have the honor to communicate the details of the cablegram, as above cited, for your information, and to request that you will be good enough to give it your careful and early attention.

Please accept, etc.,

YANG YÜ.

Mr. Denby to Mr. Olney.

[Telegram.]

LEGATION OF THE UNITED STATES IN CHINA,
August 14, 1895.

I refused to have anything to do with the Szechuan commission three weeks ago.

DENBY.

Mr. Denby to Mr. Olney.

No. 2308.] LEGATION OF THE UNITED STATES,
Peking, August 14, 1895. (Received Sept. 26.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên, in answer to my communication which I forwarded to you in dispatch No. 2295, of August 3, relating to the Szechuan riots.

The Yamên makes a weak defense of the local officials.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2308.]

The Tsung-li Yamên to Mr. Denby.

AUGUST 10, 1895.

Upon the 3d instant the prince and ministers had the honor to receive a communication from the minister of the United States wherein he called attention to facts connected with the recent riots in Szechuan,

which are absolutely established by proof, etc. This communication has received due perusal by the Yamên. It is pointed out that there can be no doubt that the local officials are responsible for these disturbances. This appears from a proclamation issued by Li Taotai, general manager of foreign affairs, which repudiates the Berthemy convention, a proclamation issued by Chou Taotai, chief of police, wherein he states that foreigners deceive and kidnap small children.

With regard to the Berthemy convention, it may be stated that not only in Szechuan alone, but in other provinces the proclamations issued were not in conformity with the spirit of said convention. The French minister, Mr. Gérard, thereupon addressed the Yamên on the subject, and instructions were issued to the authorities of all the provinces to act accordingly in the issuance of proclamations, which is a matter of record. As to the proclamation by Chou, chief of police, in regard to foreigners deceiving and kidnapping small children, the Yamên some time ago telegraphed the viceroy of Szechuan to carefully investigate the matter. A report has been received by wire that the chief of police had not issued a proclamation in regard to foreigners deceiving and kidnapping small children, but that it was a false report circulated by the people.

It is further stated that placards were put up, and not removed by the police, to the effect that foreign barbarians are hiring evil characters to kidnap small children. Such placards, it may be stated, are abominable and detestable in the extreme. A telegram from the viceroy of Szechuan states that a long time ago these had been rigorously suppressed.

It is again stated that when the missionaries fled to the parade ground for protection from the soldiers they were driven out, and one lady was brutally kicked by a soldier; that the Roman Catholic mission, only a a stone's throw from the viceregal Yamên, was boldly looted and demolished; that there were thousands of soldiers in and about the city, and they did not attempt to protect the foreigners. It may be pointed out that during the riots the people were crowded together, raging with fury, and the local authorities found that they could not afford proper protection under the existing state of affairs. As to the case of the soldier brutally kicking a woman, the offender, as a matter of course, should be severely punished according to law.

Again, it is further stated that it is apparent, from the immediate occurrence of riots at many other places in Szechuan, that there was concerted action between the capital and outlying towns, and with the knowledge of the officials a general plan was organized to drive out of the provinces all foreigners; that missionaries had been in Szechuan for many years, and that twenty-four adult Americans were made homeless, etc.

In regard to the destruction of missionary property, it may be stated that it was caused by outlaws suddenly and unexpectedly. How could it be right for the Szechuan people, for no reason, to drive foreigners out of the province. If the officials had knowledge of this beforehand they would certainly have adopted preventive measures to protect the missionaries. How could they allow people at their pleasure to cause trouble?

As to the points in the communication under acknowledgment that adequate punishment is demanded of the Government of China of the guilty officials, whatever their rank or station may be, and that the missionaries be permitted immediately to return to Szechuan to take and

occupy their property; and that until they can rebuild their homes they be furnished by the local officials with suitable abiding places; and that the viceroy of Szechuan be ordered to issue a proclamation that the foreigners have the right to reside and prosecute their work in that province, etc. In the present instance the local authorities who failed to exert themselves in giving adequate protection to the missionaries are deserving of blame and open to censure, and punishment will be necessarily meted out to them.

As to the missionaries returning to Szechuan to rebuild their homes, and the issuance of proclamations by the viceroy that they have the right to reside and prosecute their work in that province, these are questions which the Yamên will bring to the notice of the viceroy of Szechuan so that he may examine into them and take action accordingly. In the matter of the payment for damages sustained, alluded to in the communication under review, and that they be paid out of the local treasuries or by the local authorities themselves, when the amount has been agreed upon, no matter in what way, China will necessarily pay the same, and it does not seem necessary to inquire who is to furnish the funds. As to the statement that Mr. Chou had been promoted to be acting taotai of Yachou, this, it may be stated, is not the case.

Again, in the matter of a suitable military force being kept at Chungking and that Li Taotai be kept at Chungking to protect foreigners, it may be stated that some time since the viceroy of Szechuan telegraphed orders to the Chungking brigade general to select able bodied men, who were to be kept under drill, to the end that due protection may be given to foreigners and to preserve order.

Li Taotai, of Chungking, had been summoned some time ago by the Emperor to come to Peking for audience, but a decree was issued and sent by wire ordering him to remain at his post for the present and look after the missionary cases; hence will not be transferred. It may be remarked that the wrong character was used in designating Li Taotai's name, the one used being the same sound as the proper one.

The Yamên will, in accordance with the request made, present the foregoing representations to the Emperor, and on receiving His Majesty's edict will duly notify the minister of the United States.

In a word, the protection of missionaries and their establishments China regards as a matter of extreme importance; but as to the means to be devised in giving protection, the responsibility must still rest with the Chinese Government.

Mr. Denby to Mr. Olney.

No. 2309.] LEGATION OF THE UNITED STATES,
Peking, August 14, 1895. (Received Sept. 26.)

SIR: I have the honor to inclose a translation of a communication received from the Tsung-li Yamên relating to the riots in Fuhkien.

The Yamên consents that our consul at Foochow may go to Kutien to investigate the horrible massacre at that place. I have wired him that if he thought it desirable and necessary he could go, and he could exercise his judgment whether to go alone or with the British consul.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2309.]

The Tsung-li Yamên to Mr. Denby.

AUGUST 11, 1895.

YOUR EXCELLENCY: We have had the honor to receive your excellency's note wherein you inquired if you should depute the United States consul at Foochow to proceed to Kutien to investigate the question of the riots there, whether the Chinese Government would render him all due aid and protection. Your excellency asked for an early answer with regard to the riots at Kutien caused by revolutionists. We may state that it was entirely unexpected. Your excellency proposes to depute the United States consul to proceed thither, and we may say, How can China refuse to protect him? The British consul proposes to go there for the purpose of holding an investigation, and the Yamên telegraphed the Foochow authorities ordering that a military escort be furnished him; but as the rioters are in a state of wrath and fury it would not be right for the consul to expose himself to danger. We have written Sir Nicholas O'Conor to telegraph the British consul at Foochow to confer with the military officers appointed, and to consider the situation before proceeding there. The circumstances attending the United States consul going to Kutien are the same. The Yamên has telegraphed the Foochow authorities to select a proper military escort to protect the United States consul in going to Kutien, and beg your excellency to telegraph that officer to confer with the military officers appointed as to the condition of affairs, and to be careful in proceeding there and not run any risk of danger.

Mr. Denby to Mr. Olney:

No. 2310.] LEGATION OF THE UNITED STATES,
Peking, August 15, 1895. (Received Sept. 26.)

SIR: I have the honor to confirm your telegram of the 13th instant, as follows:

Yesterday's instructions referred only to Kutien investigation by two American members concurrently with British. Szechuan investigation may go on as reported in your dispatch No. 2278, unless you have grounds to distrust the result.

In this connection it seems proper to review my action with regard to the proposed organization of a commission to go to Chengtu and examine into the facts connected with the riots in the province of Szechuan, and to report to me.

After the riots were over the English and American missionaries all left Chengtu. The French bishop and all his associates remained. The French Government immediately conferred with the Chinese minister at Paris, and directed the French minister at Peking to organize a commission, composed of the French bishop and several of his associates and three Chinese officials, to sit at Chengtu and investigate the causes of the riots and all matters appertaining thereto. This commission was duly organized, and has, I believe, completed its labors.

I had no consul nearer Chengtu than Hankow, and Mr. Child was reported to be sick. On consultation with the British minister, he informed me that he intended to send the British consul at Chungking with an English missionary to Chengtu, and proposed that I should send an American missionary to assist in the investigation, who should report

to me. As all the missionaries resident at Chengtu had left, and as I particularly desired an early investigation, I agreed to this plan.

One, if not more, of the Chinese designated by Sir N. R. O'Connor to sit on the commission was a member of the French commission. I reported this matter to you in my dispatch, No. 2278, of July 1 last.

It must be said that this commission has never been organized. Mr. Tratman, the consul at Chungking, could not leave his post. His place has not yet been supplied. In fact, nothing has been done.

While matters were in this embryotic state the American missionaries held a meeting at Shanghai the 5th of July, and another the 12th of July, at which strong grounds were taken against the proposed commission, and resolutions were adopted, which were forwarded to you, wherein a commission composed of Americans alone was demanded. When these resolutions reached me, I concluded that it would be better to wait until you had passed on the request embodied therein before consummating the arrangement of the joint commission proposed by Her British Majesty's minister. I accordingly sent to you dispatch No. 2293, of July 26 last, from which it will appear that I notified the British minister that I withdrew from all participation in the proposed commission. I also wired Mr. Tratman to the same effect, and I formally withdrew the appointment of Mr. Lewis as a member of that commission. I also informed the consul general officially to the same effect.

In spite of this action on my part, which I thought was generally known by foreigners in China, public meetings have been held at Shanghai, and at various other places, at which I have been denounced and abused for taking part in a commission which is held to be objectionable. The proceedings of three meetings have been forwarded to you, and the public press in the United States has, I am told, joined in denunciation of me. As I have regularly reported my official action to you, it will be for you to judge whether attacks on me are justifiable.

I will only say that I am staying in Peking now at the risk of my life. Forty thousand persons have died of cholera here in a very short period of time. There are cases in several legations very close to me, and as soon as I can receive answers to late telegrams I shall go to the Western Hills, 10 miles away, where I can do my business as well as here.

It is not necessary for me to repeat the suggestions made in my dispatch No. 2293, further than to say that I still think that an international commission to consider all questions touching the residence of Christians in China is desirable. I realize that there will be great difficulty in procuring the Western Powers to unite in such a commission. I realize, also, that the President may hesitate to join in such a commission. Should an international commission for any reason be held not to be feasible, there would remain the question whether a commission composed of Americans alone should be organized.

I await your instructions.

I have, etc.,

CHARLES DENBY.

Mr. Adee to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, August 16, 1895.

MY DEAR SIR: You are doubtless aware of the recently reported occurrence at Kutien, in the province of Fuhkien, where a number of British subjects were killed by a mob and an American woman wounded,

the attack being accompanied by destruction of property belonging to the respective residents.

In view of this and of the intention of the British Government to send certain officials to the scene of the massacre to investigate the facts connected therewith, and upon the intimation that the concurrence of the United States in such ascertainment of the truth of the case as an interested party would be appropriate and acceptable, this Government, having due regard to the interests of its citizens lawfully pursuing their accustomed avocations in China under the sanction of treaty and usage, has instructed the United States minister, Mr. Denby, to appoint the United States consul at Foochow and an officer of one of the United States ships on the Asiatic station as concurrently members of the investigating commission.

It is not doubted that Mr. Denby, under his standing instructions and in view of recent precedent, has made proper demand upon the Chinese Government for adequate protection of our law-abiding citizens there and elsewhere in the Empire and for the due punishment of all concerned in the occurrence at Kutien; and it is not doubted that the response of your Government will be found prompt and efficacious and will include the punishment of any high provincial officials to whose apathy or delinquency the occurrence of these deplorable outbreaks may be largely attributable.

I have the pleasure to communicate the foregoing to you in this unofficial way, and under due reserve, for your information.

Very truly, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby to Mr. Olney.

No. 2312.] LEGATION OF THE UNITED STATES,
Peking, August 17, 1895. (Received Sept. 26.)

SIR: The British minister and I have telegraphed to our respective consuls at Kutien as follows:

It is most important that the persons arrested and executed are the real culprits.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2313.] LEGATION OF THE UNITED STATES,
Peking, August 19, 1895. (Received Sept. 26.)

SIR: You have no doubt ere now received reports of the proceedings of meetings held by the foreign residents at most of the settlements in China. Coming on the heels of the Kutien massacres, it was to be expected that a natural indignation would produce intemperate utterances.

I have already explained to you my connection with the proposed Chengtu commission, and I have shown that I have abandoned all participation therein on or about the 26th ultimo, and that I never consented that Mr. Tratman, the acting British consul at Chungking, should represent American interests. This announcement was made by the British consul-general at Shanghai, but was erroneous. When I

saw that the British consul general had said that Mr. Tratman would represent American interests on the Chengtu commission, I immediately inquired of the British minister how it happened that such an announcement had been made in the face of the fact that I had formally withdrawn from any participation in the commission more than three weeks before. He immediately and emphatically denied that he had ever instructed the consul-general to make such an announcement, and in proof of his denial he showed me the original telegram sent to Mr. Jamieson. That telegram did not in fact contain any statement to the effect that Tratman would represent American interests.

The error on Mr. Jamieson's part arose, I believe, as follows: The British minister had a long time before sent to Mr. Jamieson a statement of the duties which would devolve on Mr. Tratman, and, among others, that he would represent American interests (that was before I had withdrawn), and had instructed Mr. Jamieson to state in addition to the contents of the telegram what those duties were. Mr. Jamieson, not knowing that I had withdrawn, stated that Tratman would represent American interests. The British minister immediately wired Jamieson to make a public announcement that I had long since withdrawn from the commission.

I was very bitterly criticised for consenting that Americans should have no representation on the commission, a thing I had never consented to. It thus happened that I was attacked for doing something that I had never done and never dreamt of doing. As I intrusted American interests to a British consul at Chungking in 1886 without objection from any quarter, the crime of doing so again in 1895 would not have been very heinous, but the Americans seem to think it would be. It is well, therefore, to state the facts, as I have done.

I informed Consul-General Jernigan, under date the 26th ultimo and later by telegram, that I had abandoned all connection with the proposed commission.

I have, etc. CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2315.] LEGATION OF THE UNITED STATES,
Peking, August 19, 1895. (Received Sept. 26.)

SIR: I have the honor to inform you that I have received from Consul Hixson a report on the horrible massacre of missionaries in the Kutien district near Foochow.

The consul has no doubt reported in full to the Department, and I will not go into details. The riot commenced early on the morning of the 1st instant. There were nine persons killed on the spot; one died soon afterwards from wounds, making ten dead in all. A wounded child will die, another is in a serious condition, and a young lady will be disfigured for life.

Miss Mabel Hartford, of Portsmouth, N. H., connected with the Methodist Episcopal mission, is the only American who was injured. Her actual wounds are not serious, but she is prostrated from the effects of excitement, and her condition is doubtful. All the other victims were British subjects, and all ladies and children, except Mr. Stewart.

The riot, the consul says, is supposed to have been planned by a secret society called "Vegetarians," who seem to be organizing for a rebellion. The members do not eat meat or drink intoxicants or smoke opium or

tobacco. The movement is, however, said to be really against the Government, as that of the Ko-lao hui is.

The strength of this society in Kutien is 10,000, as is claimed, but the consul thinks its number is exaggerated because the Government desires to shirk responsibility on the plea of the movement being a rebellion. The local officials are imbeciles.

The consul has gone to Kutien to investigate the causes of the riots. I took the responsibility of advising him to go before I heard from the Department, and was glad to see that your views agreed with mine in all respects as to his mission.

I have, etc., CHARLES DENBY.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 20, 1895.

Your dispatch No. 2278 approved. Carry it out as far as possible notwithstanding your previous withdrawal. Commissioners to investigate and report as to American loss, but not to fix demand.

ADEE, *Acting.*

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 21, 1895.

Ascertain and report names and rank of Chinese investigators at Kutien. Important they be of high rank to insure thorough ventilation of apparent apathy or connivance of elevated functionaries.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2317.] LEGATION OF THE UNITED STATES,
Peking, August 21, 1895. (Received Oct. 8.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên relating to the Kutien massacres.

The Yamên states that the British and American consuls started for Kutien on the 13th instant; that a steam launch and escort had been furnished them, and orders given for their protection; also, that the leader of the riots and twenty-one men had been captured and would be punished.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2317]

The Tsung-li Yamên to Mr. Denby.

AUGUST 26, 1895.

YOUR EXCELLENCY: In the matter of the Kutien affair, some time ago the prince and ministers had the honor to receive a communication from the minister of the United States stating that he proposed to depute the United States consul at Foochow to proceed to Kutien to investigate into the matter of the riots, and asked that a military escort be furnished. The Yamên at the time telegraphed the viceroy at Foochow, and on the 14th August received a reply from that officer and others to the effect that the British and American consuls on the 13th instant, between 3 and 5 o'clock in the afternoon, started for Kutien; that a steam launch had been provided for the journey, and Mr. Prefect Chu, of the board of foreign affairs, and Col. Chu Pi-cheng, with a contingent of soldiers, had been deputed to accompany them from Foochow. Instructions have been issued that the military forces en route should be careful to see that they are escorted in safety.

As to the Yung-fu missionary case the magistrate has reported that everything is quiet there and no trouble.

During the past few days reports have been received from the civil and military officer at Kutien that the leader of the riots, one Hsieh Kuo-sung, had been captured with others—in all, twenty-one men; and rigorous instructions have been issued pressing for speedy action in the premises.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 22, 1895.

On 13th instant consul at Foochow telegraphed he was starting for Kutien. He was instructed by telegraph that if not acting under your orders he was to await your directions. Nothing since heard from him. It is reported that consul at Foochow and naval ensign went to Kutien of their own initiative and not instructed. If this be so, you will disavow their unauthorized action, and if not already done proceed at once to designate American commissioners as directed in my telegram of 12th, notifying Chinese Government and demanding escort and free access to Chinese investigation. Report situation by telegraph.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2319.] LEGATION OF THE UNITED STATES,
Peking, August 22, 1895. (Received Oct. 8.)

SIR: I have the honor to inclose a clipping from the North-China News of Monday, the 12th instant, containing an account of the Kütien massacre.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2319.—From The North-China Daily News, Shanghai, August 12, 1895.]

THE KUCHENG[1] MASSACRE.

[From the Rev. George B. Smyth, Foochow.]

The story of this appalling massacre can be briefly told. Whasang is a mountain about 12 miles from the city of Kucheng, which is 90 miles distant from Foochow. The English Church mission had built two small houses there as sanitaria for its missionaries in the Kucheng district. There were there at the time of the massacre the Rev. R. W. and Mrs. Stewart, their five children and nurse, Miss Nellie and Miss Topsy Saunders, in one house; and Miss Gordon, Miss Newcombe, Miss Marshall, Miss Stewart, and Miss Codrington in another. Mr. Phillips, of the same mission, was stopping at a native house about five minutes away, and Miss Mabel C. Hartford, of the Woman's Foreign Missionary Society, was in a native house at the foot of a little incline about two minutes away. The evening before the massacre all were planning a picnic for the next day in honor of the sixth birthday of little Herbert Stewart. No one dreamt of the possibility of the terrible events of the morrow.

About 6.30 next morning, Thursday, the 1st of August, Mildred and Kathleen Stewart, aged 12 and 11 years, respectively, were out picking flowers for their little brother. Suddenly they saw a number of men approaching, but they thought they were only laborers. In a moment they rushed upon them, and one of them caught Kathleen by the hair, dragged her along the ground, and stabbed her in two or three places on the thigh. Mildred ran into the house, and in some way Kathleen broke from the wretch who held her, rushed into the house into her parents' room, and cried out: "The Vegetarians are coming." Her mother rushed to the door, saw the murderers, closed the door, and Kathleen never saw her again. The two girls then ran to their own room; Mildred threw herself on her bed, and Kathleen lay under hers. Some of the Vegetarians followed and struck Mildred on the knee, cutting the joint and inflicting a wound which may prove fatal. Another band of ruffians attacked the house in which most of the young ladies were living, seized five of them, dragged them out, and said they were going to carry them away. The ladies begged for their umbrellas to shade themselves from the sun, but their captors refused. While they were standing there an old Whasang man came and stood between the ruffians and their captors and pleaded for the ladies' lives. Some of the murderers seemed disposed to spare them, but at that moment the leader approached, carrying a red flag, and called out, "You know your orders, kill outright;" whereupon they surrounded the ladies and killed them instantly. The heads of two were nearly severed from their bodies. They were all frightfully gashed and hacked.

Miss Codrington was terribly cut about the face, but with rare presence of mind when she fell she feigned death, and this saved her. Her would-be murderer struck her on the head after she fell and left her for dead. That last blow, however, broke her skull, but did not kill her. In the mountain Miss Hartford was attacked. Hearing the noise she rushed out of her house, and was seen by one Vegetarian, who cried out in Chinese, "Ah, here's a foreign woman," and immediately rushed at her with a great three-pronged spear, pointed at her chest. She seized it and turned it aside, the spear grazing her cheek and inflicting a slight wound behind her ear. The ruffian then knocked her down and struck her with the wooden handle of the spear. Fortunately at that moment her servant, who had come up only the night before, rushed to her rescue, seized the brute, and told her to run. She arose, ran down an embankment, and tried to enter a native house, but the owners would not let her. She ran on, therefore, and in a moment met another servant, who assisted her to run up the opposite hill and find in the brushwood a place of safety. There she lay for over an hour, not knowing when the murderers would look for and find her. After hiding there about an hour she sent the servant to see how matters were, and in half an hour he returned, saying that the Vegetarians had gone and the five ladies were killed. She went back as speedily as possible and found it only too true. What had become of Mr. Phillips? When he heard the shouting he ran out of his house, but was stopped by villagers who told him the Vegetarians had come and would kill him. He broke from them and ran toward the two English houses, but seeing a murderous crowd about them he crept up a hill and hid behind two trees about 20 yards back of the houses, from which he could see without being seen.

Not seeing any foreigners, he thought they had escaped, and knowing that to go down would be certain death, he remained where he was. In about fifteen minutes the murderers set fire to the houses and went off, saying loud enough for him to hear, "Now, we have killed all the foreigners." Then he knew what had happened, and ran down to find nearly all the happy company of the previous evening dead. Four ladies were lying dead in one place. Miss Newcombe he found dead at the foot of an embankment. Her head was nearly severed from the body. After killing her the murderers threw her down the slope. Mr. and Mrs. Stewart's ashes he found in what had been their bedroom; they were burned beyond recognition. In the nursery he

[1] Kutien.

found the remains of Miss Nellie Saunders and the nurse, burned almost beyond recognition.

Where were the children? The story of their escape shows the extraordinary heroism of a girl only 11 years old. Kathleen Stewart, as I have already said, hid under her bed. After she had lain there for some time she heard a sound, as she described it, "as of rushing water," and crying out "this house is on fire," came from her hiding place and found her sister Mildred on the bed terribly wounded. She helped her out of the house and looked for the other children. In the nursery she found the baby lying under the dead body of the nurse. She found her brother Herbert with a deep wound on the right side of the neck 4 inches long, one on the crown of the head which chipped off the external table of the skull, one on the back part of the head 4 inches long, which clove the skull, exposing the brain, and another circular scalp wound on the left side. A still younger brother, Ewan, she found with a stab wound on the left thigh and several bruises. The baby had been stabbed in the right eye, which penetrated to the brain. All these this brave girl carried out of the burning building, and, with the help of a villager whom she pressed into service, succeeded in carrying them to the house at which Miss Hartford had been stopping. So far as she knew then, there was no other foreigner in Whasang alive except Miss Codrington, who, in spite of her terrible wounds, succeeded, by creeping and walking, in reaching Miss Hartford's house. When Miss Hartford returned from her hiding place she found all these there.

Mr. Phillips sent a letter to Dr. J. J. Gregory, of the Methodist Episcopal mission at Kucheng, as soon as he could find a man to take it. Not a Whasang man would go. On receiving the news the doctor immediately hastened to the Yamên, secured an escort, and started for the scene of the massacre. He arrived there in the evening and did all that was in his power to care for the wounded. By daylight he, with Miss Hartford and Mr. Phillips, had the bodies in coffins, and the ashes of Mr. and Mrs. Stewart, and the nurse and Miss Nellie Saunders in two little boxes. It was impossible, however, to find bearers. Not a man at Whasang would do anything. Fortunately, however, an official arrived with a few soldiers and after some pressure from Dr. Gregory he impressed into service a number of villagers sufficient to carry the remains to Suikou, a place on the Min River 60 miles from Foochow.

Everything possible thus being done the sad procession started at 3 p. m. on the weary march. On the way little Herbert Stewart died, and after getting a coffin and laying the little body in it, they resumed the journey and arrived at Suikou at 8 o'clock on Saturday morning. There the local officials provided boats. On the way down they were met by a steam launch sent up with a few friends to meet them. At 2.30 p. m. on Sunday they reached Foochow and the wounded were taken to one of the hospitals where they now are receiving the best medical care. The bodies arrived here on Monday, and at 5.30 o'clock this morning they were laid to rest. This is the simple story of the most terrible massacre of foreigners that has ever taken place in China. More were killed at Tientsin on that awful day, the 20th of June, 1870. But that was a riot rather than a massacre; this was a murder deliberately planned, and deliberately carried out.

It is too soon to say what the consuls will do at this appalling time. Suffice it to say that they have secured evidence which may bring many of the guilty to the punishment they deserve. As to the larger question of what the foreign governments may do, my opinion would be worthless. I can not refrain from adding, however, that I trust they will not be satisfied with a money indemnity. It is this wretched policy, pursued in so many cases in the past, that is responsible for most of these massacres and riots. Nearly all of them could have been avoided by firmness on the part of the home governments. Let them but make China feel that occurrences of this kind will be terrible in their results to her and they will cease. If they do not act with firmness now the foreigners will soon find it impossible to live anywhere outside the treaty ports.

It is painful to have to record the brutal inhumanity of the villagers of Whasang. According to the Chinese custom they are deserving of severe punishment, but with the exception of one old man they did not lift a hand to stop it. Even after the murderers had left they would give no help, but proceeded to rob, and took away everything of value in the burning houses. They ought to be severely punished. If they are it will go far to prevent similar outrages in the future. The servants ran almost to a man. Out above this brutal and despicable crowd stand conspicuous the heroic Christian servant of Miss Hartford, who, at the risk of his own life, saved hers, and a Christian woman, the wife of her teacher, who, when she was thrown down, ran to her aid and begged her would-be murderer to spare her. For answer the brutal wretch kicked her. It is pleasant to write of this heroism in the midst of all this infamy.

A word as to the cause of the massacre. What the purposes of the Vegetarian Society are is not known to outsiders. By some they are regarded as robbers, by others as rebels. They have given the officials a great deal of trouble in the Kucheng

district during the past year. They have attacked Christians and non-Christians alike, and they hated the foreigners because they were foreigners, not because they were missionaries. They had become so violent that on the 24th of July 300 soldiers were sent up from Foochow to hold them in check if possible. Their leaders attributed their coming to the influence of the foreigners, and it is believed that then they determined to exterminate them. They immediately began to assemble at a certain village whose name is now known, and their threats against the churches became bolder than ever. On the night before the massacre a letter was received by a certain pastor saying the foreigners would be killed on the morrow. He wrote a letter to Mr. Stewart warning him, but unfortunately did not send it till daylight, and when the messenger was within two miles of Whasang he met a man who told him that all was over, that the foreigners were killed. What an awful result of a few hours' delay. The Vegetarians planned the murder carefully, and the reason seems to have been to take vengeance on the foreigners for having, as they supposed, brought the troops to Kucheng. I trust that the investigation, which ought to be made by a foreign official on the ground, will be so thorough as to reveal the real causes, bring the perpetrators to justice, and result in the adoption of such measures by the foreign powers concerned, as will make forever impossible the occurrence of so terrible a massacre in the future.

Mr. Denby to Mr. Olney.

No. 2322.] LEGATION OF THE UNITED STATES,
Peking, August 24, 1895. (Received Oct. 8.)

SIR: I have the honor to inform you that I sent the following telegram to Foochow on the 21st instant:

HIXSON, *Foochow:*

Have demanded that authorities cooperate with you; that an official be delegated for the purpose; that you be present at examination, and no obstruction offered.

DENBY.

I have, etc.,

CHARLES DENBY.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1895.

Department anxiously awaits report your action under last telegraph instructions. It is reported Liu, presumably late viceroy Szechuan, has been appointed commissioner. Such choice highly objectionable; his report would not inspire confidence.

ADEE, *Acting.*

Mr. Adee to Mr. Denby.

No. 1123.] DEPARTMENT OF STATE,
Washington, August 24, 1895.

SIR: The Chinese mail, which reached this Department yesterday, brings your dispatches Nos. 2283, 2284, 2286, and 2288, of the dates of July 8, 10, and 12, with regard to the investigation of the outrages committed upon foreign missionary residents at Chengtu in June last. The steps taken by you in appointing Mr. Spencer Lewis, an American citizen and resident at Chungking as the lay representative of this Government on that investigating commission, is in entire accordance with the proposed constitution thereof announced in your former dispatch

No. 2278 of the 1st ultimo, which has been approved by the Department's telegraphic instructions to you of the 20th instant.

It does not appear that the constitution of the Chinese representation on that commission has been formally notified to you, although it would seem from your No. 2288 that it would probably be composed of the prefect of Chengtu, the provincial treasurer, and the judge. Whether these officials are of sufficiently high rank to scrutinize the action of their superior official, the viceroy, and pronounce upon his culpable neglect or suspected complicity, of which many circumstantial indications appear, is not stated by you. Your several dispatches show that you fully appreciate the necessity of making an example of any high provincial or vice-regal authorities, to whose incompetency or hostile apathy, if not deliberate collusion, the occurrences in the province of Szechuan may be attributable, and the Department cordially approves that part of your note to the Tsung-li Yamên, No. 16, of July 9, 1895, in which you point out that unless the guilty officials are punished no settlement of the matters appertaining to the riots will be satisfactory, and that it is clearly in the interest of China to make a grave public example, showing her intention that riots of this class shall be prevented by the condign punishment of the guilty, whatever be their station.

While your demand in that note that the ex-viceroy of Szechuan be ordered to Peking to await the result of the investigation may have been deemed conducive to the more effectual surveillance, and in the needful event, the punishment of that officer, it may perhaps not turn out to have been advisable to bring him into immediate personal touch with the Yamên and the responsible officers of the Chinese Government at Peking, whereby he might be enabled to exert an influence tending to control the proposed investigation and its contemplated results. Your dispatch breaks off the narrative of events before the action of the Yamên upon your request was made known, and it can only be conjectured whether the ex-viceroy, Liu, was in fact ordered to Peking. The press dispatches of yesterday and to-day announce the appointment of "Viceroy Liu" as the chief commissioner of China to investigate the later massacre and looting at Kutien, and if this Liu be in fact the same ex-viceroy whose guilty course at Chengtu you so earnestly qualified in your note to the Yamên, you can hardly have failed to at once remonstrate against the offensive indecency of appointing such a man, laboring under so grave a charge, to investigate a similar and graver outrage in another province than that which he himself had misgoverned. I have to-day sent you a telegram in this regard, which I confirm on the overleaf. It is trusted that the press reports may be founded upon some mistaken identity of names; otherwise the action of the Chinese Government in appointing this degraded and suspected official to a renewed official capacity, having extraordinarily far-reaching and international effects, would be as incomprehensible as objectionable.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby to Mr. Olney.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, August 26, 1895.

In reply to my demand Hsü Hsing-i, taotai, equal rank consul, has been sent to cooperate with consuls Kutien.

DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 27, 1895.*

Consul had started Kutien under my orders, with the consent of Chinese Government and with escort furnished by them, before your cipher telegram 12 was received, taking naval officer with him. Consul reports the examination proceeding smoothly. Officials actively cooperating. Many convictions secured.

DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 27, 1895.*

Szechuan commission proceed as soon as British consul at Chungking can leave his post, which is still impossible. Viceroy Liu is not to be appointed commissioner, but has been ordered by imperial decree to stay at his post until conduct investigated.

DENBY.

Mr. Denby to Mr. Olney.

No. 2325.] LEGATION OF THE UNITED STATES,
Peking, August 27, 1895. (Received Oct. 8.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên bearing date the 23d instant; also a translation of the 24th instant; also a copy of my answer to these communications.

The two papers from the Yamên relate to the Kutien riot. They mildly protest against our Government's taking so much interest in the investigation now proceeding at Kutien. They ask that the order of the Admiral directing a naval commander to go to Kutien be rescinded.

I was first made aware that a naval commander was to go on this mission by these communications. I received later a letter from the Admiral, wherein he stated that he had been "directed to appoint a commanding officer as member of a committee to investigate Kutien affair, if requested by the United States minister to China."

He further said: "As stated in previous communications, the commanding officer of the *Detroit* has appointed an officer to accompany the consul."

I have received no intimation from you that you thought it advisable to send an additional officer to Kutien. I do not think it necessary to send thither a commander. It might delay proceedings, as a Chinese official of higher rank than the one already named would have to be selected.

I accordingly wired the Admiral under date the 26th instant as follows:

Admiral CARPENTER, *Chefoo:*

If sending commander to Kutien depends on my request, must say I see no necessity for sending another officer.

DENBY.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2325—Translation.]

The Tsung-li Yamên to Mr. Denby.

AUGUST 23, 1895.

YOUR EXCELLENCY: We have had the honor to receive your excellency's note wherein you state that it is of the highest importance that the Government of China should immediately send a high official to Kutien to cooperate with the British and American consuls in investigating the recent horrible massacre, etc.

It is the opinion of the Yamên that an officer, or officers, must necessarily be appointed to act conjointly with the consuls in investigating the Kutien case. A telegram has just been received by the Yamên from the governor-general of Fuhkien, stating that an additional appointment had been made, in the person of Mr. Hsü Hsing-i, a taotai by rank, who is to cooperate with the consuls in dealing with the Kutien affair, so that extra care may be taken in the matter. The United States vice-consul at Foochow proposes to order a commander of a United States war vessel to proceed to Kutien. This would not be right and proper so far as the province of Fuhkien is concerned.

There was no damage or loss to American property at Kutien, and only one American received a slight personal injury.

The United States consul has gone to Kutien and he will be able himself to perform his duty in good earnest. There is no necessity for a naval commander going there.

We beg that your excellency will telegraph at once to the Foochow consul to order the naval officer in question not to go to Kutien, and do us the favor to send a reply to this note, which is important.

[Inclosure 2 in No. 2325—Translation.]

The Tsung-li Yamên to Mr. Denby.

AUGUST 24, 1895.

YOUR EXCELLENCY: The prince and ministers had the honor, on the 21st instant, to receive a communication from the minister of the United States stating that the United States consul reports from Kutien that the officials obstruct his inquiries, insist on referring to the viceroy, and question his right to be present at the examination of the persons arrested.

The minister of the United States asked that telegraphic instructions be sent immediately to the local authorities to facilitate in every manner the inquiries of the American consul, and to inform them that he is to be present at the examination of persons arrested; and he requested further, as he did on the 20th instant, that an official of high rank be deputed to cooperate with and assist the American consul's inquiries, etc.

On the 22d of August the prince and ministers received a further communication from the minister of the United States to effect that he had received a telegram from the Secretary of State requesting him to ascertain from the Chinese Government and report the names and rank of the Chinese officials appointed to investigate into the Kutien riots, as it was regarded essential that they be of the highest rank, as the case is one of a most important nature, and one that should not be investigated by officials of low rank.

The minister of the United States requested an early answer, in order that he might telegraph the same to his Government.

In regard to the Kutien case, the prince and ministers have the honor to state that the viceroy of Fuhkien telegraphed announcing the appointment of Hsü Hsing-i, a taotai by rank, to hold an investigation into the affair. The said officer is of high rank, and will show extra care in the performance of his duty. This appointment was duly made known to the minister of the United States by note of yesterday.

The Yamên has already addressed Sir Nicholas O'Conor, Her Britannic Majesty's minister, on the subject of his consul going to Kutien to watch the case.

As no Americans have suffered any loss at Kutien, the minister of the United States is asked to take into consideration the question whether the United States consul should have gone there to watch the proceedings in the case and to instruct him accordingly.

The prince and ministers would beg the minister of the United States to be good enough to transmit this communication for the information of the Honorable Secretary of State.

[Inclosure 3 in No. 2325.]

Mr. Denby to the Tsung-li Yamên.

AUGUST 26, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your notes of the 23d and 24th instant.

You inform me in the first thereof that Mr. Hsü Hsing-i, a taotai by rank, has been appointed to go to Kutien to cooperate with the consuls.

You state that there was slight damage done to Americans at Kutien. That is happily true, but it was purely accidental that such was the case. My Government has many citizens in China, and it is greatly interested in their safety, which is, of course, imperiled by antiforeign riots.

As to the sending of a naval commander to Kutien in addition to the officer already sent, I will inquire into the matter.

In your second note you inform me again of the appointment of Hsü Hsing-i on the Kutien investigating commission, and you say: "As no Americans have suffered any loss at Kutien, the minister of the United States is asked to take into consideration the question whether the United States consul should have gone there to watch the proceedings, etc."

It is too late to raise this question. An American lady was injured at Kutien. The cause of her injuries is a proper subject of investigation by her Government.

Translation of a cablegram from the Tsung-li Yamên, dated August 27, 1895.

[Handed by Chinese minister to Mr. Adee, August 29, 1895.]

A telegram from Foochow reports that an officer from an American gunboat desires to proceed to Kutien (Kucheng). United States Consul Hixson has already started. In the riot one American citizen was wounded, but has since recovered. British interests being distinct from American, the Fuhkien authorities desire that Minister Denby be asked

to instruct Consul Hixson to exercise greater moderation. Your cablegram of the 21st instant states that State Department has cabled instructions to Minister Denby to secure a thorough investigation as a basis for a fair settlement, and that the United States would not cooperate with Britain to throw difficulties in the way of the investigation. Minister Denby's correspondence is incriminatory in tone and not unlike that of the British minister. The Secretary of State should be informed of the above and requested to cable satisfactory instructions, through Minister Denby, to said consul and naval officer for their guidance. Cable reply.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 28, 1895.*

Chinese Government has refused to degrade and punish ex-viceroy Szechuan. Pressure should be used to secure punishment.

DENBY.

Mr. Denby to Mr. Olney.

No. 2329.] LEGATION OF THE UNITED STATES,
Peking, August 29, 1895. (Received Oct. 8.)

SIR: I have the honor to append on the overleaf a copy of my telegram of yesterday,* relating to the refusal of the Chinese Government to degrade and punish the ex-viceroy of Szechuan.

Before the Szechuan riots took place this official was ordered to be superseded, but was not technically degraded and there was no prohibition against his applying for another official place. This deprivation of office had no relation to his conduct toward foreigners.

It is the universal opinion among foreigners in China that an example must be made of some high officials; that they must be punished for their negligence or culpability, and that public notice must be given that they are punished because thereof. The mere payment of damages, the execution of even a few helpless vagabonds, have no deterrent effect on the masses of the people. They pay no part of the damages and they have no regard for human life.

From the beginning of the discussion of the Szechuan riots, I have, uniformly and many times, demanded that an imperial decree be issued punishing the ex-Viceroy Liu, whose culpable negligence and responsibility for the riots are not denied by the Tsung-li Yamên.

I have again addressed the Yamên on the subject and will transmit the correspondence.

I have, etc., CHARLES DENBY.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 30, 1895.

Is ex-Viceroy Liu discharging duties in Szechuan or awaiting there investigation commission? Should he be acting as viceroy pending

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* See *Supra.*

arrival successor, it is proper, in view of the very serious charges against him, that he should at once be relieved of all vice-regal functions. Can not ask punishment until ascertainment offense.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *August 31, 1895.*

Viceroy Liu superseded two months ago, but ordered to stay at Chengtu. His successor is in charge. British minister has not decided to send commission to Chengtu. French commission proved ex-viceroy's guilt. We have strong affidavits showing his negligence; Yamên does not seriously deny his guilt. I have demanded banishment; that he be declared forever ineligible to office, and that his sentence be published with the reason given that he did not protect foreigners. Will demand punishment of other officials; will get proof taken by the French commission. English consul can not leave Chungking. Proposed commission can not be organized now. Will you have another? I ask support in demanding viceroy's punishment. Affairs at Kutien proceeding well; many convictions.

DENBY.

Mr. Adee to Mr. Yang Yü.

No. 10.] DEPARTMENT OF STATE,
Washington, August 31, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, addressed to Hon. Richard Olney, at Falmouth, Mass., in which, referring to the investigation now being made concurrently by China, Great Britain, and the United States, into the recent riots at Kutien, you state that your Government "expresses the hope that the Secretary of State may be prevailed upon to issue instructions to Minister Denby not to unite with the British minister at Peking in causing difficulties to the Chinese Government, and thus hamper its action and seriously hinder the execution of its good intentions."

In the conference which I had the pleasure of having with you on the 19th instant, you communicated to me the substance of this note, which had not at that time been sent back by Mr. Olney to this Department, and I now take pleasure in reiterating to you the positive assurance I then gave that this Government was investigating the Kutien riots concurrently with Great Britain only so far as was necessary to protect American interests of person and property, and not to assist that power in any supposed ulterior political object.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Denby.

No. 1136.] DEPARTMENT OF STATE,
Washington, September 3, 1895.

SIR: I inclose for your personal information a translation of a cablegram from the Tsung-li Yamên to the Chinese minister here, dated

August 27, 1895,* which was handed to me by the minister on the 29th ultimo. It has reference to the investigation of the Kutien riots, and requests that Mr. Hixson be instructed to exercise greater moderation.

In view of your cablegram of the 28th, the minister has been told that an instruction such as requested by him could not be sent to Mr. Hixson, whose investigation is apparently approved by you and consequently by the Department, especially as the request was too vague to act upon.

It is, of course, at the same time assumed that Mr. Hixson will bear in mind that the importance of his official position and the character of the special functions assigned to him demand a dignified and temperate though impressive treatment of the matters arising in the course of the Kutien investigation, as befits the Government he represents.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby to Mr. Olney.

No. 2333.] LEGATION OF THE UNITED STATES,
Peking, September 3, 1895. (Received Oct. 21.)

SIR: In addition to the matter wired in my telegram of the 31st ultimo, I desire to make a few observations on the proposition that the delinquent local officials in the province of Szechuan should be severely punished, and that as soon as possible.

The ex-viceroy Liu, was superseded before any riot took place, for causes not affecting foreigners. His successor arrived at Chengtu two months or more ago. Liu started for his home. At the urgent instance of the British minister and myself, he was stopped en route and ordered to return to Chengtu to await the result of the pending investigation. As very conclusively showing his guilt, there were found in his possession missals, books, vases, and other things which had been stolen from the Catholic church and even from its altar.

Liu has, and has had, since his return to Chengtu, nothing to do with public affairs.

As to the proof that this man and several of his subordinates are guilty of culpable negligence, or even direct connivance in the matter of the riots, there is abundance of it. The French commission has concluded its labors and the proof of guilt is complete.

The sum of 700,000 taels has been agreed on as the French indemnity, but I understand that it will not be accepted until the guilty officials have been punished. The British minister and I also have affidavits. It is to be regretted that we have not the report of the official commission as a basis for action. For the British minister and myself it has been found impracticable to have such a commission. As you have been informed, such a commission was proposed, but the acting British consul at Chungking, who was to have been the head of the commission, found himself unable to leave Chungking, because he greatly feared that if he did so there would be an antiforeign riot at that city. I had no official at Chungking. The French were more fortunate. They had two bishops and many members of the clergy in Szechuan,

* See page 120.

and these persons had remained at their posts, whereas the English and Americans had left.

Distances and difficulty of access must also be taken into account. Chungking is 1,400 miles above the mouth of the Yangtze. It is about 600 miles from Chengtu. It is 434 miles above Ichang, which is the head of steam navigation. I have been frequently told that it takes sixty days to ascend the Yangtze from Ichang to Chungking.

I have continuously hoped that the British minister would see his way to send a commissioner to Chengtu, but I now incline to the opinion that he has abandoned the idea of doing so.

I have fully, in several dispatches, discussed the question of having a commission, and I await your orders on the subject. But whether a commission be organized or not, I regard it as of the greatest importance that the guilty officials should be punished as soon as possible. Their degredation, banishment, imprisonment, whatever the penalty be, should be published in the Peking Gazette, and there should be assigned in the announcement that the reason why the punishment is inflicted is that the officials have been guilty of culpable negligence, at least, in failing to do their duty in protecting foreigners.

I have understood that an appeal has been made to you by the Chinese Government to order me to discontinue pressing the Government to punish the guilty officials. It is plain to me that the first step to take in the treatment of questions growing out of antiforeign riots is to make an example of the local officials. That such action would greatly tend to the prevention of riots is universally believed by foreigners in China.

What should be done if China were to refuse this simple satisfaction need not now be considered.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2334.] LEGATION OF THE UNITED STATES,
Peking, September 3, 1895. (Received Oct. 21.)

SIR: I have the honor to inclose a copy of a communication sent by me to the Tsung-li Yamên, the 30th ultimo, relating to the investigation now proceeding at Kutien.

The British and American consuls thought it advisable that the decisions arrived at by the commission should be held to be final, and not subject to revision by the viceroy. It is usual in China to transmit to the viceroy of the province the judgments of all tribunals which involve the death punishment, but there are exceptions to this rule, especially in riot cases.

As the consuls are on the ground and understand the conditions better than I do, I thought it advisable to accede to their request. It will be noticed that I do not make a strenuous demand in the matter, but confine myself to a simple request.

I learn from telegrams from Consul Hixson that matters are proceeding satisfactorily at Kutien. I have not thought it necessary to wire you each day on the subject.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2334.]

Mr. Denby to the Tsung-li Yamên.

AUGUST 30, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that representations have been made to me by the consul of the United States at Kutien that the Chinese official in charge of the investigation which is now proceeding at that place has very limited powers and is required to refer every important point to the viceroy.

The consul suggests that the effect of the investigation would be much greater if the viceroy were not allowed to dictate or revise in any way the decisions of the Kutien investigating officials which are approved by the consuls, and that details as to conviction and execution should be fixed and carried out regardless of any action by the viceroy.

I am informed that in exceptional cases, such as riots, such power of ultimate decision may be conferred on an investigating tribunal, and I respectfully ask that this may be done in this case.

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 4, 1895.

Your unsatisfied demand for degradation of viceroy Szechuan and delay in British Chengtu investigation makes independent investigation necessary. Can not act peremptorily on reports of commissions to which we are not party. Organize at once an American commission—consul at Tientsin, missionary, and naval officer, with Chinese officer of suitable rank. Should go overland from Tientsin via Tung-kuan and Han-chung in less than thirty days. Notify Chinese Government and ask ample escort. If deposed viceroy's residence Chengtu likely to obstruct investigation demand that he be ordered elsewhere under complete suspension, pending ulterior demands.

ADEE, *Acting.*

Mr. Adee to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 5, 1895.

Secretary of the Navy authorizes Barber, naval attaché to Japan, on Chengtu commission. Appoint.

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

No. 2335.] LEGATION OF THE UNITED STATES,
Peking, September 5, 1895. (Received Oct. 21.)

SIR: I have the honor to inclose a copy of a communication which was sent by me to the Tsung-li Yamên, the 28th ultimo, relating to the punishment of ex-Viceroy Liu.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2335.]

Mr. Denby to the Tsung-li Yamên.

No. 26.] AUGUST 28, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I am constrained to call your attention to the circumstance that I have been recently informed that you have refused to consider the question of punishing high officials who have failed in their duty to protect foreigners at Chengtu, particularly the late Viceroy Liu. This question does not admit of argument.

Antiforeign riots will never cease in China unless an example is made which will show to the people in China as well as to the western world that the Government of China is in earnest in its desire to comply with its treaty obligations.

I have, therefore, formally to demand that the late viceroy be punished, and I suggest that he be punished in the following manner: First, that he be degraded and forever prohibited from holding public office again; second, that he be banished; third, that official notification of his punishment be published in the Peking Gazette, and that the reasons for inflicting it be stated.

I would be pleased to have an early answer to this communication, informing me of the action that you intend to take in this important matter.

Mr. Adee to Mr. Denby.

No. 1141.] DEPARTMENT OF STATE,
Washington, September 6, 1895.

SIR: In your dispatch No. 2278, of the 1st of July, you submitted to the Department the proposal you had made to the Chinese Government of a mode of settling the difficulties arising out of the recent antiforeign riots in the province of Szechuan. It was contemplated that a commissioner representing the United States and Great Britain should cooperate with others acting for China in investigating on the spot the causes and extent of the riots. This proposal was accepted by the Chinese Government and approved by this Department in my telegraphic instruction to you of the 20th August, and in my instructions Nos. 1122, of August 24, and 1123, of the same date.

Under date of August 27, however, you informed the Department by cablegram that the British consul at Chungking, who was to have acted as commissioner for his Government and for that of the United States, was unable, for the time being, to leave his post.

On the same date the Department received your No. 2286, of July 10, inclosing copy of a note addressed by you on the 9th July to the Tsung-li Yamên, in which you requested that the late viceroy of Szechuan should be ordered "to come to Peking in order that if inquiry into the causes of the riots shows him to have been in fault he may be properly punished." As it was not, however, thoroughly understood here whether Liu Ping-chang was still discharging his duties of viceroy, pending the arrival of his successor, or was simply awaiting in his province the result of the work of the investigating committee, the Department cabled to you, under date of August 30, asking you for information on

this subject, and directing you at the same time, should this official still be acting as viceroy, to request that he be at once relieved of all such functions in view of the very serious charges preferred against him by foreigners in the various statements which they have made concerning the rôle played by him prior to and during the riots. The Department also expressed the opinion that you should not ask for the punishment of the viceroy until the ascertainment by you of his offense.

On August 31 the Department received your cablegram of same date, which I hereby confirm on the overleaf, in which you inform me that the ex-viceroy had been superseded two months ago, but had been ordered to remain at Chengtu, the provincial capital, pending the results of the investigation.

You also state, presumably after reading the report of the commission which was sent to Szechuan by the French Government, and which the Department has learned from press reports has satisfactorily terminated its labors, resulting in the conclusion of a convention between France and China and the payment by the latter power of a money indemnity to French sufferers by the riot, that the French commission had established so clearly the guilt of the viceroy that you have demanded his punishment and banishment, and you further state that you propose demanding the punishment of other officials—presumably after you have obtained the necessary proof from the French commission—and you ask the support of the Department in urging this demand. You also state that the British minister had not yet decided to send a commission to Chengtu, and that the British consul at Chungking could not yet leave his post for that purpose, as originally contemplated, and that thus was indefinitely postponed the work of the contemplated joint commission originally accepted by the various governments interested in it, and you consequently ask if the United States desire another commission to be organized.

In view of your demand for the punishment of ex-Viceroy Liu and of the unexpected delay of the minister of Her Britannic Majesty's Government to take part in the investigation, and likewise of the inability of this Government to accept the report of the French commission, on which it was not represented, as equivalent to original proof on its own behalf on which to further urge the punishment of the ex-viceroy, it has become necessary for us to independently secure the evidence necessary to that end.

I therefore cabled you, under date of September 4, to organize an American commission, to be composed of our consul at Tientsin, an American missionary, a naval officer, to be designated by the Secretary of the Navy, and a Chinese official of sufficient rank, to proceed to Chengtu and there perform the investigation in the manner originally contemplated.

In view of the great length of time which would be occupied in ascending the Yangtze River as far as Chungking by native boat, it has been deemed advisable to send the commission by the overland route, via Tung-kuan, Hsi-an Fu, and Han-chung, by which considerable time will be saved.

The Department confidently expects that you will exercise all possible diligence in organizing and dispatching the commission, so that no further delay will be experienced in carrying to completion this most important work.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Translation of a cablegram from the Tsung-li Yamên, dated September 7, 1895.

[Handed by Chinese minister to Mr. Adee September 9, 1895.]

In a recent interview Minister Denby states he has received instructions from his Government to appoint a consul, a naval officer, and a missionary to proceed to Szechuan as members of commission of inquiry in matter of Szechuan riots, and to request Chinese Government to depute officer with guard to accompany said commission. The Yamên replied that in said riots French interests involved were uppermost, British next, while American missions suffered damage in only three instances, which were mere incidentals to the riots; that the United States Government need not appoint a commission of inquiry; that in instances in past years involving the loss of lives of Chinese in the United States the Chinese Government only asked, through representations to the Secretary of State, and no commission was ever appointed to cooperate in judicial inquiry into the same.

Minister Denby evasively replied that he was only acting under cable instructions from his Government. Bring matter to attention of Secretary of State, and ascertain object of appointing commission. To secure peace and harmony between the missions and the people, it is essential to devise suitable measures for the future. The Szechuan riot investigation is nearly finished. American interests involved being very slight, the presence of an American commission would cause dissatisfaction among the people, and would, on the contrary, render the matter difficult of adjustment. Moreover, Britain and France would forthwith offer more trouble. Ask Secretary of State, in evidence of his regard for international friendliness, to dispense with proposed appointment of commission. China, on her part, will bring the matter to speedy and satisfactory settlement.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 8, 1895.*

I have to suggest that Chengtu commission proceed without Chinese cooperation. China will probably interpose no active opposition. We can not well recede now. Let commission take proof wherever it can find witnesses.

DENBY.

Mr. Denby to Mr. Olney.

No. 2343.] LEGATION OF THE UNITED STATES,
Peking, September 9, 1895. (Received Oct. 21.)

SIR: I have the honor to inform you that on the receipt of your telegram of the 4th instant, in which you direct me to organize a commission to go to Chengtu, I addressed to the Yamên a communication, of which a copy is inclosed. At the same time I notified the prince and ministers that I desired to call on them Saturday, the 7th instant, at 3 o'clock, and

asked them to receive me. At that time I went to the Yamên. Weng T'ung-ho, Chang Yin-huan, Wang Feng-tsao were present.

I commenced the conversation by informing them that I was directed to organize an American commission to proceed to Chengtu to investigate the recent riots; that the commission would be composed of the consul at Tientsin, Commander Barber, naval attaché, and a missionary who was not yet named. I expressed the desire that a high official should be appointed to accompany the commission and sit with it, and that an escort should be furnished.

I stated that the commission would go overland from Tientsin. They asked why we wanted such a commission; said it was too late; would be of no use; that they had the facts; that the people would be alarmed; that Americans had been slightly injured; that England would ask for a commission; that they would do justice; that there was no precedent for such a commission; it would do no good; the missionaries could give me affidavits. Was it to increase the indemnity, or what was it for?

I answered all these queries. I said my Government wanted the facts; that twenty-five Americans had been hunted like rats; had been exposed to great danger; had had their houses burned down; had been compelled to fly, and that no doubt the health of several of them would be ruined for life; we wanted to know who did these things and who was responsible, and when the guilty parties were discovered we wanted them punished; that the commission would inflict no punishment itself, but leave that to China, demanding, however, a stringent punishment; that it was not too late to take the proof; that the French had had a commission sit in Chengtu, and we had the right to have one; that the sitting of the commission would tend to pacify the people; that they had agreed some months ago that there might be a joint English and American commission; that public sentiment in America and Europe was greatly excited; that the proposed measure, if China heartily cooperated, would quiet the excitement; that something must be done to stop riots; that China gave passports to foreigners guaranteeing protection; that an example must be made of the officials; that affidavits were not equivalent to proof taken by a commission; that my Government wanted positive proof on which to base its demands; that we had no idea about increasing the indemnity; our only object was to secure protection and make further riots impossible; that the Margary case was a precedent for the proposed commission and the Kutien investigation now going on was another; that it would be greatly to the interest of China to encourage in every way the commission, and to give it dignity and consideration.

* * * * * * *

I have, etc., CHARLES DENBY.

[Inclosure in No. 2343.]

Mr. Denby to the Tsung-li Yamên.

No. 27.] SEPTEMBER 6, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that I have been ordered by my Government to organize immediately a commission, consisting of Mr. Sheridan P. Read, United States consul at Tientsin, a naval officer of the United States, and an American missionary, to proceed to Chengtu and there investigate the causes and other matters connected with the recent antiforeign riots in

the province of Szechuan. I am also directed to ask your highnesses and your excellencies to appoint an official of suitable rank to accompany this commission and sit as a member thereof. It is my opinion that it is desirable that an official be sent from Peking. I am also directed to request you to furnish for this commission an ample escort and to direct the officials in Szechuan to afford it every facility for the discharge of its important duties.

I should be much pleased to have an early and full answer to the matters herein stated.

Mr. Adee to Mr. Yang Yü.

No. 17.] DEPARTMENT OF STATE,
Washington, September 9, 1895.

SIR: I have the honor to inform you that on the 5th instant instructions were sent by this Department to our minister in China to organize a commission, to be composed of two American officials and one American resident in China, to proceed to Chengtu, in the province of Szechuan, to there investigate, in conjunction with Chinese officials of suitable rank, whose appoin ment Mr. Denby was directed to request of your Government, the causes of the antiforeign riots in that province and the amount of loss sustained by American citizens. To the end that the commission might be in a position to begin its labors at the earliest possible date, it has been directed to proceed to Chengtu by the overland route, passing through Tung-kuan and Hsi-an Fu, and our minister has been instructed to apply for suitable passports for the commission and a sufficient escort to accompany it.

Accept, etc., ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Denby.

[Telegram—Extract.]

DEPARTMENT OF STATE.
Washington, September 11, 1895.

In conference with Chinese minister to-day he disclaimed actual refusal of Chengtu Chinese commissioner and escort, and foreshadowed favorable result of renewed representations by you. I intimated this Government would regard refusal as unfriendly and might lead us to resort to independent measures for redress and protection. You will renew your representations. * * *

ADEE, *Acting.*

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 12, 1895.*

Yamên ask that Szechuan business be arranged by joint consultation with British at Chungking.

DENBY.

Mr. Denby to Mr. Olney.

No. 2346.] LEGATION OF THE UNITED STATES,
Peking, September 12, 1895. (Received Oct. 21.)

SIR: In my dispatch, No. 2343, of September 9, I inclosed a copy of my dispatch to the Tsung-li Yamên, in which I informed the prince and ministers of the appointment of a commission composed of American citizens to go to Chengtu and investigate the recent riots.

I have now the honor to inclose a translation of the Yamên's reply to my communication. The Yamên states that the riots did not commence at the American chapel, and says "the trouble that the American missionaries experienced was nothing more than the result of the riotous feeling reaching them." No importance can be attached to this statement.

The Yamên further states that on the 1st of July an arrangement was made for the formation of a British commission, and I am asked to act according to my communication to the Yamên on that subject of July 1 last.

It is to be remarked here, in order to answer certain criticisms that have been made on my conduct, that the Chinese officials who were first named as composing a part of the British commission were not conclusively and definitely agreed upon by the British minister to whom I left the organization of that commission. It is to be further noted that the proposition to organize that commission was made about one month after the riots. At that time I did not know that any of the Chinese officials whose names had been mentioned by the British minister had been in anywise implicated in the riots. Had I known such a fact I would not certainly have consented that any person so implicated should have sat on the commission of investigation.

Hearing afterwards that there were charges made against the prefect of Chengtu that he had favored the rioters, on the 25th of July for this and other reasons I withdrew from the proposed commission. The Yamên states that "the case may still be arranged by joint consultation at Chungking." * * *

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2346.]

The Tsung-li Yamên to Mr. Denby.

No. 30.] SEPTEMBER 10, 1895.

Upon the 6th of September the prince and ministers had the honor to receive a communication from the minister of the United States wherein he stated that he had been ordered by his Government to organize immediately a commission consisting of Mr. Sheridan P. Read, United States consul at Tientsin, a naval officer of the United States, and an American missionary to proceed to Chengtu and there investigate the causes of the antiforeign riots in the province of Szechuan. The minister of the United States also stated that he was also directed to ask the prince and ministers to appoint an official of suitable rank to accompany this commission and sit as a member thereof, and to request that an escort be furnished for this commission, and the officials in Szechuan be directed to afford it every facility. An early answer was requested.

The prince and ministers would state that in regard to the missionary cases in Szechuan the riots did not commence at the American chapels. The trouble that the American missionaries experienced was nothing more than the result of the riotous feeling reaching them.

On the 1st of July last the prince and ministers received a communication from the minister of the United States, wherein he stated that he indorsed the proposal made by Her Britannic Majesty's minister relating to the mode of procedure to be adopted in dealing with the Chengtu case; that Her Britannic Majesty's consul at Chungking, Mr. Tratman, would take charge of American interests and choose an American missionary to serve as commissioner with his Chinese and British colleagues, and asked that telegraphic orders be sent to the Chinese commissioners to hold themselves in readiness for the inquiry.

The Yamên at the time telegraphed informing the Szechuan authorities of their action in the premises. Special instructions have already been issued to the taotai of the Chuan Tung circuit to confer with the British consul in the matter of these missionary cases. They are about to be settled, and the minister of the United States is again asked to act according to his communication of the 1st of July and that the case may still be arranged by joint consultation at Chungking.

There is no need to specially depute several officers to proceed to Chengtu, which will result in hardships of travel and thus act in harmony with the several treaties between China and the United States.

As in duty bound, the prince and ministers send this communication for the information of the minister of the United States, and will thank him to transmit the same to the honorable Secretary of State.

Mr. Denby to Mr. Olney.

No. 2347.] LEGATION OF THE UNITED STATES,
Peking, September 12, 1895. (Received Oct. 21.)

SIR: I inclose a copy of a communication to the Tsung-li Yamên wherein I represented that Mr. Hsü Hsing-i, a taotai by rank, had not gone to Kutien to sit on the investigating commission, although in their communication to me of the 23d August they had stated that this gentleman had been directed to cooperate with the consuls in dealing with the Kutien massacre.

I have now the honor to inclose a translation of a communication of the Yamên in answer to the communication sent them by me.

The Yamên states that the gentleman named was appointed to cooperate with the consuls at Kutien, and that no matter what may be the rank of deputies sent to investigate the case they can only investigate the cases of criminals according to law, and that their decisions must be submitted to the viceroy for his opinion thereon.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2347.]

Mr. Denby to the Tsung-li Yamên.

SEPTEMBER 5, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: In your communication to me of the 23d ultimo you stated that you had received a telegram "from the governor-general of Fuhkien stating that an addi-

tional appointment had been made in the person of Mr. Hsü Hsing-i, a taotai by rank, who is to cooperate with the consuls in dealing with the Kutien affair, so that extra care may be taken in the matter."

I have the honor to inform you that I have been very much surprised to hear from the consul that the Taotai Hsü was appointed to the foreign board at Foochow, and that no official of high rank has been appointed commissioner to Kutien. I am informed that a high official whose decisions shall be final is absolutely necessary to Kutien. The prefect who is now there does nothing without consulting the viceroy, thereby producing great delay and inconvenience.

It is just as important for China as for Great Britain or the United States that the investigating commission should be well organized and endowed with full powers, and I ask that you issue orders that a high official proceed to Kutien and that the judgments of the commissioners be final.

[Inclosure 2 in No. 2347.]

The Tsung-li Yamên to Mr. Denby.

SEPTEMBER 9, 1895.

YOUR EXCELLENCY: We have had the honor to receive your excellency's note (of September 5) wherein you stated that in the Yamên's communication of the 23d of August we informed you that we had received a telegram "from the governor-general of Fuhkien stating that an additional appointment had been made in the person of Mr. Hsü Hsing-i, a taotai by rank, who is to cooperate with the consuls in dealing with the Kutien affair;" that you had heard from the consul by telegraph that the taotai Hsü was only appointed to the foreign board at Foochow, and that he had not been appointed as commissioner to Kutien and that no official of high rank is there. The prefect who is now there does nothing without consulting the viceroy, thereby producing great delay and inconvenience. Your excellency asked that we issue orders that a high official proceed to Kutien and that the judgments of the commissioner be final.

As your excellency some time ago addressed us a note asking that telegraphic instructions be sent to Foochow to appoint a high official to go to Kutien to cooperate with the consuls in investigating the recent massacres, we wired Foochow, and received an answer to effect that Hsü, taotai, had been appointed to go there to cooperate with them. It is not the case that he was merely detained at the foreign board.

In regard to the appointment of deputies to investigate this case, it matters not whether they be of the rank of taotai or chih fu, they can only investigate the cases of the criminals according to law, and render a decision; such decisions, however, must still be submitted to the viceroy for his opinion thereon.

Kutien is about 200 odd li from Foochow, and copies of the proceedings and evidence in each case can from time to time be submitted to the viceroy without causing much delay.

We beg that your excellency will again instruct the United States consul at Foochow to cooperate with the deputies appointed from Foochow in a friendly manner. The decisions in the cases of the criminals must still be left to the viceroy.

Mr. Adee to Mr. Denby.

No. 1144.] DEPARTMENT OF STATE,
Washington, September 13, 1895.

SIR: I inclose herewith translation of a cablegram from the Tsung-li Yamên in regard to the new commission of Szechuan, which was handed to me by the Chinese minister on the 9th instant, at which time I informed him of the recent cable instructions to you on the same subject.

I told the minister that we could not consent to countermand previous instructions, and that should China refuse to cooperate we would make the investigation alone, only asking of China a sufficient escort to insure the safety of the commissioners.

In this connection I append on the overleaf copy of your cablegram of the 8th instant.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby to Mr. Olney.

No. 2350.] LEGATION OF THE UNITED STATES,
Peking, September 16, 1895. (Received Nov. 8.)

SIR: I have the honor to inclose herewith a copy of a telegram received by me on the 14th instant from Mr. Hixson, United States consul at Foochow, now engaged in investigating the murders at Kutien, and a copy of a dispatch thereupon sent by me to the Tsung-li Yamên.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2350.—Telegram.]

Messrs. Hixson and Newell to Mr. Denby.

SEPTEMBER 13, 1895.

Hsii taotai here, but viceroy has given him verbal instructions which practically supersede edict appointing him. Interviews with Hsii plainly indicate that the carrying out of any sentence will be delayed until assurances are given that all demands for Hwashan outrage will be satisfied by the executions. If viceroy allowed to dictate, no satisfactory result can be secured. Hsii said, "Tell me how many heads are wanted and I will cut them off at once, provided the case is thereby finally settled."

We recommend peremptory instructions for summary punishments, since same is vital to successful investigation. Mansfield wires Peking viceroy's version of edict, officially given us by Hsii, and under which he claims to act. Suspect same has been altered since leaving Peking, before Hsii arrived.

Proclamations and instructions associating Christians with Vegetarians, discriminating against Christians and allowing Vegetarians to join home guard, issued by local officials, have caused trouble, as home guards have made many arrests. Have demanded that Vegetarians shall not be allowed, at present, to join, and that proclamation be revoked and new one issued by Hsii, not mentioning or referring to Christians. No compliance as yet, and we have doubts.

HIXSON AND NEWELL.

[Inclosure 2 in No. 2350.]

Mr. Denby to the Tsung-li Yamên.

No. 29.] SEPTEMBER 14, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that I have received a telegram from my consul at Kutien, wherein he stated that the viceroy has given instructions to Hsü taotai, which practically supersede the edict appointing him.

It is stated that Hsü intimates that the carrying out of any sentence will be delayed until assurances are given that all demands for Hwashan outrage will be satisfied by the executions. If the viceroy is allowed to dictate, no satisfactory result will be secured.

I request that you will issue peremptory instructions for summary punishment in all cases in which guilt is proven.

Proclamations and instructions associating Christians with Vegetarians, discriminating against Christians and allowing Vegetarians to join the home guard, issued by local officials, have caused trouble, as home guards have made many arrests. Vegetarians should not be allowed at present to join home guard, and a new proclamation should be issued, not mentioning or referring to Christians.

Assurances will not be given that all demands for satisfaction for the Kutien outrages will be satisfied by the executions. Proper punishment must be awarded the guilty persons first. This is the principal thing, and no demands will be made until after the executions. It is not right that the proceedings should be suspended.

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2351.] LEGATION OF THE UNITED STATES,
Peking, September 16, 1895. (Received Nov. 8.)

SIR: I have the honor to inclose a translation of a communication received by me from the Tsung-li Yamên, relating to the proposed American commission to investigate the Szechuan riots; also a copy of my communication in reply thereto.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2351.]

The Tsung-li Yamên to Mr. Denby.

No. 31.] SEPTEMBER 15, 1895.

Upon the 14th instant the prince and ministers had the honor to receive a communication from the minister of the United States, wherein he stated that he had received telegraphic instructions from the Government of the United States on the subject of the American commission to investigate the Szechuan riots, and the Yamên was requested to appoint an official of high rank to proceed with the commissioners of the United States and sit with them, etc.

In reply the prince and ministers would state that in the communication of the minister of the United States, dated July 1 last, he indorsed the proposals of Her Britannic Majesty's minister as to the mode of procedure to be adopted in dealing with the case; that the British minister

had been requested to permit Her Britannic Majesty's consul at Chungking, Mr. Tratman, to take charge of American interests and to choose an American missionary to act with his British colleague, etc., and he requested that telegraphic orders be sent to Szechuan for the Chinese commissioners to hold themselves in readiness for the inquiry, etc.

On the 28th of June the Yamên wired the high authorities of Szechuan to appoint proper and suitable deputies to meet the British and American missionaries on their arrival at the capital, and to act with them in considering and taking action upon the matters at stake. This was communicated to the minister of the United States on the 6th of July last. In this matter, the minister of the United States had settled in consultation with Her Britannic Majesty's minister that Mr. Consul Tratman, at Chungking, should represent American interests, a plan of action decidedly most excellent and capital.

The Yamên have sent repeatedly urgent and pressing telegrams to Szechuan to lose no time in bringing about a settlement of the cases. How could the Chinese officials there be wanting in courtesy and have the intention to not cooperate in this matter?

The prince and ministers request the minister of the United States to be good enough to telegraph his Government to still take action as formerly arranged and not send a commission to Szechuan. The Yamên will again urge the officials there to speedily bring the case to a close. Bearing in mind that the minister of the United States has always acted justly in the administration of business, he will not first have one way of dealing and then another.

The prince and ministers beg that the minister of the United States will favor them with a reply.

[Inclosure 2 in No. 2351.]

Mr. Denby to the Tsung-li Yamên.

No. 30.] SEPTEMBER 16, 1895.

Upon the 15th instant the minister of the United States had the honor to receive from the prince and ministers a communication in which they state that in the communication of the minister of the United States of July 1 he indorsed the proposal of the British minister as to mode of procedure to be adopted in dealing with the Szechuan riots case; that the British minister had been requested to permit Her Britannic Majesty's consul at Chungking to take charge of American interests and for an American missionary to be appointed on the commission, and for Chinese commissioners to be appointed, etc.

The prince and ministers request the minister of the United States to telegraph to his Government to take such action as formerly arranged.

The communication under consideration is identical with the communication sent by the prince and ministers of the 10th instant. It would seem to be unnecessary to send two identical communications in less than six days.

My Government has been minutely informed of the contents of my communication to you of the 1st of July, of which a copy was forwarded to it.

It is not at all necessary to revert to the agreement made in cooperation with Her Britannic Majesty's minister. That agreement was never put in execution. No commission was ever organized.

With full knowledge of all the facts, my Government has ordered me

to organize a separate American commission to find out the facts touching the driving out from Szechuan of twenty-four American men, women, and children, and the burning of their homes, and the destruction of their property, and other wrongs and injuries. Under the treaties and law of nations there can not be the least doubt that my Government has the right to send a commission to Chengtu to investigate the riots. I will not advise it not to do so. I had an intimation from my Government that you would now consent to cooperate with the United States in the holding of this commission.

I ask an immediate answer in plain words as to whether you will cooperate or not. In order that it may not be said that I have neglected any opportunity to urge upon you a proper conclusion, I will again personally call upon you to-morrow at 3 o'clock, if you will receive me, unless I have before that time received a favorable answer to this communication.

Your attention is called in conclusion to the following article, Section II, of the Chefoo convention:

ARTICLE 3. It is agreed that whenever a crime is committed affecting the person or property of a British subject, whether in the interior or at the open ports, the British minister shall be free to send officers to the spot to be present at the investigation.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 17, 1895.

Proposition to arrange Szechuan investigation with British consul Chungking not entertained. Press independent commission. Omit missionary, sending Cheshire instead.

OLNEY.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 18, 1895.

Continue Szechuan efforts. Have all ready to go at once. Designate Cheshire secretary, with rank of member, but no voice.

OLNEY.

Mr. Denby to Mr. Olney.

No. 2352.] LEGATION OF THE UNITED STATES,
Peking, September 18, 1895. (Received Nov. 8.)

SIR: I have the honor to confirm my cipher telegram to you of this date as follows:

Seven criminals executed at Kutien. Some judgments reversed by viceroy. New trials required. Consuls complain of delay.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, September 19, 1895.

Interview with the minister for foreign affairs more satisfactory. Will have conclusive answer two days. Have directed members of commission to prepare go.

DENBY.

Mr. Olney to Mr. Denby.

No. 1147.] DEPARTMENT OF STATE,
Washington, September 19, 1895.

SIR: The necessity of conducting recent correspondence with you by telegraph, in view of the importance and urgency of the questions now arising in connection with the effective protection of our American citizens residing in the interior of China, has naturally interfered with extended consideration of your several dispatches on the same subject which have reached the Department a month or six weeks after their date.

The consideration now being given to the question of organizing an independent commission for the investigation of the riots at Szechuan in June last lends, however, a special interest to your dispatch No. 2293, of July 26 last, in which you report the steps taken by you to join an American missionary to the commission proposed to be headed by the British consul at Chungking, and the proceedings of a meeting at Shanghai in favor of a separate American commission, as well as your conclusion that the proposed participation in the British commission would not be sufficiently impressive, in view of which you notified the British minister that the steps taken by you to have an American representative upon that commission were countermanded until you should receive the instructions of the Department.

These you have already received by cable. The Department's first desire was to continue the Szechuan investigation under the terms of participation originally contemplated by you; but the delay in setting the British inquiry on foot and the subsequent alarming occurrences of Kutien, led it to an independent conclusion in the same line as yours, namely, that in view of the large number of American missionary stations throughout Szechuan and the neighboring provinces and the apparent danger to life and property there, a more impressive demonstration than had been at first arranged had become expedient.

In your same dispatch, No. 2293, you discuss the advisability of an international commission representing all the western powers in order to accomplish the end proposed by the present expedient of separate investigation; and you suggest that the United States might properly take the initiative in such a movement. This scheme, which appears to have originated at a meeting of foreigners held at Hankow and to have been embodied in certain resolutions passed thereat, does not strike the Department as practicable with regard to the particular investigation of the Chengtu outrage, or as feasible if the purpose be to organize a permanent international tribunal. It is to be remembered that the French commission has already investigated the Chengtu matters and concluded its labors, so that a reinvestigation by France,

as a member of the proposed international commission, would seem superfluous if not embarrassing. Again, a commission as complex as that suggested would be found difficult of organization and perhaps inert in its operations.

It is the Department's conviction that the apparent policy of the Chinese Government, to separate the United States from the questions raised by the occurrences in Szechuan and Fuhkien, and the interest of this Government in adequately protecting the large American interests in those provinces, not only as respects past outrages but future security, involve an impressive demonstration which can leave no doubt in the mind of the Chinese Government or of the people of the interior that the United States Government is an effective factor in securing due rights for Americans resident in China. In the course of recent interviews with the Chinese minister here it has clearly appeared that the object of his Government was primarily to insure the withdrawal of the United States from participation in the investigations set on foot by Great Britain, or any other foreign power; and in the second place, when the disposition of this Government to take the matter up for itself without cooperation with any other power was discerned, the proposition was made that the United States should abstain altogether from any investigation and await the result of the Chinese inquiries.

Regarding our proposition for an independent examination of the Chengtu business as a crucial test, it has been determined to push it to a successful conclusion on the assumption that if this be done, and the attitude of the United States for the protection of the lives and property of its citizens in China be conspicuously manifested, the necessity for such procedure on our part will, in all probability, not recur.

Another consideration may be noted, which is that as an efficient demand on the part of this Government may, and in all probability will, include the punishment of delinquent officials in high places, it seems desirable that such demands should rest upon the facts as ascertained by us through separate investigations, and that we should not be dependent upon the reports of any foreign investigation to which we may not be a party—such as that undertaken by the French—or in which our participation may have been only accessory, as in the original proposal to delegate the representation of the United States to the British consul at Chungking.

Your dispatches have strongly intimated the culpability of the ex-viceroy of the Szechuan, and your demand for his degradation and punishment may be supposed to rest upon the facts elicited in the French investigation. That demand having been made by you and not heeded is to be further supported, if at all, by facts elicited by this Government for which it may responsibly vouch.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Denby

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 19, 1895.

American commissioners Kutien should discover and report officials really responsible for outrages. They have no judicial or diplomatic function. Punishment and execution of followers and tools compara-

tively unimportant, but clemency after conviction could only be considered upon proposal of Chinese Government after commissioners report. Proposed authorization to Hixson would tend to narrow issue to one of provincial administration, thereby defeating broader purpose of this Government.

OLNEY.

Mr. Denby to Mr. Olney.

No. 2358.] LEGATION OF THE UNITED STATES,
Peking, September 19, 1895. (Received Nov. 8.)

SIR: I have the honor to inform you that I had an interview yesterday with the members of the Tsung-li Yamên on the subject of our sending to Chengtu an independent commission. The discussion was substantially similar to that which was had in the interview which I reported in my dispatch No. 2343 of the 9th instant.

The Yamên insisted that the provincial judge had been appointed to confer with the British consul at Chungking and that this procedure was in accordance with my communication on the subject sent in July; that the Emperor could not be asked to make another appointment; that the matter was trivial; that the Americans had not suffered much; that the matters were in train of being settled; that the sitting of a commission now would create delay; that the route was long and difficult, etc.

I answered that the scheme of holding a joint commission with the British consul had been long since abandoned; that the British minister had never seen his way clear to send Mr. Tratman to Chengtu, and that neither the British minister nor I had ever agreed that the commission should sit at Chungking; that the commission had never been organized and the Yamên had never brought the matter up until I demanded a separate commission; that by the reading of the Chefoo convention, of which I had sent them a copy, we were authorized to send an investigating commission to the spot where the injuries had been committed; that we would not send a commission to Chinkiang to investigate outrages done at Canton; that the commission would do China no harm, but good, because if China honestly assisted us to procure the facts, the world would take it that she would do her duty in punishing the guilty; that I did not insist that a high official should be sent from Peking, but one might be sent from Hankow or some other city; that, if the matter were left to me, I would undoubtedly direct the commission to go, whether China consented to be represented on it or not.

I then demanded whether China would furnish the commission a suitable escort or whether we should be compelled to send an escort of American marines. They said that if the commission went they would be compelled to furnish an escort. I said I would then telegraph my Government that China agreed to furnish an escort but did not agree to appoint a commissioner to sit with the American members. I wrote a telegram to that effect and read it to them. They said I must not send it. They wanted to consult with me. I said we had been consulting a long time. They said they could not give me a positive answer then but would send one as soon as possible.

There was a great deal of talk about the good relations with the United States and my own good feelings toward China, but I told them we were doing no harm to China, and were simply insisting on a plain treaty right which they had accorded to the English and French.

The prospects of cooperation are at the present moment favorable, but in any event the commission should go to Chengtu, unless a complete and entirely satisfactory arrangement is made immediately.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 20, 1895.*

Opposition of China to commission practically finished. Commission will go unless you countermand.

DENBY.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1895.

Wire the following to our consul at Tientsin: "Carry out at once previous instructions. Insist upon sufficient escort to overcome all real as well as apprehended dangers. Overland route more fatiguing, but demonstration, which China undoubtedly does not favor, is of the utmost importance to us."

OLNEY.

Mr. Olney to Mr. Yang Yü.

No. 12.] DEPARTMENT OF STATE,
Washington, September 20, 1895.

SIR: In compliance with the request which you expressed to Mr. Adee in a recent interview with him at the Department that you might be informed of any action your Government might take in the matter of the commission of inquiry to Chengtu, I have the honor to inform you that under to-day's date Mr. Denby, our minister at Peking, cabled to me that the Chinese Government had withdrawn all objection to the dispatch of the proposed commission, and that it would leave at an early date.

Accept, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1152.] DEPARTMENT OF STATE,
Washington, September 21, 1895.

SIR: Confirming your telegram of the 19th instant, and my reply thereto of the same date, copies of which are hereto annexed, it is proper to allude even more impressively to the necessity of keeping the especial functions of the United States commissioners for the investi-

gation of injuries to American citizens in China wholly within the line of the distinct purpose of this Government and free from all complication which might ensue by reason of the expansion or diversion of those functions.

Previous instructions of this Department have made it clear that from the outset especial importance has been attached to the effective localization of official responsibility for the nonexecution of the stringent imperial orders whereby the Tartar generals, viceroys, and provincial governors were enjoined to see to it that foreigners within their jurisdiction should suffer no harm. The instruction telegraphed to you on the 12th of August last relative to the cooperation of representatives of this Government with those of Great Britain in the investigation of the murders and injuries at Kutien, showed that the essential aim was to discover and fix any responsibility existing in high places, leaving measures of reparation and indemnity for subsequent consideration; and your own dispatches, as far back as July last, show that you yourself had formed much the same view with regard to official accountability for the looting of the foreign missionary premises in the province of Szechuan. You have yourself adverted to the disposition of the Chinese authorities to cover up the responsibilities of the viceroys and generals in such cases by punishment of obscure individuals upon more or less conclusive appearance of having taken part in the outrages, and your demand for the degradation and punishment of ex-Viceroy Liu rested clearly upon the assumption that effective redress could only be sought in those quarters where effective responsibility existed and where dereliction of duty was manifest.

The proceedings at Kutien, as so far briefly reported by your telegrams and with more or less narrative fullness in the press dispatches, are not clearly understood here. It certainly was not the intention of this Government that its commissioners should go to Kutien as participants in a local proceeding involving judicial or quasi-judicial functions. The real purpose was to furnish this Government with information at first hand, upon which it could base demands for the punishment of any high officials to whom culpable neglect of duty might be imputed by the ascertained facts. It was not intended to make our agents members of a trial court, awarding punishment to the common actors in the tragedy; yet from your telegram of the 19th it would seem that the results, presumably reached through the cooperation of the commissioners, are to be subject to revision by the authorities of Fuhkien and the assent of Consul Hixson to the exercise of clemency by the governor (viceroy?) is invited. How far this apparent association with the functions of provincial administration is compatible with the higher purposes which this Government has steadily endeavored to keep in view, in entering upon these investigations, can not be distinctly inferred from the information thus far possessed by the Department. It is thought, however, that any association in that direction would impair the attainment of the real purpose in view, and it certainly does not seem either expedient or admissible that the consular representative on that commission should be joined directly or indirectly with the provincial authorities in deciding upon the question of individual clemency. As suggested in my telegram of the 19th, such questions are too important to be deputed to local agencies, and if considered at all, should be dealt with through the direct channels of international intercourse.

This Government has entered upon the pending investigations with no vindictive motives. It does not seek to have its sense of the injuries inflicted upon its citizens measured by the number of decapitations

which may ensue, neither could it rest satisfied with the infliction of punishment upon the humble actors in the outrages. While prepared to exact all adequate measures of chastisement and reparation for the actual injuries already sustained by American residents in China upon due proof thereof, it is the chief and higher aim to prevent the recurrence of such injuries by holding the Chinese Government bound, through its responsible delegates of the imperial power, to take all such precautionary measures as are necessary to that end. The imperial proclamation fixes the responsibility of protection and prevention upon the provincial authorities in no uncertain terms, and if they be found culpably remiss and yet escape punishment, the ends of international justice can not be attained, even though a few individual offenders be summarily punished.

Your own comments upon the situation, contained in dispatches recently received from you by mail, indicate that you hold views essentially similar to those of the Department. It is therefore scarcely necessary to instruct you to impress upon the American commissioners now at Kutien and on those about to be dispatched to Chengtu, that their essential function is to investigate and report to their Government, and that under no circumstances are they to participate in the judicial and executive functions of the officers of the provinces, whose guilty connection with the outrages investigated may be the most important outcome of the inquiry.

I am, etc., RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2360.] LEGATION OF THE UNITED STATES,
Peking, September 21, 1895. (Received Nov. 8.)

SIR: I have the honor to confirm my telegram to you of the 20th instant, as follows:

Opposition of China to commission practically finished. Commission will go, unless countermanded.

In this connection I inclose a translation of a communication to me from the Tsung-li Yamên, wherein the suggestion is made that the route of the commission be by water, and that on arriving at the province of Szechuan the members thereof should consult or act with the judge of that province; in other words, he is to be the Chinese commissioner.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2360.]

The Tsung-li Yamên to Mr. Denby.

SEPTEMBER 20, 1895.

YOUR EXCELLENCY: Upon the 18th instant, upon your call at the Yamên, you stated that your Government still intended to send a commission to Chengtu to investigate the missionary cases there.

As the Chinese Government is very desirous of having the matter brought to a termination at an early day, the provincial judge was therefore appointed to proceed to Chungking, and there confer with the British consul, thus manifesting a desire to be careful.

The view of the Chinese Government in this matter has been telegraphed by the Yamên to Mr. Yang, Chinese minister at Washington.

He was requested to confer with the honorable Secretary of State, and to say that China was anxious to take earnest action in the premises. No reply has as yet, however, been received from him.

Should the discussion of the question between Minister Yang and the honorable Secretary of State result in the commission not being sent, trouble will be spared both countries. But if your excellency's Government insist on sending the commission, we beg to state that the route to be taken should be by water. This would be the most convenient and quickest in both going and returning. At the proper time, however, the Yamên will consult your excellency. On arrival of the commission in Szechuan they should consult or act with the judge of that province.

Cards of ministers, with compliments.

Mr. Denby to Mr. Olney.

No. 2362.] LEGATION OF THE UNITED STATES,
Peking, September 21, 1895. (Received Oct. 8.)

SIR: I have the honor to state that my telegram to you of the 19th instant, wherein I stated that the "question of clemency was raised at Kutien," was called forth by divers telegrams which I had received from Messrs. Hixson and Newell, the American commissioners. The latest of these telegrams is of the 18th instant, and reads as follows:

Hsii (the Chinese commissioner) says viceroy wants clemency. Replied that end of trial and not beginning was the time to talk of it. Told Hsii we should insist on every man who went to Hwashan being tried and sentenced, since under Chinese laws they have merited death. This construction has often been affirmed in open court by prefect and magistrate. Now viceroy wants another interpretation than of the thirteen cases unanimously condemned to death by court and referred to him. Hsii agrees with us, but is powerless to act; must refer all matters to viceroy. Informed Hsii that clemency comes from consuls, not from viceroy. Cross-examination has furnished list of about one hundred who were actually engaged in massacre. Every precaution taken by consuls to prevent innocent suffering.

HIXSON AND NEWELL.

In reply to this telegram, I stated that my judgment was that trials should proceed until all the accused were tried; that the question of clemency should not be considered until judgment had been pronounced and that I would "ask Department to instruct as to your (Hixson's) recommending commutation."

Your telegram of the 19th instant, in answer to mine of the same date, relating to the question of clemency, wherein you say "clemency after conviction could only be considered upon the proposal of Chinese Government after commissioners' report," was substantially wired to Messrs. Hixson and Newell.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2364.] LEGATION OF THE UNITED STATES,
Peking, September 24, 1895. (Received Nov. 8.)

SIR: I have the honor to inform you that I have received from Messers. Hixson and Newell the following telegram, dated September 22:

DENBY, *Peking:*

Can not clearly comprehend that part of your wire referring to clemency and hence request you to give full instructions. Have always steered clear of judicial or diplo-

matic functions by taking extreme views of having no authority beyond insisting on speedy and proper trial. Hsii (the Chinese commissioner) having conceded all demands hitherto made on Kutien officials, the investigation is proceeding without difficulty, except the dilatory measure of referring to viceroy evidence in capital convictions.

HIXSON AND NEWELL.

I have wired the following answer to this telegram:

You have only to let Chinese law take its course. If law awards death or other penalty, let it be inflicted. Do not discuss clemency. That is for your Government when you report facts.

I understand that in this telegram I have substantially embodied your views. Clemency in the Chinese view is weakness. If under Chinese law a certain number of murderers ought to be decapitated, a certain other number ought to be strangled, and still others ought to be banished for life, I incline to the opinion that it is better for England and the United States to stand by and see these penalties inflicted. It is severe, perhaps, but the crime was terrible.

Should the Queen of England lead off with a recommendation of clemency, it should be considered by the President, but it is not our business to take the initiative.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 24, 1895.*

China begs that commission go by water. Mahommedan rebellion in Kan-su necessitates severely guarding Szechuan-Shensi roads. Danger anticipated. Yamên promises all protection by river.

DENBY.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 24, 1895.

Understand that water route is inadmissible and will not be considered. Commission should go at once by land, with escort whose adequacy is satisfactory to you. If there is any further delay or hesitation in complying with this just demand, report immediately.

OLNEY.

Mr. Olney to Mr. Denby.

No. 1159.] DEPARTMENT OF STATE,
Washington, September 27, 1895.

SIR: I have received your No. 2308, of the 14th ultimo, inclosing a note from the Yamên touching the Szechuan riots.

You will be in a better position to reply to the specious arguments of this note upon the receipt of the report of the commission which is now going to Szechuan.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1162.] DEPARTMENT OF STATE,
Washington, September 27, 1895.

SIR: I have received your No. 2313, in explanation of the announcement that you had consented that the British consul at Chungking should represent American interests on the Chengtu commission.

Your note to the Tsung-li Yamên, inclosed in dispatch No. 2278, of July 1, and your letter to Mr. Spencer Lewis, asking him to act as commissioner, sent with your No. 2288, of July 12, had previously convinced the Department of the erroneous character of this announcement.

I am, etc., RICHARD OLNEY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 27, 1895.*

Six criminals executed Chengtu; thirteen punished—banished, imprisonment, bambooing. DENBY.

Mr. Denby to Mr. Olney.

No. 2370.] LEGATION OF THE UNITED STATES,
Peking, September 28, 1895. (Received Nov. 8.)

SIR: I have the honor to confirm my telegram to you of this date, as follows:

Yamên have telegraphed authorities Chihli, Shansi, Shensi, to appoint officer and escort commission. Barber desires to withdraw; others ready. Edict will issue in a few days, punishing officials and degrading viceroy. Will telegraph it.

Each province is directed to appoint a military officer with a contingent of cavalry to escort the commission to the borders of Szechuan. An energetic military officer and twenty cavalrymen are to constitute the escort.

I have, etc., CHARLES DENBY.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 30, 1895.

Barber relieved by Secretary of the Navy on account of ill health and Newell substituted, who will report at once, so that commission can start immediately.

OLNEY.

Mr. Denby to Mr. Olney.

No. 2371.] LEGATION OF THE UNITED STATES,
Peking, September 30, 1895. (Received Nov. 8.)

SIR: I have the honor to inclose a copy of a communication sent by me to the Yamên the 25th instant, relating to the furnishing of an escort to the American commission to Szechuan and a translation of the Yamên's reply thereto. The contents have already been communicated to you by telegraph.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2371.]

Mr. Denby to the Tsung-li Yamên.

No. 36.] SEPTEMBER 25, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that the American commission, which is organized for the purpose of investigating at Chengtu the riots which recently took place in the province of Szechuan, is about to depart for its destination.

I renew my request that you designate a Chinese official of high rank to sit with the commission and aid its investigations and participate in its labors.

This official should not be one who was in office in Szechuan at the time of the riots. He should be independent, and capable, without embarrassment, of examining into the facts.

I am of the impression that no official of the province would be suited for this position. Such an official had better be selected from some other locality than the province of Szechuan—for instance, from Hankow.

I request you to issue suitable orders that the commission shall be received with fitting respect and attention both en route and at the place of destination.

The members of the commission represent the authority and dignity of the United States. They are high commissioners, clothed with important duties. The commission is composed of Sheridan P. Read, esq., consul of the United States at Tientsin; Francis M. Barber, commander in the Navy of the United States and naval attaché to this legation, and Fleming D. Cheshire, esq., interpreter to this legation.

I desire to know the name and rank of the official who has been designated by you to cooperate with these gentlemen, and beg that you will instruct him in the sense above stated.

I have the honor to state further that I am just now in receipt of positive and imperative instructions that the commission will proceed to Chengtu overland. The arrival of Commander Barber at Tientsin is expected in a few days and the commission will immediately depart on its mission.

I again request you to organize and prepare a suitable and ample escort.

I desire you to answer immediately whether you will comply with this request. I am directed to report immediately any delay or hesitation in complying with this just demand.

I trust you will find no difficulty in complying with it.

CHARLES DENBY.

[Inclosure 2 in No. 2371.]

The Tsung-li Yamên to Mr. Denby.

SEPTEMBER 28, 1895.

YOUR EXCELLENCY: We have had the honor to receive your excellency's note with which you returned three passports, stating that your Government wished the journey of the commission to be made overland and not by water.

Your excellency asked that the necessary changes be made and the documents returned to you.

The Yamên has issued three passports, one to each commissioner, available for the journey to Szechuan, *viâ* Chihli, Shansi, and Shensi. They have been duly stamped by the governor of Peking. Telegraphic instructions have been issued to the officials of all the provinces en route to provide an escort.

We send herewith three passports which we beg your excellency will be good enough to transmit to the gentlemen in whose favor they are issued.

Mr. Denby to Mr. Olney.

No. 2372.] LEGATION OF THE UNITED STATES,
Peking, September 30, 1895. (Received November 8.)

SIR: I have the honor to inclose a translation of a communication received from the Tsung-li Yamên relating to some actual and other reported riots in various parts of China.

As soon as the information of the actual riots or the apprehension of riots reached me, I notified the Yamên and demanded that immediate and energetic measures be taken to prevent and suppress disorder.

As to the Basil mission, which is composed of German Lutherans, no definite answer is given in this communication. Information was received at the German legation that the riot mentioned had occurred and all the property was destroyed. Difficulties in other places, if the account given by the Yamên is true, were not serious. The Yamên promises energetic action.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2372.—Translation.]

The Tsung-li Yamên to Mr. Denby.

SEPTEMBER 24, 1895.

The prince and ministers had the honor on the 21st instant to receive a communication from the minister of the United States, wherein he states that the United States consul at Ningpo had wired him that there is a great development of spirit antagonistic to foreigners spreading over the province of Chekiang, and that proclamations are posted calling on the people to kill the native and foreign Christians and destroy their property. The minister of the United States requested that immediate steps be taken to insure and preserve order and that the Imperial edict be required to be posted in all public places.

On the same day the minister of the United States sent another dispatch to the Yamên stating that the Basil mission, at a place 70 miles

west of Swatow, had been looted and large plundering bands are operating in the Kochou district. The request was made that immediate steps be taken to protect foreigners in these localities.

The Yamên telegraphed the authorities of Chekiang and Canton to carefully investigate these cases and take satisfactory action in the premises.

The governor of Chekiang has wired that he, some time ago, received a telegram from the United States consul at Ningpo stating that proclamations were posted at Chin-hua Fu calling on the people to kill the native and foreign Christians and destroy their property. The prefect reported that Yang-pu is a place in the jurisdiction of the district of Yang-hei. On the 14th of September a missionary named Pai Pao lo presented a complaint in regard to this matter, whereupon the prefect deputed an assistant district magistrate to go there and hold an investigation. That officer reported that there were Christians in Yang-pu, but no chapels. There were chapels in the Tung yu district city, and on account of the people and Christians bearing a grudge toward each other, false accusations were made, and hence the mistaken reports the missionaries had heard. The said magistrate and others went in person to Yang-pu, summoned the people and Christians before them, and instructed them. They gave guarantee for their behavior, and the trouble thus ended.

The magistrate of Lung-yu was informed that he should satisfactorily give protection to all alike. The action taken was made known to the missionary Pai Pao-lo.

As to the Imperial decree, it is not true that it has not been posted. The people and Christians at Chin-hua Fu are now living peacefully together.

The Yamên has also received a telegraphic reply from the viceroy at Canton stating that, in regard to plundering bands operating in the Kochou district, it appears that in the spring there was trouble at a place called Wuchuan. Soldiers were sent there to arrest the rioters, but they had dispersed. It is now said that outlaws are secretly returning for the purpose of plundering, and in consequence military officers have been sent there to attack and destroy them. Protection will surely be given. The local authorities have not reported any trouble or disturbance at the missionary chapels. No reports have been received of any looting of the missionary establishments at Wei-lin. The commander in chief and brigade general have been deputed with soldiers to surround and destroy the thieves.

As in duty bound, the prince and ministers send this communication for the information of the minister of the United States.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *September 30, 1895.*

Imperial decree issued. Abstract: Responsibility for Szechuan riots rests with officials. Viceroy Liu careless; took no notice of the beginning of the riots. He is deprived of office, never to be again employed; other officials to be punished.

DENBY.

Mr. Denby to Mr. Olney.

No. 2373.] LEGATION OF THE UNITED STATES,
Peking, September 30, 1895. (Received Nov. 8.)

SIR: In my telegram of the 28th instant I stated that an imperial decree would issue in a few days ordering the punishment of the delinquent officials in Szechuan.

I have now the honor to inclose a translation of that decree which appeared yesterday in the Peking Gazette, and of which a copy was sent last night by the Tsung-li Yamên to this legation.

I beg to say most emphatically that this result is chiefly due to the action of the Department in ordering a commission to go to Chengtu to investigate the riots. It is known to you that from the moment of the happening of the riots the British minister and I have, day after day, in writing and orally, demanded as an indispensable condition the punishment of the guilty officials. The alleged inaction for which I have been blamed did not exist. This charge was based on the proposition that I at one time agreed to act in common with an English commission.

If that commission had been properly organized, and had proceeded at the start to do its work, it would not have been objectionable. It was approved by the Acting Secretary of State. About twenty-five days after it was proposed I withdrew from it for several reasons, one of which was that it did not appear that it would ever proceed to Chengtu. The Department, on being informed of the delay in organizing this commission, ordered an American commission to be organized. China fought this commission for some days, but was finally forced to consent to its going overland to Chengtu. China also fought with unparalleled obstinacy the proposition to punish the Viceroy Liu, partly on account of his influence with the Dowager Empress, and partly because there was no precedent for this action. The entering wedge in overcoming this obstinacy was the action of the Department in ordering the going of an American commission. After China had accepted this proposition as inevitable, the British minister stepped in with an ultimatum that the officials should be punished. A fleet was ordered to these waters as a menace.

The minister of France then intervened to explain to China that to avoid trouble she must punish the officials.

I have not the least objection that these two gentlemen may reap all the honor that is possible out of their action, but I hope I may say, speaking by this record, that to the Department of State is due beyond all doubt the credit of having broken through Chinese obstinacy, and of having diplomatically and without menace brought about a result which will constitute an era in the treatment of foreigners in China.

In connection with this subject I confirm my telegram to you of September 30, 1895.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2373.]

Imperial decree issued (11th day 8th moon) September 29, 1895.

Since the establishment of foreign missions in China imperial decrees have been repeatedly issued commanding the viceroys and governors to order the local officials to exert special efforts for their protection, in order that the people and the churches might dwell in harmony. In the fourth moon of this year disorderly characters stirred up trouble at the capital of Szechuan and destroyed a chapel at Tung chiao

chang. Thereafter other cases involving missions occurred at other places in the province. The responsibility for all these lies on the local officials, whose inability in times of peace to influence and control the people permitted the germs of trouble to foment, and who, after outbreaks had occurred, failed to act promptly in repressing them.

Liu Ping-chang, the viceroy of said province, was careless in his government. His fault is very grave. The censor, Wu Kuang-kuei, reports in a memorial that Liu Ping-chang took absolutely no notice of the beginning of the outbreaks in his provincial capital, nor did he send soldiers to repress them. Unemployed vagrants assembled in constantly increasing numbers until repeated cases involving missionaries had occurred throughout the province. The said viceroy heedlessly followed his own devices regardless of his great responsibilities.

Let him be at once deprived of office, never to be employed again, to proclaim a warning to others. As to the taotais, prefects, and others who have failed in the proper discharge of their duties, let Lu Chuan-lin[1] vigorously investigate their conduct and report thereon that they may be dealt with according to their respective deserts.

Respect this.

Mr. Denby to Mr. Olney.

No. 2376.] LEGATION OF THE UNITED STATES,
Peking, September 30, 1895. (Received Nov. 8.)

SIR: I have the honor to state that from information received here it appears that the total number of foreigners who were driven from their homes during the recent riots in Szechuan was 87. Of these 53 were British subjects, 30 were Americans, and 4 Swedish or Norwegian ladies. Of this total 18 British and 4 Swedes living at Kia-ting, Pao-ning, and Kwang-yüan, have now returned to their homes. The feeling of hostility to foreigners is not abating.

Chungking is kept quiet by pressure. Whether such pressure will be maintained is questionable. The recent imperial decree degrading and punishing the former viceroy will have some effect no doubt.

The proposal to take from the lekin revenue the funds necessary to inaugurate and keep up a "train-band" system in Chungking has been vetoed by the viceroy, on the ground that other cities support train bands without such assistance.

The taotai at Chungking is being pressed to settle British and American claims, and, as an incentive to haste, it is said that all the French cases, both at the capital and elsewhere, have been completely settled.

There are still rumors at Chengtu that children are being stolen for the use of foreigners. The French missionaries have begun to build one of their establishments at Chengtu, and their other sites are fenced in. The Protestant sites are being used for theatrical and other shows or as places for depositing rubbish.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2377.] LEGATION OF THE UNITED STATES,
Peking, October 1, 1895. (Received Nov. 8.)

SIR: I have the honor to inform you that Mr. Cheshire left Peking to-day to proceed to Chengtu with the American commission. I inclose herewith a copy of my instructions to the commission. I suppose that you will give such further instructions as may seem proper to you.

I have, etc.,

CHARLES DENBY.

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[1] Lu Chuan-lin, present viceroy of Szechuan.

[Inclosure in No. 2377.]

Instructions to the American commission.

LEGATION OF THE UNITED STATES,
Peking, September 30, 1895.

Messrs. READ and CHESHIRE,
Members of the Szechuan Investigating Commission.

GENTLEMEN: Your commission was organized by the direct orders of the honorable Secretary of State for the purpose of securing a report of facts to serve as a basis for demands to be hereafter made by the Government of the United States. The Secretary of State may give you specific instructions. Should none reach you, you are directed, until further instructed, to act on the views herein set forth.

You are to proceed to Chengtu and inquire into the cause and origin of the antiforeign riots which occurred there and elsewhere in the province of Szechuan the latter part of last May. You are to find the facts and to determine from them whether the provincial authorities took adequate or any measures to prevent disorders or to suppress riots after they broke out. You are to report by name and rank the officials who failed to do their duty in the protection of foreigners, and if you find that any official did exert himself to protect foreigners, you will so state.

You are to examine witnesses, both foreign and native, and secure evidence in all legal modes. You will hear proof of damages done to Americans or their property, should any American desire to present such proof, and you will assess damages.

In connection with your report you may submit, if you see proper to do so, any general views on the subject of antiforeign riots in China.

You are not clothed with either judicial or diplomatic functions. Your particular and more important duty will be to investigate the conduct of the officials, and make a report on which the Government of the United States can predicate any demand it may choose to make.

You will report to this legation from time to time by mail or telegraph, as may be necessary, facts of importance. Should you require any assistance at my hands it will be cheerfully furnished.

The Department has designated Mr. Cheshire as secretary of the commission, with the rank of member, but without voice.

Your action, as I am at present advised, will be independent, and without further instructions you will not amalgamate with any other commission. What courtesies you may extend to or accept from the representatives of other nations, should there be any other commission organized, is left to your own judgment.

It is expected that China will designate an official of suitable rank to cooperate with you. I will notify you of the appointment of the official selected, and should you discover any valid objection to his serving, I will expect you to notify me thereof.

The Department of State has indicated that perhaps the presence of the ex-Viceroy Liu may prove objectionable at Chengtu. If, in your opinion, there be any foundation for apprehension on this score, you will notify me.

The Chinese Government has consented to furnish you with a suitable escort, and has issued orders to the various local officials en route to insure your protection. Passports also have been furnished.

Commander Barber was designated as a member of the commission. As he has applied to be relieved from this duty, I have left a blank place in these instructions which may be filled by the name of his successor.

Your obedient servant, CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2379.] LEGATION OF THE UNITED STATES,
Peking, October 1, 1895. (Received Nov. 8.)

SIR: I have the honor to inclose a copy of a telegram received from Messrs. Hixson and Newell; also a copy of my reply thereto; also a copy of my communication to the Tsung-li Yamên relating to the complaints made by the commissioners that the proceedings are impeded, and asking that stringent orders be issued to the viceroy ordering him to facilitate in every way the labors of the commission.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 2379.—Telegram.]

Messrs. Hixson and Newell to Mr. Denby.

SEPTEMBER 29, 1895.

Waiting for Chinese law to be enforced is rapidly rendering our presence here a farce. Viceroy's construction of the law, the deceptive acts of officials here, together with gross apathy displayed in making arrests and in conducting trials, cause alarm among peaceful people and thereby with the connivance of officials encourage Vegetarians openly to threaten native Christians. Failure to obtain full and speedy justice and complete investigation will prove lastingly injurious to United States interests in this province, and foment a most virulent persecution of native Christians. The good effect of the commission's presence here is being rapidly supplanted by a menacing attitude toward Christians and foreigners. Indications point to the massacre as being an offshoot of a contemplated rebellion. Between 200 and 300 were engaged in massacre, and of these 45 only have been arrested.

Existing elements of an uprising are daily becoming more prominent by acts and connivance of officials, and their evident antiforeign feeling induces Vegetarians to openly boast of future hostile intentions. Former open obstruction has been followed by evasion, concealment, and deception, for the purpose of throttling the committee and securing from punishment all vandals except those actually inflicting death blows. Our helpless situation can be relieved only by peremptory action coercing viceroy to cease at once the scheming policy he is now carrying on through his subordinates here. Unless this state of affairs changes it would be better to give up the unequal struggle and return to Foochow until guarantees are given for the uninterrupted prosecution of investigation.

HIXSON AND NEWELL.

[Inclosure 2 in No. 2379.—Telegram.]

Mr. Denby to Mr. Hixson.

SEPTEMBER 30, 1895.

Have made urgent representations to the Tsung-li Yamên to issue orders to the viceroy to cease to impede your efforts, and to order his subordinates to assist you in every way. Viceroy of Szechuan has been degraded and made forever incapable of holding office. Subordinates will be punished. Quote the example.

DENBY.

[Inclosure 3 in No. 2379.]

Mr. Denby to the Tsung-li Yamên.

No. 37.] OCTOBER 1, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that I have received a communication from the American commissioners at Kutien making grave complaints of the conduct of affairs at that place. I call your attention to them with the hope that you will take immediate steps to remedy the evils complained of, so that the commission now sitting may speedily and satisfactorily close its labors. It is said that gross apathy is displayed in making arrests and in conducting trials, thereby causing alarm among peaceful people and encouraging Vegetarians to threaten native Christians. Such conduct will foment the persecution of native Christians. There exists now a menacing attitude toward Christians and foreigners. Indications point to the massacre as being an offshoot of a contemplated rebellion, and in that view you are greatly interested in assisting in every way the commission. There were two or three hundred people engaged in the massacre and only forty-five have been arrested. It is charged that the officials pander to antiforeign feeling, which conduct induces the Vegetarians to openly boast of future hostile intentions. Open obstruction has been followed by invasion, concealment, and deception, used to thwart the efforts of the commission and screen from punishment all criminals except those who actually inflicted death blows.

I request that you will order the viceroy to cease any effort to impede the progress of the commission, to warn his subordinates that they must do their whole duty, and to push on as rapidly as possible the pending examination.

Mr. Denby to Mr. Olney.

No. 2380.] LEGATION OF THE UNITED STATES,
Peking, October 1, 1895. (Received Nov. 8.)

SIR: I have the honor to inform you that reports have reached me that there is danger of antiforeign riots in Shansi.

I have accordingly addressed to the Tsung-li Yamên a communication asking that stringent measures be taken to prevent disorder, of which a copy is inclosed.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2380.]

Mr. Denby to the Tsung-li Yamên.

OCTOBER 1, 1895.

YOUR HIGHNESSES AND YOUR EXCELLENCIES: I have the honor to inform you that in and around Taiku, in the province of Shansi, great hostility against foreigners is being developed and riots are to be apprehended.

By means of the sale of pictures and by organized misrepresentation the people are being falsely instructed that all the foreign powers were engaged in war against China, and they are incited to acts of violence for the sake of revenge. Unless you take immediate and stringent repressive and precautionary measures other terrible riots may ensue.

I urgently call upon you to issue orders to the local authorities to post up proclamations denying the truth of the publications which are now circulated in Shansi, denouncing violence and insuring protection to the foreigners.

Mr. Denby to Mr. Olney.

No. 2381.] LEGATION OF THE UNITED STATES,
Peking, October 2, 1895. (Received Nov. 8.)

SIR: I have the honor to inclose herewith a translation of a note from the Tsung-li Yamên, in which they inform me what officers have been detailed to escort the Szechuan commission and designate the places at which the commission is to pass from one province to another.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2381.]

The Tsung-li Yamên to Mr. Denby.

OCTOBER 1, 1895.

SIR: We received some days ago a note from you, in which you stated that the Szechuan commission dispatched by your Government would proceed by land via Chihli, Shansi, and Shensi. On the 28th of September we accordingly sent you three passports for delivery to the members of the commission, and we sent telegraphic orders to the authorities of the said provinces to each detail an officer and a squad of cavalry to escort them on their journey.

The viceroy of Chihli now telegraphs that he has detailed Maj. Chi-Mei-cheng, with twenty soldiers, to escort the commission as far as Ping-ting Chou, in Shansi, where they will be committed to the authorities of that province. We have received also a telegram from the governor of Shansi announcing the detail of First Captain Li Chun-hua, with twenty soldiers, to take the party under his escort at Ping-ting Chou. The governor of Shansi also telegraphs that he has detailed Second Captain Tan Pen-wan, with twenty soldiers, to take charge of the commission at Tung-kuan.

We are awaiting a telegram from Szechuan announcing the locality at which the commission is to enter that province, and the name of the officer who will there receive them, upon receipt whereof we will again write you. In the meantime we send this note for your information.

Mr. Denby to Mr. Olney.

No. 2383.] LEGATION OF THE UNITED STATES,
Peking, October 3, 1895. (Received Nov. 19.)

SIR: In your dispatch No. 1123, of August 24 last, you express the opinion that the demand made by the British minister and myself that the ex-Viceroy Liu Ping-chang should be ordered to Peking might have proved, if it had been acquiesced in, detrimental to the purpose in view; that is to say, to his punishment.

As he was not ordered to Peking, it is scarcely necessary to discuss

what the effect might have been. Our main purpose was accomplished, and that was to prevent his reaching his home in the province of Anhui until he had been judged and sentenced. He was ordered back to Chengtu and he has been degraded and rendered forever incapable of holding any office for the expressed and published offense of having failed to protect foreigners.

It is scarcely necessary at this late date to say that the newspaper report that the ex-viceroy was appointed "the chief commissioner of China to investigate the later massacre and looting at Kutien" is without the shadow of foundation in fact.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2385.] LEGATION OF THE UNITED STATES,
Peking, October 4, 1895. (Received Nov. 19.)

SIR: I have the honor to inform you that upon representation being made to me by the American missionaries residing at Taiku, in the province of Shansi, that trouble was apprehended, I addressed the Yamên on the subject and demanded that repressive and precautionary measures be immediately taken.

I inclose the Yamên's reply, from which it appears that the local authorities have been ordered "to examine into the matter and take precautions against disturbances and to make earnest efforts to protect foreigners."

I have, etc., CHARLES DENBY.

[Inclosure in No. 2385.]

The Tsung-li Yamên to Mr. Denby.

OCTOBER 3, 1895.

SIR: We have had the honor to receive your communication, wherein you state that at Taiku and vicinity, in the province of Shansi, cartoons of the war are being offered for sale, and it is being asserted that all the foreign powers were engaged in hostilities with China. You state that reports of this character tend to excite the populace, and that if measures are not taken to hold them in check trouble will arise. You request us to instruct the local officials of that vicinity to issue proclamations informing the people that the cartoons and their narratives are mere fabrications, in order that the people and the missions may remain in harmony, and that the foreigners residing there may be protected.

Upon receipt of your dispatch we at once perceived that reports of this character might very easily cause trouble, and it therefore became our duty to telegraph to the provincial authorities to examine into the matter and take precautions against disturbances, and to make earnest efforts to protect foreigners, and thus prevent the occurrence of mishaps. We also send this note for your excellency's information.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *October 6, 1895.*

Commission started to-day.

DENBY.

Mr. Denby to Mr. Olney.

[Inclosure in No. 2390.[1]]

IMPERIAL EDICT DEGRADING LIU PING-CHANG.

Churches having been established in China by various nationalities, edicts have been repeatedly issued commanding the governor-generals and governors of the different provinces to strictly enjoin upon the local officials that they give extra care to their protection, in order that on all occasions peaceful relations may be observed between the people at large and the religious societies. But in the fifth month of the present year, at the provincial capital of Szechuan, evil characters, intent on causing disturbance, destroyed the church buildings at the Tung-chiao-ch'ang, an act which was followed by numerous similar cases outside the provincial city. The whole of this disorder is due to the local officials neglecting to issue proper instructions for securing obedience to the edicts, so that disturbances have been fermented among the people. Again, after the occurrences there has been a want of dispatch in punishing the offenders.

The governor-general of the province in question, Liu Ping-chang, is guilty of criminal incapacity of the most serious kind. According to Censor Wu Lang-kuei's report, when the disorders commenced Liu Ping-chang persistently disregarded them and made no disposition of troops whatever for their suppression, the result being that crowds of irresponsible idlers gathered together and numerous cases of the same kind arose elsewhere. The said governor-general has recklessly betrayed the trust reposed in him, and we hereby command that he be deprived of office and be never again mentioned for employment, as a stern warning to all others against incapacity in office. We further order Liu Chuan-lin to institute the strictest examination into the conduct of intendents and prefects, with a view to discriminate and punish as may appear advisable. Rescript.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 10, 1895.

Instruct Szechuan commission to return by water after completing its labors.

OLNEY.

Mr. Olney to Mr. Denby.

[No. 1172.]

DEPARTMENT OF STATE,
Washington, October 10, 1895.

SIR: The last Chinese mail brings your several dispatches in relation to the participation of representatives of this Government in the investigation of the Kutien massacre and reports the situation down to the 27th of August last.

I note particularly your dispatch No. 2325, of August 27, reporting the observations made to you by the Yamên in regard to grade of representation of the members on behalf of the United States. The opposition shown to the appointment of a naval commander to represent that arm of the service is not understood and appears to have rested on no good grounds. Instructions telegraphed to you regarding the organization of the commission will have shown you the importance here attached to having thereon representatives of adequate grade in order that no conspicuous disparity might appear. While this had express reference to the rank of the Chinese members, it is equally applicable to the rank of the American members.

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[1] Despatch not printed.

When the Department's telegram of August 12 was sent to you the naval officer to be designated for the Kutien commission had not been selected, and in that telegram you were simply informed that a naval officer would be appointed upon the detail of the admiral, with whom you were directed to confer. Upon consultation here with the Acting Secretary of the Navy, it was deemed advisable that the naval representative should be of as high a rank as was conveniently practicable without conflicting with the relative rank of the United States consul, who was naturally to be the head of the American representation. By the regulations of the two services a captain and a consul are of equal rank and receive equal honors. It was therefore decided that the Navy Department should advise the admiral to detail an officer of the next lowest grade, viz, a commander, and the admiral was so advised, without, however, designating the particular commander to be chosen. The choice was then understood, however, to be the commanding officer of the *Detroit*, a selection which was most gratifying to this Department.

Inasmuch as the detail of that officer necessarily rested with the admiral commanding the squadron, and as the direction to you to request such detail was merely intended to give the officer a representative footing upon the commission by reason of your diplomatic notice to the Yamên that he had been appointed, it is unfortunate that your telegram of the 26th instant to Admiral Carpenter should have appeared to assume that the detail of the naval member might be dependent upon your discretion, and that you should have seemed to regard the rank of an ensign as satisfying the exigencies of the case. You therein said: "If sending commander to Kutien depends upon my request, must say I see no necessity for sending another officer." It was at no time contemplated to have two naval representatives. The only question was as to the grade of the single officer to be sent.

In the interviews had here with the Chinese minister it became evident that the policy of his Government was to belittle the occurrences at Kutien as well as at Chengtu; and the remonstrances addressed to you by the Yamên appeared to have been in the same direction. The policy so disclosed evidently explains the reluctance of the Chinese Government to see a naval representative of high grade appointed on the commission, even though his relative rank might still be inferior to that of the presiding consul. On the other hand, the aim of this Government throughout has been to give to the United States commission all the prestige that rank and authority can impart in order to insure the participation of Chinese officers of equally conspicuous grade and to give to the whole proceeding all possible impressiveness.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2399.] LEGATION OF THE UNITED STATES,
Peking, October 15, 1895. (Received Nov. 29.)

SIR: I have the honor to forward to you an abstract of a report bearing date September 13, made by Her Britannic Majesty's consul to Her Britannic Majesty's minister from Kutien, which has been kindly furnished by Sir Nicholas O'Conor. The consul states that—

A band of over 200 men armed with spears, tridents, swords, knives, etc., started from Kun Shan Chi, a mountain fastness, in the evening of the 31st of July, their

avowed object being a raid upon the foreigners at Huashan. The leaders and planners of the expedition, six in number, had debated for nearly a week beforehand the question as to whether they should attack a missionary establishment at Yanchu village, the city of Kutien, or the summer resort of the missionaries at Huashan. The plan of attack on the city was to assemble secretly, set fire in three places, and in the tumult created to kill the magistrate and loot his Yamên and the houses of the wealthy residents. Eventually they cast lots and Huashan was decided on as the aim of the expedition. After the start it appears that a good many whose hearts failed them when they knew that murder was contemplated, or who had been coerced into going, dropped out on various pretexts and did not reach Huashan. It is proved, however, by overwhelming evidence that over a hundred of the more determined did actually arrive at Huashan and took a more or less active part in the proceedings there. Those who were actually wounded and killed were many more than the consul first supposed.

For instance, three men at least (all in custody) are proved to have shared in Mr. Stewart's murder; two joined in killing Mrs. Stewart, and there was much indiscriminate cutting and slashing at five of the ladies who were all together. Only two ladies seemingly met their death at the hands of a single assailant, and most of the survivors were covered with blows and wounds. There is evidence to show that kerosene was brought in bamboo tubes for the purpose of burning the houses. When it is considered that all these ruffians were armed, knew beforehand that murder was intended, and while some of their number were engaged in that crime others hastened to secure all available loot, it appears impossible to regard any one of those present as a minor criminal. Those who made themselves most prominent are, with the exception of ten, now in custody; but there are many still at large who have plunder in their possession, and who for days after the massacre made no secret of the fact that they joined in the crime. From the information obtained from the numerous Christians in this district there is little doubt but that if the authorities are kept up to the mark all these malefactors can be arrested, but their boldness makes it evident that a terrible example is necessary if such things are to be avoided in future and safety secured for the foreigners in the district.

The consul proceeds to argue that the letter of the law should be insisted on with regard to a majority of the cases, reserving the right to interpose for a mitigation of sentence when the atonement appears sufficient. He asks that he be permitted to decide on the merits of each case investigated, and states that he would admit extenuating circumstances as justifying a mitigation of the death penalty. He states further that some of the prisoners seem to glory in their deeds. He continues:

I will now pass on the cases we have gone into. Of the 35 above mentioned 13 have been already reported to the viceroy for execution and 13 more are convicted as taking a more or less active part in the murder, or as instigators or leaders. The others, with the exception of 10 doubtful cases, were present at the massacre, and some had loot in their possession. There are a good many other cases yet untried, and arrests are still being made, though not as rapidly as at first.

He reports the work done as satisfactory, but he says he has had reason to complain of duplicity on the part of the Chinese authorities.

He proceeds to state that the Christians, numbering over 2,000 in the Kutien district, have been of great use to the commission in finding out the names of those concerned in the massacre. This conduct has created soreness in the minds of the Chinese authorities, who have endeavored to show that the massacre was the result of a feud between the Christians and the Vegetarians. These latter are a political society which is plotting to overthrow the Government. Unless this society is suppressed attempts at reprisals against the Christians are to be apprehended.

He states at the close that Tu Chu-yi, one of the two notorious criminals, has been arrested.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *October 15, 1895.*

Seventeen criminals will be executed Kutien; Yamên agrees all leaders to be executed; all participants sentenced; all implicated to be tried. Commission will probably be adjourned. Imperial decree issued referring subordinate Szechuan officials to board for punishment.

DENBY.

Mr. Denby to Mr. Olney.

No. 2400.] LEGATION OF THE UNITED STATES,
Peking, October 15, 1895. (Received Nov. 29.)

SIR: I have the honor to confirm my telegram to you of this date.

In further explanation I have to say that the viceroy has affirmed the sentence of death to be inflicted on seventeen criminals, making twenty-three executions in all. On consultations with Her Britannic Majesty's minister I agreed that three points should be presented to the Yamên: First, that all the leaders engaged in the massacre should be executed; second, that all participants in the massacre should be sentenced; third, that every person whom the proof taken before the commission showed to have been implicated in the massacre should be tried.

These points were verbally agreed to by the Yamên, and will no doubt be communicated to me in writing. It will be noticed that I am following as closely as I can your instructions relating to the exercise of clemency. My judgment concurred with those instructions. As the massacre was premeditated and planned beforehand, I have never wavered in the opinion that Chinese law should take its course, and all persons who were present at the massacre should be tried and sentenced. It would not do to allow the Chinese to believe that crimes against foreigners were to be punished less rigorously than crimes committed against natives.

As to how many persons should be executed was, under your instructions, a question to be left for future determination.

It is not yet definitely known how many criminals were actually present at the massacre. It has been variously stated as being 60, 100, and 200. The second clause of the agreement above stated secures the sentencing of all participants, and has been purposely left silent as to the execution of the sentences.

The third clause provides for the trial of all the persons implicated.

The idea of Her Britannic Majesty's minister is that the commission may shortly withdraw and leave these subsequent trials to be conducted before a Chinese tribunal.

As I am practically directed to act in concert with him, and as no American was killed, I will instruct Messrs. Hixson and Newell to discontinue proceedings when the British commission withdraws. In view of the fact that we have been so energetic and pressing in standing by the nation whose citizens were murdered, I do not think that we should be expected to continue the investigation after that nation has abandoned it. The third branch of the above telegram relates to a decree which appeared in yesterday's Gazette, of which a translation will be forwarded to you.

By its terms ten of the subordinate officials in Szechuan are ordered to appear before the board of civil office for trial.

This decree is not unsatisfactory as far as it goes, but in the case of Chou Taotai it does not go far enough. He is the official who is charged with having issued the proclamation the 20th of May which stated: "At the present time we have obtained clear proof that foreigners deceive and kidnap small children."

The rigorous punishment of this man has been continuously demanded by the British minister and myself, and it was clearly and distinctly promised by the Yamên. I shall demand that that promise be fulfilled and that Chou be as severely punished as Chinese law will permit.

I have wired to Consul Hixson to send me some details as to the number of persons arrested, tried, and sentenced, which will be submitted to you.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2402.] LEGATION OF THE UNITED STATES,
Peking, October 16, 1895. (Received Nov. 29.)

SIR: I have the honor to inclose herewith a copy of a telegram received to-day from Consul Hixson, giving a summary of the number of participants in the Kutien massacre who have been arrested and convicted and who are still at large. From this it appears that 43 convictions have been secured, 7 executions have taken place, 139 are under arrest, and 100 and more participants in the outrage are still at large.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2402—Telegram.]

Mr. Hixson to Mr. Denby.

OCTOBER 15, 1895.

Forty-three convicted, of whom 7 executed; balance in viceroy's hands several weeks awaiting action; 139 under arrest, including convicted. Many not incriminated now being released on security. Over 100 present at Huashan still at large; 1, if not more, ringleader at large.

HIXSON.

Mr. Denby to Mr. Olney.

No. 2403.] LEGATION OF THE UNITED STATES,
Peking, October 16, 1895. (Received Nov. 29.)

SIR: In my dispatch No. 2400, of the 15th instant, I referred to an imperial decree which was issued on the 4th instant relating to the punishment of the subordinate officials in Szechuan for their culpability in connection with the antiforeign riots. I now inclose a translation of that decree.

This decree states that Wang Shui-ting and 22 others, leaders and accessories in these riots, have been arrested, and of these 6 have been

tried and executed and 17 have been sentenced to banishment, to be cangued, or to be beaten.

Five officials have already been reported to the Throne for removal from office.

In addition to these, Expectant Taotai Chou, the chief of police, is removed from his post and is to be handed over to the board to decide upon his punishment, and 5 other officials are to be handed over to the board to decide upon their punishment.

Effective protection of missions is enjoined upon all officials, who are ordered to instruct the people as to their conduct. The paper concludes with the expression of the hope that tranquillity will be preserved.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2403—Translation.]

Imperial decree promulgated October 14, 1895, and printed in the Yellow Gazette October 15.

A decree was recently issued punishing severely Liu Ping-chang, the ex-viceroy of Szechuan, for his failure to deal properly with the uprisings in his province, in which many mission chapels were destroyed.

According to a memorial now at hand from Kung Shou[1] and Lu Chuan-lin,[2] Wang Shui-ting, and 22 others, leaders and accessories in these outbreaks, have been arrested, and of these 6 have been tried and executed and 17 have been sentenced to be banished, to be cangued, or to be beaten, thus to illustrate the severity of the law and to serve as a warning for the future.

The following officials, who failed to do their duty in this matter, viz, Chou Feng-tsao, department magistrate of Yachou; Chen Hsin, acting district magistrate of Ta-yi Hsien; Hsin Yuan-liang, acting district magistrate of Mien-ning Hsien; Su Ping, district magistrate of Hsin-chin Hsien; Fan Wan-hsuan, district magistrate of Kuan Hsien, have already been reported to the Throne for removal from office It is commanded that in addition to these Expectant Taotai Chou, the chief of police, be removed from his post and be handed to the board to decide upon his punishment; and that Tan Cheng-lien, acting prefect of Chengtu; Hwang Tao-ping, expectant district magistrate and acting district magistrate of Hwa-yang and of Chengtu; Hsiang Tsu, acting colonel of the garrison at Chengtu; Hung Tsu-nien, district magistrate of Lo Shan, Hwang Cheng; Cheng-lien, acting lieutenant of the military post at Lo Shan, all to be handed to the board to decide upon their punishment.

There are many mission chapels of various nationalities in Szechuan. It is the imperative duty of Lu Chuan-lin and the other officials of the province to strictly order the authorities under them to afford effective protection and to permit no further troubles to arise through their remissness. They are also directed to order the department and district magistrates in their jurisdictions to give opportune instruction to the people as to their own interests in this matter. It is earnestly to be hoped that suspicion may be dissipated and that the Christians and the people may dwell in harmony, thereby realizing the Throne's great desire to restore tranquillity to these localities.

Respect this.

Mr. Uhl to Mr. Denby.

No. 1176.] DEPARTMENT OF STATE,
Washington, October 22, 1895.

SIR: I have received your No. 2333, of the 3d ultimo, on the subject of the Szechuan riots and the punishment which should be meted out to the delinquent officials of that province.

Previous instructions to you will have shown you that the Department entirely concurs in the opinion expressed in your present dispatch

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[1] Tartar general of Szechuan. [2] Viceroy of Szechuan.

that it is imperatively demanded that the provincial officials guilty in Szechuan should be punished, and that their punishment should be made known to the people of China through not only the Peking Gazette but also by posting the decree throughout the eighteen provinces of the Empire. As soon as you receive the report of our commission you will be able, it is not doubted, to successfully conduct the negotiations with the Yamên to this most desirable end.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Denby.

No. 1177.] DEPARTMENT OF STATE,
Washington, October 23, 1895.

SIR: Your No. 2334, of 3d ultimo, inclosing copy of a note to the Yamên, requesting that they allow the decision of the Kutien investigating committee to be final and not subject to revision, has been received.

The Department's No. 1152, of September 20 last, instructs you as to the necessity of the commission confining itself to discovering the causes of the massacre and those responsible for it, and of its not exercising judicial authority. It is trusted that the views therein contained have been communicated to the commission and that they will be strictly adhered to.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *October 22, 1895.*

Fourteen beheaded Kutien yesterday. Commissioners leave Thursday.

DENBY.

Mr. Denby to Mr. Olney.

No. 2405.] LEGATION OF THE UNITED STATES,
Peking, October 23, 1895. (Received Dec. 5.)

SIR: I have the honor to inclose as matter of information a copy of a report made by R. W. Mansfield, Her Britannic Majesty's consul at Foochow, "on the conduct of the Chinese authorities of Fuhkien in connection with the massacre of Huashan in the Kutien district on August 1, 1895, by which eleven British subjects lost their lives and others were wounded.

This copy was kindly furnished me by Her Britannic Majesty's minister.

I deem it best to await a report from Mr. Hixson before making any remarks on the subject-matter thereof.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2405.]

Report on the conduct of the Chinese authorities of Fuhkien in connection with the massacre of Huashan in the Kutien district on August 1, 1895, by which eleven British subjects lost their lives and others were wounded.

A careful examination shows that the massacre was deliberately planned a few days beforehand by six of the more influential of a sect known as the "Vegetarians" (Ts'ai Hui) at a mountain fastness called K'un-shan-chi, some 15 or 20 miles from Huashan. As a detailed report of the facts relating to this sect is being prepared, it will suffice here to touch lightly on the antecedents in so far as they throw into relief the deplorable weakness and duplicity of the local authorities, which were the indirect cause of the massacre. It appears that this sect, though it has long existed in Kiangsi and elsewhere, only obtained a footing in this district of Kutien some five or six years ago. Up to last year (1894) it did not apparently make itself conspicuous in any way, but then began an active propoganda, and its numbers swelled to several thousand members. It was in that year, during the gerance of the district magistrate, Wang Yu-yang, that the power of the sect began to make itself felt by a number of lawless acts, such as ravaging crops, robbing houses, etc. Over one hundred cases of the kind were reported to the magistrate, but this official, instead of dealing energetically with them, not only allowed matters to take their course, but concealed from the higher authorities that his power was gone, dreading no doubt that blame would attach to himself if the high authorities became aware of the facts.

In some of the cases converts had suffered, and orders at my instance were repeatedly sent to the magistrate from Foochow to inquire into them. Nothing, however, was done, and finding that the case was not one of religious persecution I did not press it further.

In December last the magistrate had been induced by his confidential clerk, Chiang, to arrest and convey to his Yamên four of the Vegetarians who had been using seditious language. He administered 400 blows to each of these men and put them in prison. Five days later over 100 members of the sect arrived and demanded the release of the prisoners. The magistrate, afraid to resist, entered into negotiations in which the district police master, Li Chi-tseng, and a graduate named Lau, the legal adviser of the Vegetarians, acted as middlemen. The result was that the confidential clerk or head runner, Chiang, above mentioned, was punished for his activity with 400 blows administered in public, and was dismissed, and the four prisoners were sent back to their homes in chairs with colored hangings!

After this act of signal weakness, all respect for the magistrate of course disappeared, and the Vegetarians had everything practically their own way. The Foochow authorities were informed by me of what had occurred, and I believe called for a report; but the magistrate undoubtedly concealed the humiliation to which he had been subjected and the growing power of the sect.

In March last it was reported in the city of Kutien that a large force of Vegetarians were going to attack it, and the officials and gentry had the gates walled up. This state of siege lasted four days and, I have reason to believe, only terminated by further concessions on the part of the magistrate to the demands of the Vegetarians. On the report of the Rev. R. Stewart, I brought the matter to the notice of the Chinese authorities, and on the 1st of April last wrote strongly urging the viceroy to send troops, as the Vegetarians were a standing menace, not so much to the missionaries as to the Chinese Government. The viceroy, Tan Chung-lin, replied a fortnight later that he had sent a Wei Yüan to inquire into the truth of the matter, and that the Wei Yüan had returned and reported that all was quiet. I have since ascertained that this Wei Yüan was one Ili (given name unknown), a man who had been magistrate of the Kien-yang district, and who had behaved extremely badly in a recent case at his district city, when a house was burnt and filth thrown over a British missionary. He only stayed one day at Kutien. The viceroy seems, however, to have been aware of the weakness and inefficiency of the Kutien magistrate, Wang Yu-yang, for he was removed from his post, and another man, Wang Ju-lin, appointed instead, about the 2d of May last. No soldiers were, however, sent, and the new magistrate appears to have continued the weak and vacillating policy of his predecessor.

In July a murder was committed by Vegetarians at a village called Cho-yang, some 26 miles from Kutien City, and when the runners arrived to make arrests they were prevented from doing so by the other members of the sect. This was, it appears, reported to the new viceroy, Pien Pao-chüan, who only arrived at Foochow in May last. He sent up a Wei Yüan, Ho Ting, with 200 soldiers under the command of Colonel Tang to the assistance of the magistrate, but these officials were afraid to attempt the arrest of the murderers with what they considered an inadequate force. Two days before the massacre it was reported to the magistrate that the

Vegetarians contemplated at attack on the chapel at Auchang village, and he was vainly begged to send soldiers. Had he done so the massacre might probably have been averted, for Auchang lies directly on the road between the mountain fastness K'unshanchi and Huashan, and in the line of march of the assassins and close to the former place. As a consequence of the above-mentioned Chinese murder case the magistrate, Wang Ju-lin, was superseded, but his successor, the present magistrate, I Chien, did not arrive here until four days after the massacre. I may add that when the magistrate, Wang, was asked by Dr. Gregory for an escort to take him to the relief of the wounded he made considerable difficulty about giving it, and it was only under pressure from the the Deputy Ho that he granted it. His own conduct at Huashan on the evening after the massacre was that of a man who had completely lost his head. He said to Dr. Gregory, "This is all the fault of the Foochow authorities. I never asked for soldiers, and what was the good of sending me 200 when the Vegetarians are in thousands."

From the above brief account the following facts are apparent:

That the viceroy, T'an Chung-lin, now at Canton, was much to blame in not taking proper measures to ascertain the truth as to what was going on in the Kutien district under his jurisdiction and in refusing to send troops to Kutien when such action would have easily checked the power of the Vegetarians. He was informed by me of the actual state of things, and contented himself with sending an incompetent and notoriously antiforeign deputy, who only remained one night on the spot.

That the newly arrived viceroy, Pien Pao-chiian, failed to appreciate the gravity of the case, and sent an insufficient force to the aid of the magistrate. He had, however, been in ill health since his arrival, and had probably been willfully kept in the dark by his subordinates. His action in sending 200 soldiers, though it appears to have been the exciting cause of the planning of the massacre, was probably well meant, and had the soldiers been boldly used they might probably have been able to do much pending the arrival of reenforcements. Such use was not made of them owing to the cowardice of the magistrate. This viceroy's action since the massacre has been vigorous and effective, though exception might be taken to the tone of his replies to some of the consul's dispatches.

That the district magistrate, Wang Yii-yang, displayed a weakness and incompetency which proved him absolutely unfitted for any official position, and his duplicity in concealing as far as possible from his superiors what was taking place in his district can not be too strongly blamed.

That the district magistrate, Wang Ju-lin, who succeeded the above officer continued the feeble and cowardly policy of his predecessor. He found the district on his arrival in a most critical state, and he had every opportunity to report it, as the blame rested with his predecessor. Even with the force of 200 soldiers sent him by the viceroy he could with a little courage and determination have done much. In my opinion he, too, is unfit for the public service.

That the viceroy's deputy, Ho Ting, was not a strong enough man for the task intrusted to him. His conduct has, however, its redeeming points, and it is believed that he did his best to obtain at Foochow a stronger force.

That the district police master, Hi Chi-tseng, is highly to blame and deserving of severe punishment. Though not a Vegetarian himself, he is openly declared to have favored them, and was intimately acquainted with Lin Yinclim, one of the worst of the Huashan murderers. He took a prominent part in the disgraceful capitulation of the magistrate in the matter of the four arrests above described. He has been many years in Kutien, and had full cognizance of all that happened.

As regards the conduct of the officials here since the massacre I will add a few remarks:

The prefect, Ch'in Ping-chih, arrived here five days after the massacre. He appears to have acted promptly, and by the time I arrived on the scene, on the 16th of August, he had already effected a number of arrests, including the most important criminal. His refusal to allow the consuls to attend the preliminary examinations was not an absolute one, but merely a statement that he must telegraph to the viceroy for instructions before permitting it. To do him justice, he has since met all our demands with courtesy and attention, and I have no reason to complain of him, except in that I have observed a tendency on his part to make out that the Huashan massacre was the outcome of a feud between the Vegetarians on the one part and the missionaries and converts on the other. This is not borne out by the evidence. There can be no doubt that the movement was purely political, though doubtless the extirpation of foreigners formed a part of the eventual programme.

The magistrate, I Chien, who arrived on the 5th of August, the same day as the prefect, has shown himself an able and energetic official. In his capacity as presiding magistrate he has fulfilled his duties admirably, without undue severity, and with shrewdness and discrimination. I have, however, to complain of an animus on his part against the native Christians, whom he mentioned in a proclamation to the Lieu-chia, or home guards, along with the Vegetarians as persons who were to be

admitted into the guard, but of whom a list was to be kept and furnished to the magistracy.

This proclamation has been withdrawn and another substituted, omitting mention of the Christians altogether; but the incident shows that without severe warning he is not to be trusted to deal impartially with cases where converts are concerned.

I have now, I think, reported on the conduct of all the officials who are in any way connected with the circumstances which led to the Huashan massacre and with later proceedings. It is probably unnecessary to add that of any complicity with the murderers I hold them entirely innocent.

There is one remark I should like to make, and that is that the general system which removes or degrades a magistrate for any outbreak or crime which may occur in his district without taking into consideration the circumstances of the individual case, which may have been beyond his control, is answerable for the manner in which magistrates endeavor to conceal and hush up such outbreaks and crimes when free speaking would easily avert future danger.

R. W. MANSFIELD,
Her Britannic Majesty's Consul.

KUTIEN, *September 8, 1895.*

Mr. Denby to Mr. Olney.

No. 2407.] LEGATION OF THE UNITED STATES,
Peking, October 25, 1895. (Received Dec. 5.)

SIR: I have the honor to inclose a copy of a telegram dated October 20, sent to me by Consul Hixson, relating to matters at Kutien; also a copy of my telegram to the consul of October 21; also a copy of the telegram of the consul to me of October 21; also a copy of my telegram to the consul of October 22; also a copy of a telegram of the consul to me of October 23.

The "report" mentioned in the last telegram was one that was sent to me by the Tsung-li Yamên, and if necessary further attention will be paid to it after I have received Mr. Hixson's report.

In explanation of my telegram of the 21st instant I have to say that I did not deem it necessary that the American members of the commission should remain at Kutien after the English members had left.

The injuries complained of had been chiefly done to British subjects, and if the British Government was satisfied that the commission should discontinue the investigation it did not seem incumbent on our Government to continue it. I could not, however, concur in all that the British consul had done, as Mr. Hixson had strenuous objections thereto. Awaiting his report, I directed him to leave the question of concurrence open, and to attempt no final settlement until instructions were received from you.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2407—Telegram.]

Mr. Hixson to Mr. Denby.

SUI-CHOW, *October 20, 1895.*

British consul returned; says he agreed upon suggestion of viceroy that fourteen more be executed Monday; that three leaders be sent Wednesday Foochow for trial; that all remaining receive various degrees of imprisonment or banishment; that arrests be continued, and that future trials take place Foochow. Regard carrying out of this as both surrender and concession to viceroy. We not consulted before; still uncommitted. Shall we concur? Just received later date dispatch from viceroy, making no mention of agreement, but asserting rest of

foregoing stipulations. As his own decision of case Taotai announces future arrested will be examined by Chinese deputies alone in villages, and if found guilty be retried in Foochow before consuls. British party evidently intend early return to Foochow. Unfortunate complications would seem to render our efforts here worse than useless. Shall we return to Foochow or not?

HIXSON.

[Inclosure 2 in No. 2407.—Telegram.]

Mr. Denby to Mr. Hixson.

PEKING, *October 21, 1895.*

Return to Foochow if British commission leaves. Leave question of concurrence open. Government will await your report before passing on question of final settlement.

DENBY.

[Inclosure 3 in No. 2407.—Telegram.]

Messrs. Hixson and Newell to Mr. Denby.

SUICHOW, *October 21, 1895.*

British consul suddenly says return Foochow Thursday under Mr. O'Conor's orders received over week ago transferring whole case Foochow. No other explanation made for his strange action in failing to consult us concerning policy and changed base of operations. We wait instructions.

HIXSON AND NEWELL.

[Inclosure 4 in No. 2407.—Telegram.]

Mr. Denby to Mr. Hixson.

PEKING, *October 22, 1895.*

Wired yesterday. Return to Foochow.

DENBY.

[Inclosure 5 in No. 2407.—Telegram.]

Messrs. Hixson and Newell to Mr. Denby.

SUICHOW, *October 23, 1895.*

Part of report quoted inclosure your No. 97 is willfully misleading; remainder false, as shown by documentary proof. It destroys all faith in pretense of author to deal honestly with matters. Have full records of trial proceeding. Preparing to leave here with British consul in few days.

HIXSON AND NEWELL.

Mr. Denby to Mr. Olney.

No. 2408.] LEGATION OF THE UNITED STATES,
Peking, October 26, 1895. (Received Dec. 5.)

SIR: This legation has received from various points along the route telegrams reporting the progress of the American commission on its way to Szechuan.

Leaving Tientsin on the 6th instant, the commission reached Pao-ting fu on the 13th, Hui-lu on the 17th, and Tai-yuan fu on the 24th. Letters received from members of the commission from Pao-ting fu commend the courtesy and effectiveness of their escort. They have been received with curiosity but respect in the cities they have passed through and there seems no occasion to apprehend any mishap to them. The missionaries they have met along the road have expressed gratification that such a commission has been dispatched by the Government of the United States and anticipate great benefits from the favorable impression made upon the people.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

No. 2409.] LEGATION OF THE UNITED STATES,
Peking, October 28, 1895. (Received Dec. 5.)

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên, wherein it informs me that two officials have been detailed to meet the Szechuan investigating commission at the boundary of Szechuan and to take charge of the members of the commission; also that the provincial judge, Wen Kuang, has been ordered to cooperate with them in their investigations.

I know of no reason why this official should not perform the duty assigned him, though I had previously suggested the appointment of one from another province.

As, however, all the officials who were implicated in the riots have now been degraded or removed from office, it does not appear that this appointment is objectionable, while the judicial rank of the appointee will give dignity and efficiency to the investigation. At all events, if there be any valid objection to this official serving in the manner stated the commission will, no doubt, make it known.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2409.]

The Tsung-li Yamên to Mr. Denby.

OCTOBER 26, 1895.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your note of recent date stating that the American Szechuan investigating commission had started for Chengtu and thanking us for the escort supplied them. In this note you referred to your previous request that a proper official be designated to await the arrival of the commission in Szechuan and to cooperate with it in its investigations, and you asked to be informed of this official's name and rank.

We are now in receipt of a telegram from the viceroy of Szechuan stating that he has detailed Captain Su Pei-tai and District Magistrate Kang Shou-tung to proceed with dispatch to the boundary between Szechuan and Shensi and to take charge of the American officials upon their arrival at Szechuan. The provincial judge, Wen Kuang, who has been ordered to cooperate with them in their investigations, is already in Szechuan expecting them.

In sending this note for your excellency's information we renew our compliments.

Mr. Olney to Mr. Denby.

No. 1185.] DEPARTMENT OF STATE,
Washington, October 31, 1895.

SIR: I confirm on the overleaf my telegram of yesterday's date in regard to the return of the Szechuan commission.

On leaving Chengtu the commission should go to Chungking, and thence down the Yangtze to Shanghai, using all diligence on the way. From Shanghai Mr. Read and Mr. Cheshire can go to Chefoo by steamer, and from that place overland to Tientsin, if navigation is still closed at that time.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2415.] LEGATION OF THE UNITED STATES,
Peking, November 1, 1895. (Received Dec. 19.)

SIR: In your dispatch No. 1152, of September 21 last, you discuss at some length the question of the duties of the investigating commissions at Kutien and Chengtu.

You say in conclusion that "their essential function is to investigate and report to their Government, and that under no circumstances are they to participate in the judicial and executive functions of the officers of the provinces whose guilty connection with the outrages investigated may be the most important outcome of the inquiry."

By reference to my dispatch, No. 2377, of the 1st ultimo, you will find my instructions to the Szechuan commission, which I think correctly represent your views In those instructions I use the following language:

> You are not clothed with either judicial or diplomatic functions. Your particular and more important duty will be to investigate the conduct of the officials and make a report on which the Government of the United States can predicate any demand it may choose to make.

I take it for granted, therefore, that as far as the Chengtu commission is concerned I need offer no further explanation.

You say concerning the proceedings at Kutien:

> It certainly was not the intention of this Government that its commissioners should go to Kutien as participants in a local proceeding involving judicial or quasi-judicial functions.

In the Department's telegram of August 12 no specific instructions were given as to the duties of the commission. I was directed to "consult with minister of Great Britain and cooperate so far as conducive to security and welfare of United States citizens. * * * If not already done, make demands covering same points as British demand, especially as to punishment of delinquent high provincial officials."

The idea of the British minister and myself, and the crying demand of the foreigners in China, were that the criminals who had committed the murders at Kutien, should be condignly punished. I consented that Mr. Hixson should go to Kutien, to be present at the investigation, to watch the proceedings, and to urge that prompt measures be taken to bring the guilty to punishment.

All this he had the right to do under clause 2, Section III of the Chefoo convention. (See *Chronicle and Directory for China and Japan for 1895*, p. 35.) I do not understand that Messrs. Hixson and Newell exer-

cised judicial functions, though they were undoubtedly quite determined in their demands that due process of law should be followed.

When it appeared that they were asked to consider a question of clemency I immediately referred the matter to you. After receiving your instructions, on September 20, I wired to Mr. Hixson as follows:

Department wires you should discover and report guilty officials. You have no judicial or diplomatic functions. Clemency to be considered only after conviction and report of commissioners on proposal of China. Authority to you to grant clemency would narrow issue to informal administration, thereby defeating broader purpose of our Government.

In this connection I refer to my dispatch, No. 2379, of the 1st ultimo, wherein some of the telegrams which passed between Mr. Hixson and myself are set out.

I beg to say that prior to receiving your telegram, which is embodied in my telegram to Mr. Hixson of September 20, above cited, I wired to Mr. Hixson September 19 as follows:

HIXSON, *Suichow:*

My judgment is trials should proceed until all accused are tried. After judgments rendered the question of clemency should be considered. Will ask Department to instruct as to your recommending commutations.

On September 23 I wired to Mr. Hixson as follows:

You have only to let Chinese law take its course. If law awards death or other penalty, let it be inflicted. Do not discuss clemency. That is for your Government when you report facts.

I have not yet received Mr. Hixson's report of his acts and doings at Kutien.

I venture to hope that when all the facts are before you you will be satisfied that your views touching the conduct of both commissions have been substantially complied with.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Olney.

[Telegram.]

PEKING, *November 7, 1895.*

Five rioters beheaded Foochow this morning.

DENBY.

Mr. Olney to Mr. Denby.

No. 1188.] DEPARTMENT OF STATE,
Washington, November 11, 1895.

SIR: I have to acknowledge the receipt of your No. 2362, of September 21 last, and to approve your instructions to the Kutien commission on the question of clemency.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1189.] DEPARTMENT OF STATE,
Washington, November 11, 1895.

SIR: I have received your No. 2379, of the 1st ultimo, inclosing copy of a telegram to you from the Kutien commissioners, complaining that their proceedings are impeded by Chinese officials, and of your note

to the Tsung-li Yamên asking the issuance of stringent orders to the viceroy to facilitate in every way the labors of the commission.

This action on your part is approved as being in the line of the Department's instructions. Responsibility in high places must not be ignored.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1190.] DEPARTMENT OF STATE,
Washington, November 11, 1895.

SIR: I have received your Nos. 2351, 2354, 2355, 2356, 2358, 2360, 2361, 2365, 2368, 2369, 2370, 2371, 2375, and 2381. They narrate the progress of the discussion at Peking growing out of the determination of this Government to send an independent commission to Chengtu to investigate the injuries to American interests there in May and June last, and report the final organization and departure of the commission. The same continued opposition to sending a special American commission was shown by the Chinese minister here.

I have to commend the way in which you have carried out the instruction of the Department in this important affair.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1193.] DEPARTMENT OF STATE,
Washington, November 11, 1895.

SIR: I have received your No. 2380, of the 1st ultimo, reporting apprehended danger of antiforeign riots in Shansi, and inclosing copy of a note addressed by you to the Tsung-li Yamên asking the taking of stringent measures to prevent disorder.

Your action is approved.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1194.] DEPARTMENT OF STATE,
Washington, November 12, 1895.

SIR: I have to acknowledge the receipt of your No. 2350, of September 16 last, and to approve your note to the Yamên, copy of which you inclose, requesting the issuance of peremptory instructions for the summary punishment of all persons implicated in the Kutien massacre whose guilt is proven, and stating that executions will not be taken as conclusive and final satisfaction.

The views and wishes of the Department on the subject are given in instructions No. 1152, of September 21, and No. 1177, of October 23 last.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2435.] LEGATION OF THE UNITED STATES,
Peking, November 19, 1895. (Received Dec. 30.)

SIR: I have the honor to inform you that I have received a telegram from the Szechuan commission announcing its arrival at Hsi-an, the capital of Shensi. The commission is now beyond telegraphic communication. It will arrive at Chengtu in about one month. It is now about to cross the high mountains of the Si-ling range.

En route the commission has exchanged ceremonious calls with the governors of the various provinces.

I have, etc., CHARLES DENBY.

Mr. Olney to Mr. Denby.

No. 1205.] DEPARTMENT OF STATE,
Washington, November 21, 1895.

SIR: Your No. 2390, of the 7th ultimo, incloses copy of the imperial edict degrading the ex-viceroy, Liu Ping-chang, for his connection with the Szechuan riots.

The Department has read this edict with gratification. It is believed that the punishment of the ex-viceroy will be a salutary example, and that the punishment of all implicated subordinate officials is practically pledged thereby.

I am, etc., RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1208.] DEPARTMENT OF STATE,
Washington, November 30, 1895.

SIR: Your Nos. 2399 and 2400 of the 15th and 2403 of the 16th ultimo have been received. They relate to the Kutien and Szechuan investigations and the punishment of the persons implicated in the riots.

In regard to the promise made by the Yamên that all persons implicated in the Kutien massacre would be tried, it is the understanding of the Department that it includes officials as well as the people.

As to the number of persons convicted of participation in the Huashan massacre who are to be executed, the Department can not determine. Its views on the subject have heretofore been made known to you. While agreeing with you that the usual severity of Chinese laws should not be mitigated where foreigners have suffered, the Department is more especially concerned in securing Americans future safety, and in placing the responsibility for the massacre where it properly belongs, on those officials under whose protection our citizens were living and by whose culpable negligence the crime was rendered possible.

The Department accepts your views in regard to stopping the Kutien investigation whenever the British commission withdraws, unless in the opinion of our commissioners the question of responsibility for the massacre has not been fully examined into, in which case it would be proper for you to instruct them to stop their investigation only when they have received all available evidence.

The punishment of Chou Taotai, the chief of police of Chengtu, should, the Department thinks, be as severe as that inflicted on Liu Ping-chang—that is to say, he shall not hereafter be employed in the public service. The decree of October 14 is, however, gratifying.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Denby.

No. 1210.] DEPARTMENT OF STATE,
Washington, December 9, 1896.

SIR: I have to acknowledge the receipt of your Nos. 2405 and 2407, of October 23 and 25, respectively, in regard to the Kutien investigation.

With the former you inclose copy of the report of the British consul at Foochow on the conduct of the authorities of Fukien in connection with the massacre at Huashan, and in the latter you report your instructions to Mr. Hixson to discontinue his investigation when the British consul leaves.

These instructions are approved. The views of the Department touching our consul's line of action are embodied in its cablegrams of August 12 and September 19, and its Nos. 1152, of September 21; 1179, of October 23, and 1208, of November 30. These are sufficient for your present guidance.

The statement made by the British consul in his report, forwarded with your No. 2405, that "the deplorable weakness and duplicity of the local authorities (at Kutien) were the indirect cause of the massacre," has been noted as tending to show the absolute necessity of carrying out the instructions of the Department on the subject. The Department also notes the conclusion of Mr. Manfield's report as to the evident negligence of the former and the present viceroys and the various other provincial officials he mentions, and anxiously awaits the report of Mr. Hixson and Commander Newell, when it may be in a position to give you further instructions in the matter.

I am, etc.,

RICHARD OLNEY.

Mr. Denby to Mr. Olney.

No. 2451.] LEGATION OF THE UNITED STATES,
Peking, December 18, 1895. (Received Feb. 5, 1896.)

SIR: I have the honor to inclose the original of the report of Commander J. S. Newell, member of the committee of investigation on the part of the United States to inquire into the massacre which occurred near the village of Huashan, China, August, 1895. This report is full and exhaustive and is greatly creditable to Commander Newell. I instructed the commission that there should be a joint report, and I presume that there will be one, but it has not yet reached this legation. Until such a report is received I do not deem it necessary to make any extended observations on the matter involved.

The report gives a complete history of the origin of the massacre, of its perpetration, of the proceedings held before the committee, and of the conduct of the officials relating thereto.

As a result of the investigation twenty-six criminals have been beheaded.

Commander Newell states that the commission "persistently demanded that the participants in the massacre should be tried, convicted, and sentenced in accordance with the criminal code of China."

He states further that the commission regarded its duty to be solely that of investigation; and that it did not assume judicial or other functions, but recognized that the ultimate settlement belonged to the United States Government. This line of conduct accords, I believe, strictly with your instructions, which were communicated to the commission by me.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2451.]

Report of Commander Newell.

FOOCHOW, CHINA, *November —, 1895.*

SIR: I have the honor to submit the following report regarding the attack made upon missionaries residing near the village of Huashan, China, August 1, 1895.

2. Missionaries residing and working in the district of Kutien belong to the Anglican Church Missionary Society and the Methodist Episcopal Church of the United States. It was the custom of the Anglican Church Missionary Society missionaries to pass the months of July and August near Huashan, where the society had erected two foreign cottages (called chapels by the Chinese) for their use

3. Huashan village, at an elevation of more than 2,000 feet above the sea level, lies some 10 miles in a southwesterly direction from Kutien, a district city of the province of Fukien, the provincial city being Foochow, on the Min River, 30 miles from the sea, the residence of the prefect of this prefecture, as well as that of the viceroy of the province.

4. Kutien city is situated 100 miles to the north and west of Foochow, the route usually followed between the two places being by the River Min for 73 miles to the village of Sui-kow, and thence overland for 33 miles, following for the greater portion of the distance the Kutien Creek, a branch of the River Min, which, owing to its many rapids, is not navigable. Kutien City has an elevation of 1,000 feet above the level of the sea. Sui-kow is connected by telegraph with Foochow and Peking.

5. The colony of missionaries at Huashan on the day of the massacre included Rev. Robert Warren Stewart, C. M. S.,[1] his wife, Louisa K. Stewart, C. M. S., and their children, Mildred, aged 12 years, Kathleen, aged 11 years, Herbert, aged 6 years, Evan, aged 3 years, Hilda Sylvia, aged 13 months, with the nurse, Helena Yellop; Miss Hessie Newcombe, C. E. Z. M. S.,[2] Miss Elsie Marshall, C. E. Z. M. S., Miss Flora Lucy Stewart, C. E. Z. M. S., Miss Flora Codrington, C. E. Z. M. S., natives of Great Britain; Miss Mary Ann Christina Gordon, C. E. Z. M. S., Miss Harriette Elinor (Nellie) Saunders, C. M. S., Miss Elizabeth Maud (Topsy) Saunders, C. M. S., natives of Australia; Rev. H. S. Phillips, C. M. S., of England, and Miss Mabel C. Hartford, of Dover, N. H., a member of the American Methodist Episcopal Church.

6. The members of this colony, with the exception of Miss Hartford and Mr. Phillips, occupied the two foreign houses. Miss Hartford lived in a native house, leased for a number of years, situated about 150 yards to the north and west, being to the rear and considerably below the level of the foreign houses; whereas Mr. Phillips, having arrived but a few days before, was domiciled in a native house still farther removed, but in the same general direction as the one occupied by Miss Hartford from the houses erected by the C. M. S.

7. The two foreign houses, built with mud walls and tiled roofs, were one-story buildings, facing the south, with outhouses for the Chinese teachers and servants at the rear, but connected These houses were on different levels, and the front of the lower house was 15 feet to the rear of the front of the upper one, the side walls being about 8 feet apart and the difference of level of the two houses about the same. Mr. Stewart and family, with the Misses Saunders, occupied the upper house, while the ladies of the C. E. Z. M. S. lived in the lower one.

8. The usual highway to the village of Huashan passes 200 to 300 yards to the eastward of the houses and at a much higher level. Between this highway and the houses, as well as around them, except in the small ravine separating them from Miss Hartford's house, are groves of young bamboo trees interspersed with pine and other trees of a larger growth.

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[1] C. M. S.: Church Missionary Society (English).
[2] C. E. Z. M. S.: Church of England Zenana Missionary Society.

9. Between 6 and 7 in the morning of Thursday, August 1, 1895, before many of the adult members of this small colony had risen for the day, a party of Chinese, members of a sect or secret society known as "Vegetarians," armed with guns, spears, swords, tridents, knives, or heavy, sharp-pointed bamboo sticks, descended upon the two houses and attacked the occupants, stabbing, cutting, and beating the latter.

10. The attack ended by the looting and burning of both houses, also in the robbery of the dead and living. During the melee at least one member of the attacking party rushed to the house where Miss Hartford was living and made a most determined attack with murderous intent upon this lady, and to the prompt intervention of the wife of her native teacher, and also of her native servant, Miss Hartford undoubtedly owes her escape from death.

11. This fiendish attack resulted in the killing of Mr. Stewart, Mrs. Stewart, the nurse Lena, the Misses Newcombe, Marshall, Stewart, Gordon, and the Misses Nellie and Topsy Saunders, nine adults; and the wounding of the Misses Codrington and Hartford and all the Stewart children, two adults and five children. Herbert Stewart died the second day after the attack and the baby one week after reaching Foochow, swelling the number of deaths to eleven. Mildred Stewart will be lame and probably disfigured for life. The bodies of Mr. and Mrs. Stewart and those of Miss Nellie Saunders and the nurse Lena were consumed in the burning house. Miss Newcombe's body was found down an embankment to the south and east of the lower house; the remaining bodies were grouped to the rear of the upper house.

12. Mr. Phillips, whose escape from attack can only be attributed to his late arrival and the ignorance of the Vegetarians as to his presence, attracted by the noise and uproar ran toward the scene from the native house in which he was dwelling, meeting the native servants of Mr. Stewart, who advised and tried to prevent his going, saying that the Vegetarians had come. He pushed on until within sight of the houses, when, seeing a great number of natives surrounding the houses carrying bundles, but no foreigners, he concluded that the inmates had made their escape. Mr. Phillips then continued on, passing around the hill at a much lower level than the houses, and reaching the side opposite to that of his approach he took refuge in the bamboo grove behind two trees, where he was an eye witness of the conflagration. Soon after this a horn was sounded and the Vegetarians took their departure. Shortly afterwards, seeing no one about, Mr. Phillips left his hiding place and approached the houses. Meeting a servant who informed him that the survivors had taken shelter in Miss Hartford's house, he at once went there and rendered such service as he could to the sufferers, and to his presence and efforts Miss Codrington unquestionably owes her life. Mr. Phillips as soon as possible sent messengers to Dr. Gregory, the only foreigner nearer than Foochow, and to Foochow with the news of the massacre.

13. Dr. J. J. Gregory, M. D., in charge of the hospital at Kutien, built and controlled by the American Methodist Episcopal Church, was first informed of the outrage shortly after noon of the fatal day by a native, followed a few minutes later by the messenger from Mr. Phillips, who brought a hastily written and brief note confirming the sad news. Dr. Gregory immediately went to the yamên of the district magistrate, and by his persistent and urgent demands succeeded in having an official (the magistrate), with a guard of soldiers, sent to the scene; then, obtaining chair carriers and a small guard for himself, he started for Huashan, and reached the wounded at 8 that evening. First giving the sufferers the attention needed, he then with great difficulty obtained the necessary manual assistance from the villagers and soldiers to prepare the remains for transportation, placing the bodies in coffins and the incinerated remains in boxes, and to carry the same to Sui-kow.

14. At 3 p. m. on the 2d of August the remains were sent to Sui-kow, followed soon after by the wounded, attended by Dr. Gregory and Mr. Phillips. Herbert Stewart died from his injuries soon after the journey began. Arriving at Sui-kow at 8:30 a. m. on the following morning, the wounded were placed in boats that had been pressed into service by order of the magistrate, and not waiting for the bodies, the wounded left Sui-kow that afternoon on their trip down the river Min. On the next morning a steam launch towing a house boat taking the prefect, Ch'in Ping-chi, to Sui-kow, was met. Dr. Gregory requested that the launch be detailed to tow the boats with the wounded on board, in order to hasten the arrival at Foochow, the heat being intense and the wounded in need of immediate relief. The prefect replied that he would, upon his arrival at Sui-kow, immediately send the launch back. As this meant a prolonged trip, and the boats could easily float down the stream to their destination in less time than it would take the launch to go to Sui-kow and return, Dr. Gregory peremptorily demanded the use of the launch at once (before this, at the invitation of the doctor, the prefect had taken a look at the wounded, and should have recognized the gravity of the case). The prefect reluctantly yielded. By the aid of the launch Foochow was reached at 1.30 p. m. the 4th of August. Before reaching Foochow a steam launch sent by United States Consul Hixson, having on board United States Marshal Hixson, Archdeacon

Wolfe, Church Missionary Society, and Rev. W. Banister, Church Missionary Society, was met bringing supplies and assistance to the party; shortly afterwards the house boat of Mr. A. W. V. Gibb, in which this gentleman had promptly come to meet the party with more supplies, was met. At Foochow the party was met by the United States and British consuls and a large party of sympathetic friends, the wounded being immediately transferred to the hospitals. The baby died within a week. The eleven graves in the quiet burying ground at Foochow will tell for years to come their mute story of the terrible tragedy.

15. The statements of the survivors, Misses Hartford and Codrington, Kathleen Stewart, and Rev. Mr. Phillips, as well as that of Dr. J. J. Gregory, are appended to this report and marked A, B, C, D, and E.

16. The village of Huashan is small—300 inhabitants—and lies on the opposite side of a deep ravine from the foreign houses, the communication between the two being by the main highway that winds around the sides of the ravine. A few straggling houses on the same side of the ravine as the foreign ones stretch along the highway. This village has never been a fruitful field for mission work; a Catechist was maintained there for several years by the Church Missionary Society, but two natives were baptized, these having renounced the Christian religion. The Catechist was sent elsewhere and the field abandoned. This location of the foreign houses as a sanitarium can hardly be said to have been among friends or sympathizers.

17. Having been notified on the 12th of August, the day the *Detroit* arrived at Pagoda anchorage, Min River, by United States Consul J. Courtney Hixson of his intention, under the orders of the United States minister, to proceed the next day to Kutien to begin an investigation into the massacre, I offered, if there were no objection, to send an officer to accompany him; as there was none, but on the contrary being assured that such action would be most agreeable, I directed Ensign Waldo Evans, United States Navy, to accompany the consul unofficially, in order that I might be informed as to the condition and progress of affairs. The United States and British consuls left Foochow on the afternoon of the 13th of August, and reached Kutien the evening of the 16th, having been met some distance outside of the city by a party of native Christians who came to welcome them. Having received after the departure of the consuls telegraphic instructions notifying me of my appointment as a member of the American committee, I was able to join (the viceroy delaying me by his objections) the United States consul at Kutien in the evening of the 27th. The consuls had been instructed to cooperate in the investigation.

18. I found both consular parties domiciled in the houses of the American Methodist Episcopal mission, the only foreign houses within the city walls, those of the C. M. S. being without the city and on the opposite side of Kutien Creek. The parties were composed as follows: American, Consul J. C. Hixson, Commander J. S. Newell, Dr. J. J. Gregory, M. D., Ensign Waldo Evans, Dr. E. G. Hart, M. D.; British, Consul R. W. Mansfield, Vice-Consul E. L. B. Allen, Rev. W. Banister, C. M. S., and Rev. L. H. Star, C. M. S.

19. Dr. Hart, of the Methodist Episcopal mission, the intended relief of Dr. Gregory, at my request accompanied me from Foochow. Dr. Hart and Mr. Star returned to Foochow September 11, the former returning to Kutien September 27, and again leaving October 5. Vice-Consul Allen returned to Foochow October 5, his place being taken by Mr. G. D. Pitzipios, an assistant in the British consular service at Foochow, who arrived the next day. Ensign Evans resumed his duties on the *Detroit* October 6. Consul Mansfield and Mr. Banister went to Foochow October 11, returning the 18th. While there the consul had an interview with the viceroy, when the final punishments of the participants in the Huashan affair were agreed upon, the United States committee being no party to the agreement.

20. On October 26 both parties withdrew from Kutien, reaching Foochow the next day, having passed sixty-one days in Kutien, twenty-eight of which were spent in the trial of prisoners.

21. The day after the arrival of the consuls the prefect, Ch'in Ping-chi, called, followed the next day (the 18th) by the district magistrate, I Chien. These calls were returned the 19th. From these officials it was learned that 16 arrests had already been made; that warrants had been issued for all that went to Huashan that fatal morning; that soldiers had been stationed throughout the province to aid in making arrests; that word had been sent to adjoining provinces to apprehend all escaping fugitives, and that large rewards had been offered for the arrest of the leaders in the Huashan affair.

22. Objections were raised by the prefect to the consuls attending the trials, their request to be present being refused on the ground that the viceroy's instructions did not permit, but upon the consuls' emphatic declaration that they had a right to be present, the prefect communicated with the viceroy and the trials before the consular parties began on August 21.

23. The consuls claimed the right to be present at all trials of arrested suspects,

which was agreed to by the prefect. The plan followed was that the accused, when first arrested, should at once be examined by the magistrate or deputy to avoid collusion with other prisoners, then to be examined in open court before an investigating committee.

24. To a clear understanding of the origin of the movement that culminated in the horrible affair of August 1, 1895, it is necessary to look into the life of the Vegetarians in the district, and to examine into the incidents and events that transpired a few months prior to the massacre within the district of Kutien, as well as to inquire into the conduct of the officials charged with the maintenance of peace and the execution of the laws in this prefecture; to this end a brief synopsis of events will be of interest.

25. The tenets of the "Vegetarian Society" or the "T'sai Hui" prohibit the killing and eating of all flesh meats, the use of opium, wine, and tobacco. This organization has its passwords and ritual; the records and minutes of all meetings are burned at the closing of each sitting. For many years the headquarters of the society were in the Chianghsi Province, from whence the order was extended to other districts.

26. In 1892 a propagandist, Liu Hsiang-hsing by name, established the society in the districts of Kutien and Pingnan. As a result of his teaching and the earnest work of his followers in the two districts, the Vegetarians numbered at the beginning of this year, at the least estimate, 3,000. The society, however, did not attract attention till the latter part of 1894, when by the lawless acts of its members it gained much notoriety, and its members increased rapidly in number. By lawless acts the society terrorized the people, attracting many of the evil disposed to their ranks.

27. The great attraction at first was evidently the reputed cure of the opium habit, not so much for delivery from the baneful effects of the drug as for release from the expense which the use of the drug entailed upon its consumers. This reputed cure alone attracted a worthless and shiftless class of people. In spreading the order, many irresponsible and dangerous persons were led to follow itinerant pursuits, and thus gain acquaintance with the worst elements of society throughout the districts, which elements sooner or later became members. Each new member is introduced by a petty leader, known as a Yin ching, and at once becomes his blind follower—"if we live, we live together; if we die, we die together," being inculcated. New members go on probation for a certain period, to be admitted to full membership at the general meeting held at the option of the leaders. A part of the initiation at these meetings (known as Yang kwang) was that the candidate remained in bed in a dark room for a week and only saw his yin ching who attended to his wants. Many continued probationary members because of their failure to abstain from the use of opium or meat.

28. Emboldened by the successful spreading of their doctrines and elated by the accession of many members, the society became one for mutual aid and support. Its members, bound by stringent oaths, under fear of personal torture, violence, and death, were forced to obey all calls of their leaders. They undertook to settle all disputes between a Vegetarian and outsiders without appealing to the law, by force often, with the result that robbery, arson, and even murder were the methods employed.

29. As instances of the mutual benefits of the society, there may be mentioned that in August, 1894, a Vegetarian had a disagreement with a native convert of the Anglican communion residing at Hia Tien-p'ing, a small village 11 miles to the east of Kutien city; the former, calling to his aid some fellow-members of the society, looted the Christian's shop and threatened to burn it. The native convert sought redress by bringing suit before the district magistrate, Wang Yu-yang, who failed to give the case a hearing. Owing to the steps taken by the native Christian, the ill feeling became stronger and culminated early one morning in the ensuing October in the gathering of Vegetarians from the neighboring villages to the number of about one hundred in the rice fields of the Christian, when at a signal, the firing of a gun, the Vegetarians cut and removed the entire crop of ripe rice. This act not only inflicted personal damage to the owner, but deprived the Government of its lawful tax upon the same. Suit was again brought and one Vegetarian was arrested.

30. In December, 1894, while members of the society were holding a meeting in Kutien City the district magistrate, Wang Yu-yang, acting upon the advice of his confidential secretary, Chiang, the chief runner of the yamên, caused the arrest of four Vegetarians for using seditious language; each of these arrests was whipped and imprisoned in the magistrate's yamên. A few days later the Vegetarians assembled, to the number of about 100, and entering the yamên showed their contempt for that official as well as for the law by demanding the release of their fellow members. Afraid to resist or ignore the demand, the magistrate entertained the request, and through the medium of Ho Ts'ung-lung, a military officer, Li Ch'i tseng, city magistrate, and Lang Chih-jin, a graduate, who acted as go-betweens or interceders, Liu Hsiang-hsing, Yeh Shu-ming, Yu Hsun-yang, and Cheng Sui were released and

sent out of the yamên in chairs trimmed in red. The secretary, Chiang, for his vigilance was whipped and dismissed from the service of the yamên. Thus humiliated, the magistrate showed his weakness; and the residents having lost confidence in the magistrate feared to bring their grievances before him for settlement. Many Vegetarians arrogated to themselves the rights of graduates, wearing insignia. They became loud in their demands, and when not acceded to they compelled compliance with force. This state of affairs induced many people of good intentions and well-to-do to join the society for protection. The British consul informed the Foochow authorities of what had occurred, and it is believed that they called for a report and, undoubtedly to conceal his humiliation, weakness, and disgrace, as well as the growing strength of this society, the magistrate made such a report as pacified the authorities.

31. At this time the walls and gates of the city being in a dilapidated condition, the magistrate levied a tax to repair the same, and work was begun at once. Anticipating the completion of the repairs, the magistrate sent the draft of a proclamation to the engraver, giving the information that he, the magistrate, was ready to consider the charges then pending at the yamên against Vegetarians, and calling upon all interested to appear. It was the magistrate's intention not to issue the proclamation until the repairs to the wall and gates of the city had been completed. The contents of this proclamation becoming known to the Vegetarians before the engraver had finished his task, anonymous small red placards, "Officials oppress, people rebel," were posted in several parts of the city. These placards, directed against the magistrate, accused him of persecution, and announced the intention of making war against him, thus openly defying the law and endeavoring by seditious words and threats to intimidate the man. These placards, although unsigned, were attributed to the Vegetarians. This suspicion was confirmed by the testimony brought out before the court.

32. In March, 1895, it was reported that the Vegetarians were assembling in the seventeenth township, 10 miles from Kutien, and it was rumored that their intention was to attack the city, killing the district magistrate and several of the head literary men. These rumors caused great alarm. About this time Liu Hsiang-hsing, the propagandist, gave his relative, the city magistrate, Li Ch'i-tseng, information of the intentions of the Vegetarians. This magistrate immediately bundled up his goods, and sending for burden bearers directed that the goods be delivered at Suikow before evening. A disturbance arising, the bearers declined, and the goods were not taken, but the eight loads were moved into the Fan Ch'un drug store, and the magistrate's family took up their abode in another quarter of the city, at the house of Ch'ing Sin, the head man of the chair coolies. This act was most suspicious, and the district magistrate, knowing about the placards, hearing the rumors, and learning of the action of the city magistrate, closed at once the city gates, barricading them, and ordered the city wall to be constantly patrolled by several hundreds of men levied from the Lien-chia or home guards. All foreigners living outside the city walls were called in by the authorities and took up their residence within the city wall. Heavy wooden bar gates were soon after erected throughout the city abreast the fire walls, and the practice since has been to close these gates at night.

33. Alarmed by this condition of affairs, the district magistrate, Wang Yu-Yang, sent a dispatch to the viceroy, T'an Chung-lin, at Foochow, asking for soldiers. Hearing of this, Tseng Kuang-kuei, a rich citizen living in the First ward, sent word to his brother, Tseng Kuang-tou, a third degree man in office at Foochow, to use his best efforts to prevent the sending of troops, as they were not needed. Li Ch'i-tseng, city magistrate, also endeavored to prevent, and advised against the sending of soldiers. Considering the disorganized condition of the city, these acts are most reprehensible.

34. A messenger (one of his soldiers) was sent by the military officer Lin I-hsiung to the place of assembly of the Vegetarians to invite Liu Hsiang-hsing, Tai Jih-chin, and Tang Ch'un, leaders, to come into the city and confer with the district magistrate, Wang Yu-yang. Arriving at the yamên, these leaders disclaimed any intention on the part of the Vegetarians to attack the city. The magistrate then required security for the maintenance of peace and good faith on the part of the Vegetarians, informing them that without security he (the magistrate) dare not open the gates. (The stock of rice in the city was rapidly diminishing, and some of the inhabitants demanded that the gates be opened to admit rice.) Difficulty was experienced in obtaining security. Finally, however, Lin Te-kang and Cheng Lan, yamên runners, became sureties for the Vegetarians; the gates were then opened, March 29, 1895, and the patrol of the wall ceased.

35. Receiving a report from the late Mr. Stewart concerning this state of affairs, the British consul, about April 1, called the attention of the Chinese authorities at Foochow to the perturbed condition at Kutien, and on the 1st of April the British consul addressed a letter to the viceroy, T'an Chung-ling, strongly urging the sending

of soldiers to Kutien to secure peace, and for the protection of foreigners. To this letter the viceroy replied two weeks later saying that he had sent an official to Kutien to inquire into the condition of affairs there; that this official had returned reporting that all was quiet, and that there were no grounds for the disquieting rumors. The official, Li Sen-sang, sent to inquire into the situation, arrived in Kutien early in April, and after a stay of only one day returned to Foochow and reported that the condition of affairs did not call for the sending of soldiers. Evidently a gross misrepresentation and concealment of facts, or else the criminal inefficiency of Chinese officials, the district magistrate, the official inquirer, or the viceroy must assume the responsibility, or share it.

36. In March, 1895, on account of reports from various parts of the province and the rumors flying about concerning the menacing attitude of the natives, the United States consul had several interviews with the president of the foreign board at Foochow, Taotai Ch'en, in regard to the unsettled condition of the province, and urged that immediate steps be taken to inquire into the condition, and to suppress the existing lawlessness. On April 1 the consul received a letter from Dr. Gregory detailing the events then transpiring in and about Kutien, referred to in paragraphs 32, 33, and 34, and immediately called upon the foreign board and preferred the request that soldiers be sent at once to Kutien. To this the president agreed and said that they should be sent. Consul Hixson, suspicious that the soldiers might not be sent or that their departure would be delayed, asked that he might be informed of their departure. A few days later Taotai Ch'en sent a deputy to inform the United States consul that agreeably to his request 400 soldiers had been sent. Influenced by the condition of the province, Consul Hixson called all American citizens to come within the limits of the treaty port of Foochow. This call was obeyed by all residing in Kutien or the vicinity except Dr. Gregory, who came as far as Suikow, and hearing that affairs had quieted down after the opening of the city gates, returned to Kutien. Miss Hartford, who had frequently claimed that it was perfectly safe, soon afterwards returned to her post. Considering all this the question would naturally be asked, Why did the missionaries not realize the gravity of their situation? It can only be answered that for many years the province of Fuhkien has been considered as most peaceful, and a fruitful field for sowing Christianity. Lulled into security by the records of the past, they were too confident as to the future, and therefore did not give to current events that importance which after events would have justified.

37. It would seem that the viceroy, T'an Chung-ling, must have been aware of the condition of affairs and the inefficiency of the district magistrate, Wang Yu-yang, for the latter was removed, and Wang Ju-lin succeeded him in May, 1895. The call for soldiers was not answered by the sending of troops. It is relevant to mention here that about the 1st of May Viceroy T'an Chung-ling was transferred to Canton and Pien P'ao-ch'uan became viceroy of this province.

38. Shortly after his arrival the new district magistrate, Wang Ju-lin, began his rounds collecting taxes. In the latter part of June, while in the village of Hsi-yang, 30 miles from Kutien, receiving word that a murder had been committed in the village of Cho-yang, some 6 miles away, he sent runners to investigate the crime. After arriving the runners found that a misunderstanding regarding money matters had arisen between two natives, both heathen, but one a Vegetarian; the latter, assisted by some sixty or seventy members of his society, armed with spears and swords, had attacked the barricaded house of his enemy, forcing their way in, wounding several men, and killing one man, after which they withdrew, looting such articles as were in reach. The runners were prevented by the Vegetarians from making any arrests. Upon hearing this the magistrate, Wang Ju-lin, immediately reported the case to the viceroy, asking for troops. After the murder at Cho-yang a number of robberies by the Vegetarians elsewhere in the district of Kutien were reported.

39. The viceroy, Pien P'ao-ch'uan, in answer to the report of the district magistrate, Wang Ju-lin, sent Ho Ting, a former magistrate of this district, to investigate the report. Ho Ting, after inquiring into the murder, finding that one hundred or more cases against Vegetarians were then awaiting examination in the yamên, requested that 1,000 soldiers be sent to Kutien. In reply to this request Col. T'an Yu-te, with 210 soldiers, arrived in Kutien July 23. After the arrival of the soldiers the deputy, Ho Ting, issued a proclamation, calling upon all persons interested in cases pending before the yamén to appear. The arrival of the soldiers, together with the proclamation of Ho Ting, gave the Vegetarians the idea that they would be attacked. The Vegetarians attributed to Mr. Stewart and other foreigners the responsibility for the coming of the troops, and asserted that the missionaries had furnished the funds necessary.

40. The soldiers after their arrival made some pretense at drilling and firing; no effort, however, was made to arrest anyone, and they remained within the city limits, although it was well known that no Vegetarian had answered the deputy's summons, and furthermore that the members of this society were assembling at Kung shan

ch'i, a mountain 15 miles north and east from Kutien, on which were a number of cattle sheds; this position the Vegetarians proceeded to fortify. In assembling the Vegetarians were seen, by day and by night, passing in armed squads through the district toward their mountain fastness; this movement so alarmed the inhabitants of the villages near this rendezvous that they kept watch night and day, and many families on hearing rumors of attack moved away. The residents of An chang village, becoming alarmed, prepared to make a defense; a member of the Lien-chia from this village with a native Christian preacher on July 30 visited the magistrate's yamên in Kutien and informed this official that it was reported that the Vegetarians assembled at Kung shan ch'i intended making a descent upon their village to destroy the chapel and plunder the inhabitants, expecting to obtain money, as a rich man lived there; they begged that soldiers might be sent for their protection to arrest the Vegetarians assembled at the fastness. The magistrate, Wang Ju-lin, much alarmed, went to Deputy Ho Ting and reported the situation; the city magistrate, Li Ch'i-tseng, being present, made light of the matter and persuaded the deputy that there could be no truth in the report. No soldiers were sent, but a few policemen were sent by the magistrate, and they passed the night in the chapel. An chang village is situated between Kung shan ch'i and Huashan, on the road followed by the Vegetarians on their march to Huashan. Had the appeals from this village received proper attention the massacre might have been prevented, for armed Vegetarians to the number of 298, by actual count, passed that night (July 31) on their way to Huashan.

41. Owing to the frequency of disquieting rumors regarding the threatening attitude of the natives toward foreigners in the interior of the province, and also the dilatoriness displayed by the authorities in the settlement of the numerous cases referred to them by the consul, Mr. Hixson, on July 27 last, addressed a letter to the Viceroy Pien P'ao-ch'nan urging the prompt taking of strong measures to correct the growing menacing attitude toward foreigners.

42. Early on the morning of August 1 the massacre took place, and on the 3d this body of rebels dispersed.

43. Before proceeding to the trials of those implicated, this act of Li Ch' i-tseng, city magistrate, should be recorded: When Dr. Gregory appeared at the yamên on the day of the massacre to report the horrible deed and to get assistance, the city magistrate, Li Ch' i-tseng, was present and immediately began to contradict the report, assuring the deputy that it could not be true.

44. Soon after the massacre District Magistrate Wang Ju-lin was removed and I Chien, appointed in his place, arrived in Kutien August 5; Ch'n Ping-chi, the prefect, reached Kutien on the 7th of August.

45. 207 arrests have been made and 88 cases tried before the committee. Most of the arrests have been made by the "Lien-chia" or home guards established in each village, and delivered at the yamên of the district magistrate, Kutien. Soldiers were sent out and distributed over the province to prevent the escape of suspects and to assist in arrests. Rewards have in many cases led fellow-villagers or acquaintances to track a suspect; and they have led in some cases to altercations between the soldiers and the captors, the idea being that the one who delivers the prisoner to the magistrate is entitled to the reward; in one altercation the shoulder of one of the Lien-chia was cut by a native sword. The lawless acts of the Vegetarians, together with the rewards offered, can be assigned as reasons for the activity in making arrests. In some cases a father or a brother was arrested with a view of having a guilty son or brother surrender himself. Owing to the strong sense of filial duty in the Chinese, which impels or prompts great personal sacrifices for family, even to the selling of one's life as a substitute for execution, this plan was very effective.

46. Ten suicides to prevent arrest (two by hanging and the rest by starvation in the mountains) have been reported; and after arrest, before trial, several attempts at self-destruction have been made; one by cutting the throat failed, the cut healed and the culprit, one of the actual murderers, was brought to trial and executed; another by an overdose of opium robbed the law of a victim whose destiny would undoubtedly have been decapitation.

47. The Chinese are entitled to credit for the commendable speed with which arrests were made at first—193 arrests were made prior to September 21; of these, 43 went to Huashan. Since September 21, few if any arrests have been made although the evidence before the magistrate's court implicates over 100; attention has frequently been called to this, still few arrests have been made. Information from other sources swells this number.

INFORMATION SOURCES.

48. For thirty years or more the missionaries have labored in this district, and the followers of the two missions aggregate between 3,000 and 4,000. These native Christians have at all times been most alert in furnishing names and information

concerning those engaged in the massacres, enabling the committee to begin its labors intelligently and to keep the officials ever mindful that it was possessed of information for which it was not indebted to them. The ignorance of the extent of the information in the hands of the committee acted at first as a powerful incentive to press the work of apprehension and trials; which with good cause might, had it been otherwise, have dragged on; particularly so had the committee been dependent solely upon the testimony elicited at the trial.

49. Native Christians have come freely before the committee, giving information as to matters under investigation and have induced heathen natives to do the same. These witnesses from wise and prudential motives can not appear at the magistrate's court. The committee is at liberty to make use freely of such information, but not to incriminate the witnesses by giving their names.

50. From these sources the committee has always been informed of any movement or action on the part of the authorities tending to delay the work of the investigation, to cripple or render nil the good effect produced by it presence.

51. Furnished at the beginning with a long list of names of those who belonged to the Vegetarian Society, that assembled at Kung shan; of those that went to Huashan, that took active part in the bloody affair; and, finally, of those who were or had been in possession of loot—the committee has been most materially assisted in its work and enabled to commence the investigation with a fair knowledge of the case.

OBSTACLES.

52. At the beginning the prefect, Che'n Ping-chi, official in charge, refused to allow the consuls to be present at the trial, and, furthermore, denied their right to be.

53. During the trial in the latter part of August the magistrate I Chien issued a proclamation, accompanied by instructions to the head of the Lien-chia, in which Vegetarians and Christians were specifically mentioned—the former, if disposed to do well in the future, would be allowed to enter the "Lien-chia," the latter could also be enrolled, but the dates of birth and of becoming Christians must be registered. This had a baneful effect, at once rehabilitating the Vegetarians and checking the arrests, dampening the ardor of the "Lien-chia" and arousing suspicion in the minds of the Christians, marking them as a special class, for frequently even in the vicinity of the magistrate's yamên threats had been made that when the Huashan case should have been concluded and the committee have taken its departure the Christians' turn would come. Objections were at once made to this proclamation and accompanying instructions; their recall was demanded and the issuing of a new proclamation with instructions insisted upon in which no allusion whatever should be made to Christians, while forbidding the enrollment of Vegetarians until they had, after a probationary period of one year, given evidence of their intention to be law-abiding, and then only after consulting the consuls. The prefect, Che'n, on September 5, having agreed to this, submitted a draft for approval coinciding with the views expressed by the committee; the draft was approved and returned to the prefect, who assured the committee that the objectionable one would be immediately recalled and replaced by the one approved.

54. On September 12, the obnoxious proclamation not having been recalled or the approved one issued, the committee invited the attention of Taotai Hsü, who had arrived but two days before, to this neglect on the part of the prefect. The taotai, being apparently in accord with the committee, consented to recall the obnoxious proclamation and instructions, and to replace them with those of his own. A few days afterwards he submitted a draft for approval, and after consultation with and the concurrence of the committee, he issued the new proclamation, furnishing the consuls with official copies. Greatly to our surprise on the 24th of September the committee received information that the magistrate had again issued a proclamation on the lines of the first one, ignoring that of the taotai, from which nothing had been heard besides failing to recall the original. Upon calling the attention of the taotai to this act on the part of the magistrate, he (the magistrate) hurriedly sent, that same night about midnight, and recalled the second proclamation and instructions, then denied ever having issued them. The taotai, in reply to the communication addressed to him upon the subject, said the magistrate denied having issued any such proclamation, but had punished his writer or secretary for the same, accusing him of stealing his magisterial seal and placing it upon a proclamation of his own fabrication, without the consent or knowledge of the magistrate. It was two weeks after this occurrence, and only after repeated and persistent demands were made upon the taotai, that the obnoxious proclamation and instructions first issued were recalled, and not until the last one was brought in was any new one issued; thus fully six weeks the obnoxious proclamation and instructions remained in force at a critical period of the trial, producing a bad effect from which the investigation suffered to the end—arrests were virtually stopped.

55. During the trial very early in September some 48 suspects were released from arrest; some of these released suspects went home, breathing threatenings by the

roadside, publishing to those they met that the Christians had had their turn, but, after the close of the trials and the departure of the committee the Vegetarians would have their inning, and the Christians would then be dealt with for all that had been done against the Vegetarians. These threats having been brought to the attention of the committee, upon inquiry the release of the suspects was revealed. The officials, when confronted and their reason demanded for turning out these suspects contrary to previous agreement (see par. 23) without consulting the committee, replied that there being no evidence against them, and the prison being crowded, they were allowed to go upon security. It was found that some of those who had been released were guilty of complicity in the Huashan attack, having had loot in their possession. The return to jail of those released was demanded, and the officials were informed that no more releases would be permitted except after examination in open court. The officials wrangled and argued, but finally consented to the rearrest of the released parties. The return of these suspects was exceedingly slow, only nine of the number having been returned to jail within a week of the demand, and to the time of withdrawal from Kutien the majority were still free.

56. Although repeatedly asked for, a list of persons arrested and held in the Yamên jail was not obtainable until a month after the trials commenced; frequent requests to be notified daily of the new arrests elicited but few stray lists.

57. It was noticeable that the prisoners when brought into court would say to each other, "Tell what you saw, but not what you know." As the trial progressed it was noted that there must be more or less intercourse between the prisoners; that some were poorly fed; that others were very dirty; some were handled roughly, while others were treated with more or less deference; the policy of the prisoners was, with little doubt, outlined by someone or previously agreed to among themselves. The testimony of some prisoners brought into court was often contradictory, evasive, and impossible to be true—one minute admitting their presence at the massacre, the next denying the same, and yet with all this their random answers to questions showed a knowledge of events which only a personal presence could have given. The prisoners were mostly ignorant and of the lower and laboring classes, constantly pleading that on account of their illiteracy their memory was feeble, forgetting that without the aids of education the senses of memory and sight are most keenly developed.

58. After the arrival of Hsü Taotai, the prosecution on the part of the Chinese officials very perceptibly lagged. To explain this partly, the viceroy's position, as announced to the committee by Hsü Taotai September 27, was that the massacre was considered by him as an ordinary murder, and the culprits were amenable only to the law applying to such cases. This opinion was contrary to the acts of his subordinates, the taotai, prefect, and district magistrate, as well as to their frequent declarations officially made in open court. Their only desire, at least as regards the magistrate and his deputies, seemed to be to make the testimony of the different prisoners agree in minimizing the number of participants in the massacre, and in strenuously avoiding any reference to the society, its origin, motives, and acts prior to the fatal occurrence. It is confidently believed that the testimony is falsified in order to produce harmonious statements, thus agreeing with the ethics of Chinese law.

59. The number of persons who started from the fastness for Huashan and the number reaching and present at the massacre suffered diminution as the trials progressed. The first prisoners examined gave more than 200 as the number that started, and considerably over 100 that arrived, while later this number diminished one-half at least. From outside sources, by actual count, nearly 300 started and on the return 120 stopped at a certain village for the mid-day meal, where they were counted. From the testimony of prisoners and others, the efforts of the officers and their subordinates were directed toward minimizing the numbers engaged. They fixed upon the number of 60 or 70 as those who assembled at Huashan, which I believe to be about one-half the correct number. Often was this number admitted by prisoners, and from outside sources it was confirmed. The magistrate and his deputies frequently so framed their questions as to convey the answer desired. This was particularly so in reference to numbers engaged. Deputies, sent to neighboring villages to make inquiries, performed their duties in a perfunctory manner, leaving the work to their runners and interpreters to do. In one case it was brought to the notice of the committee that at the village of Ta-ch'en the deputies arrived at 5 p. m., leaving at 9 the next morning; that the examination ended by getting a statement from the head men, prompted by the interpreter, to which the name of one of the Christians was forged. The other Christian signed under coercion.

PROCEDURE.

60. The accused examined first by the district magistrate or his deputy is, in accordance with Chinese custom, required to confess. This confession, often confirmed by confrontal with other prisoners, establishes the guilt. If guilty, the accused is required to sign his confession by an imprint of the left open hand, inked for the

purpose, which signifies that "This is true," and from it the accused is not allowed to recede. After the first examination the prisoner is then brought before the investigating committee, in open court, and is questioned by the Chinese officials upon his confession, the questions being asked in a manner to bring out answers confirming his confession. This being done, the consuls then questioned and cross-examined the accused. Frequently other prisoners were introduced for purposes of identification and confrontation, to incriminate others or themselves as well as to elucidate testimony.

THE EVIDENCE.

61. The evidence, consisting of the statements of the survivors, the testimony deduced on trial, and that obtained from outside sources, shows that advantage was taken of the presence of soldiers in Kutien for the Vegetarians to assemble in large numbers at Kung shan ch'i (fastness). The leaders issued slips or notices to the yin-chin (petty leaders) to bring their followers to the fastness. Many were invited by word of mouth to see the military adviser, Cheng Chiu-chiu, to assemble, or commanded to assemble. The query as to cause or reason for thus assembling met the reply that the soldiers had come to arrest all Vegetarians, and it was therefore necessary to defend themselves. Under this pretext many returned to their homes to obtain arms and food. The information gained by the committee, from the evidence of the prisoners tried and from other sources, point to a general uprising, in which other districts and provinces were expected to join. As near as we can judge, it was to have occurred during the eighth moon (October).

62. Cheng Chiu-chiu, known as "Long Finger-nails" on account of the great length of his nails (three inches long on left hand), under the guise of a fortune-teller, reached the district of Kutien during the sixth moon (July) of this year, and shortly after the leaders evidently came together and the planning and plotting began. He was supposed to be a great military leader. The previous history of this man is shrouded in mystery; partially educated, being both mentally and intellectually the superior, as well as physically the inferior, of any other prisoner that was brought before the committee, he talked readily and most glibly, was conversant with the mandarin, as well as with the local dialects, and it is believed that he was not known as a Vegetarian to those actively engaged in the massacre. It is possible, however, that he may have been a member well advanced in the society, or else the readiness with which he attracted and made use of its members can not be easily understood. He evidently was an emissary sent for the purpose of inciting rebellious acts in this district. It is stated that he came from the west gate of Foochow. No attempt was made by the officials to obtain the history of this man that the committee is aware of.

63. Associated with Cheng Chiu-chiu in planning and organizing the massacre were Tu Chu-yi, Liu Hsiang-hsing, Lin Hsiang-hsing, Yao Pa-chang, Chang Chi, Tai Nu-lang, Yeh Fu-tieh. All of these except Cheng Chiu-chiu and Chang Chi, visited Huashan and took active parts in the attack. The latter, formerly head runner in the magistrate's yamên at Kutien (but dismissed), one of the leading Vegetarians, and mixed up in rebellious acts prior to this, denied the former's claim, and disagreed with the plans proposed. He was the one who gave information to Anchong village of the contemplated attack, and was selected to carry a letter to Foochow. Opening the same, he returned and disputed with the others, threatening to kill Tu Chu-yi and others. The committee surrendered all claim to this man as a participant in the massacre. He was held by the Chinese, and executed for his previous acts. As a result of the call sent out, over 300 members of the Vegetarian society gathered at some cattle sheds on the top of Kung shan ch'i during the last week of July, 1895, where they were armed.

64. To carry on an open rebellion and to defy the soldiers, money and food were necessary. To obtain these, robbery was resorted to and certain villages, where there were rich men, were selected as objects of attack. Cheng Chiu-chiu (whether inspired by others or not can not positively be stated, but it is confidently believed that he was acting under instructions) evidently directed attention to foreigners. Considering the general antiforeign sentiment that existed, this plan was readily accepted, and designs were entertained, first against the foreign property in the city of Kutien, which Chang Chi advocated, and second, against neighboring villages, and lastly against foreign property at Huashan. The reason given for not attacking Anchong village was that the inhabitants had made preparations to defend themselves.

65. In order to show that this step was approved of and ordered by the spirits, Cheng Chiu-chiu proposed to decide by lottery the destination, and he alone prepared slips of paper and deposited the same in a receptacle which, after incantations and prayers to Heaven, were drawn out, using incense sticks as chop-sticks, one at a time. This was repeated three times. Each slip of paper drawn out had written upon it "Huashan." This drawing occurred three successive nights. It should be mentioned here

that the evidence shows that no one but Cheng Chiu-chiu saw the writing or prepared the slips. After the lottery had decided the point of attack, strict orders were issued to kill all foreigners, to rob and to burn; that all plunder should be brought back to the fastness and turned into a common store, to be devoted to the purchase of provisions and munitions; oaths of fidelity were taken by the members, such as to be torn to pieces by five wild horses, to be burned alive or suffer death by drowning, if unfaithful to their vows. Lists of the members were made out for mustering the horde, and after saluting a triangular flag, the march for Huashan was commenced about dusk on the 31st of July.

66. Two months before the assembly at Kung shan ch'i, Lin Hsiang-hsing had visited Huashan village, and, in company with two resident Vegetarians of the village, had inspected the foreign houses, as well as the native house to be occupied by Miss Hartford. Mr. Phillip's intention to visit Huashan was unknown to the native guides, as he did not arrive until a few days before the massacre. This man, Lin Hsiang-hsing, reputed to be of great physical strength, an itinerant peddler accustomed to journey from place to place, was well fitted to lead the way. Tu Chu-yi, a most determined man, both forcible and magnetic, was selected to carry the flag, while Yeh Fu-tieh, a daring and fearless man, was chosen to give the signal, by firing a gun, to commence the attack.

67. About dusk on the last day of July the crowd, after saluting the flag, followed Lin Hsiang-hsing, who, armed with a trident, led the way to Huashan, followed by 300 or more Vegetarians, Tu Chu-yi, with the flag, bringing up the rear. These men, in passing by An chang village, not quite half way to Huashan, numbered by count about midnight 298 men, who were armed with swords, tridents, spears, and sticks. From this time until the arrival at Huashan, between 6 and 7 o'clock in the morning, August 1, the numbers were diminished by desertion from fatigue and other causes until they numbered between 100 and 200 when they arrived upon the crest of the hill within view of the foreign houses.

68. The adult members of the houses had not all risen for the day, two of the children were on the slope of the hill just east of the houses picking wild flowers; a gun was fired, and a rush was made down this hill by the Vegetarian horde for the houses. The children picking flowers first heard the shouting, and then saw the howling mob; one fled toward the nearest house, the residence of their parents, to give the alarm, whereas the other lay down in the grass with the idea of escaping discovery, but she was caught, struck, and dragged by the hair. Numbers of the assailants then forced their way into each house, the teachers and servants fleeing, and the work of murder, robbery, and arson began.

69. Most of these men were bent upon plundering; ransacking all receptacles and tearing up bedding in the search for articles of value, particularly money. In their eagerness to obtain loot they often were engaged in scuffles, paying little or no attention to the occupants unless actually face to face, when they would strike them with their weapons.

70. The occupants, in their efforts to escape, attempted to get out first by the kitchen, but finding the door locked they returned to a bedroom, and in the attempt to get out by its window were driven back by men on the outside; finally, rushing from the room to escape by the rear, Miss Newcombe became separated and escaped by the front door to meet her death.

71. The other ladies escaped by the rear, but were quickly surrounded by ten or more Vegetarians; while pleading for their lives, offering both jewels and money to their assailants, an old man from the neighboring village interceded in their behalf (the identity of this man the committee failed to establish). At these appeals the crowd surrounding these ladies hesitated, when Tu Chu-yi, appearing and noticing the hesitation of his followers, waved the flag and commanded these men to carry out their orders and kill quickly. These ladies were then all stricken down at the rear of the upper house, and only one lives to tell the tale.

72. Lin Hsiang-hsing, seeing the work under way at the upper house, passed on to the front of the lower house, where, encountering a lady, he stabbed her with his trident; this lady, Miss Newcombe, falling, he passed rapidly on and turning westward from the lower house, following the path that led by the rear to the native house occupied by Miss Hartford. Upon reaching this house he confronted Miss Hartford issuing forth to ascertain the cause of the tumult; with a cry indicative of his intention to kill, he made a lunge with his trident at Miss Hartford, who, seizing the weapon—receiving a scratch under the ear—diverted the blow, but was thrown down by the shock and jostling that ensued. After she fell, the fiend began to beat her with the handle of his weapon. Mrs. Teng, wife of Miss Hartford's Chinese teacher, must at this time have caught the murderer by his cue; turning him and receiving a kick in the abdomen, she was knocked down. Miss Hartford's servant, Siong Duk, then grabbed the trident, wrenching it away, and began to beat the murderer with the handle, knocking him down. Lin Hsiang-hsing recovered himself, and in trying to escape tumbled down over an embankment, but finally

got away. The native teacher of Miss Hartford early took refuge by flight, leaving his pupil and his wife to battle alone with the murderer. Miss Hartford in trying to escape fell down a terrace; gathering herself up and going to the door of a native house near by, in which her teacher had taken refuge, she was denied admission; but finally, aided by Ah-kieng, a servant, she found a refuge.

73. During this time the fiendish work was still going on at the two foreign houses, the Vegetarians smashing and breaking the furniture, piling up the débris; kerosene, brought in bamboo jugs and found on the premises, was poured around and the match applied. Selecting such articles as could be conveniently carried, robbing both dead and living, the mob at the signal of a horn took up its retreat.

74. Miss Codrington and the wounded children, seeing that the Vegetarians had withdrawn, exerted themselves to save and assist their fellow-sufferers, nobly dragging from the burning buildings those who were still living, as well as the bodies of the dead that were on the outside in danger of being burned. Then by their own efforts, aided by the native servant, Siong Duk, of Miss Hartford, they took refuge in the latter's house, where Mr. Phillips and Dr. Gregory found them.

75. After the departure of the assailants the villagers promptly removed every article obtainable, refusing to aid in carrying the wounded into the houses or to care for them in any other way. Upon visiting the ruins on September 26 the committee failed to find the smallest piece of metal, all having been stolen by the villagers.

76. Upon leaving the scene of the massacre many of the assailants found their way back to the fastness, with such loot as they had, going by different routes. As many as 120, by actual count, stopped en route at a village for their midday meal. Others, with their loot, immediately deserted the main body and proceeded to their homes by various ways, in groups of greater or less numbers. Still others, fearing robbery by their companions, straggled back to Kung shan ch'i by routes other than that followed by the main body. Arriving at the fastness, the loot was generally surrendered and turned into a common store to be appropriated later, before disbanding, by the leaders and by those fortunate enough to seize the articles. In many villages loot was paraded and even offered for sale. Very little loot was found upon those arrested, and none but that so found was ever recovered.

77. It is probable that this attack had been contemplated by some (?) long before its realization, as evidenced (1) the visit of Cheng Chiu-chin, who, arriving in the district but a few days prior to the deed, rapidly assumed sway over a horde of men untrained except to do the bidding of their yin-chin (petty leaders); (2) his prophecy contained in his letter of invitation to Chang Chi, undoubtedly the superior of the other leaders in many ways; (3) the visit of Lin Hsiang-hsing to Huashan to spy out the premises; (4) the frequent visits, previous to the attack, to the foreign houses of stranger faces; (5) the inquiring if firearms were kept in the house, the servants answering no; (6) together with the fact that visits had within a few months been made by many of the leaders to Foochow, notably by Tu Chu-yi and Lin Hsiang-hsing, ostensibly to attend meetings of the society held on a small island in the Min River, between the two bridges. These incidents, in my mind, point to a time and place, other than the gathering at the fastness, when this diabolical plot was conceived. There is very little, if any, proof to show that the plot was purely one against foreigners, and it is believed it was not; considering that indications show it was mainly insurrectionary in its tendency, and that money being essential for a successful rebellion, this attack on Huashan was one of a number of side plans to obtain the necessary funds.

78. It also appears that after the attack on Huashan a number of armed men were seen going from Kung Shan chi toward Kutien. These men, 16 in number, under a leader (since beheaded) carrying a flag, passed during the night of August 3 through villages on the road between the two places. Their designation they refused to impart, but as some of the inhabitants of Kutien reported having seen armed men in the vicinity of the bridge crossing the creek at the east gate of the city, the rebels can be credited with the intention of attacking the city. This was unquestionably the plan of Chang Chi, and one of the points that led to the open rupture between him and the other leaders.

79. The prophecy referred to in paragraph 77, as contained in the invitation of Cheng chiu-chin to Chang Chi, was, "Five hundred years ago it was decided Vegetarians' affairs are important." A table of arrests, trials, and results is appended, marked F.

80. It is apparent that United States citizens resident in China should be required to register at the consulate nearest their usual domicile, and also to keep that official informed of their movements; furthermore, they should be enjoined to be amenable to consular authority. If this condition can be secured it would often be productive of good results.

81. The conduct of Miss Hartford's servant, Siong Duk, also that of Mrs. Teng, the wife of her native teacher, both natives of China and converts to Christianity, deserve some official recognition. But for their devotion and courage, the opposite

of that displayed by the native servants of the British members of that colony, the United States would have lost a citizen by murder. It is a pleasant duty to commend these persons to such favorable action as you may deem appropriate, being of the opinion that their humanity and fidelity should be noticed and marked in some substantial manner. (See pars. 10, 72.)

82. The behavior of the residents of Huashan village, more particularly those living in the immediate vicinity of the two houses destroyed, is deserving of condemnation, for (1) their plundering of the ruins, even in the presence of the wounded and dead; (2) their refusal to render any aid, except under compulsion, to care for the living and dead, and also to transport them to Sui-kow; and (3) lastly, but of greater importance, their failure in any way to go to the aid or succor of this colony when subjected to the dastardly attack, which merits severe censure. Such action should be taken as will inflict upon every one incriminated, by residence or presence, a lasting reminder of their failure to protect human life and property. A most worthy exception, and one deserving of great praise and reward, is the old man who alone of the mob and bystanders interceded for the lives of the ladies surrounded at the rear of the house by the assassins (par. 71).

83. Without advocating any money indemnity, leave can not be taken of the subject without suggesting that personal losses should be made good; and, also, that the children, so suddenly robbed of their natural protectors and providers, who survived this terrible calamity, and passed through, as it were, the very gates of death, should receive some remuneration for their irreparable loss.

84. The experience gained during the investigation without question shows that in future inquiries of a similar nature much time will be saved and better results be obtained if before work begins a Chinese official of appropriate rank, vested with plenary power, be appointed or designated by the Throne as its representative to be associated with the inquiry. The committee was convinced of this necessity early in the investigation. Such an appointment gains little or nothing if not vested with full power, thus avoiding the circumlocutory methods pursued of referring all vital questions to a superior many miles removed. It removes also the shifting of responsibility, the source of much misunderstanding, and avoids the great obstacle of misrepresentation of facts and conditions, all of which were experienced by the committee.

85. To conclude, attention is respectfully invited to the following summary regarding the responsibility of certain officials, who, but for their inertness, inefficiency, and culpable neglect, could have prevented the crime that has been made the subject of this report.

86. Li Ch'i-tseng, city magistrate, reputed to have occupied the office in Kutien for twenty-eight years, also reputed to be a relative of Liu Hsiang-hsing (par. 26), the propagandist, by his position and length of service should have been a great aid to the district magistrate of Kutien, but he proved by his acts to have been more the friend and abettor of the lawless than an official charged with the maintenance of good order and the administration of the laws of the country. He acted as the go-between or interceder for the Vegetarians that (par. 30) invaded the yamên and demanded the release of the Vegetarians held for using seditious language. Acting upon information (par. 32), he attempted to remove his goods and family from Kutien when that city was threatened by the Vegetarians in March, 1895. He endeavored (par. 33) to prevent the sending of soldiers to Kutien when the district magistrate requested the viceroy to send them. He tried to influence the deputy, Ho Ting (par. 40), contrary to the appeals of the villagers from An Chong, when that place was threatened with an attack from the Vegetarians assembling at Kung shan ch'i in July, 1895, just prior to the massacre; and finally, after the massacre, he attempted to influence the deputy, Ho Ting, making light of the affair and acting in a contradictory manner, while Dr. Gregory was making an appeal for soldiers to be sent to Huashan on the day of the massacre (par. 43). His conduct merits the strongest condemnation and plainly indicates his sympathies with the lawless Vegetarians and fully establishes his criminal inefficiency for any official position. His acts should be visited with the severest punishment.

87. Wang Yu-yang, district magistrate of Kutien prior to May, 1895, as indicated in paragraph 29, showed his weakness and inefficiency in failing to take cognizance of the lawless and depredatory acts of Vegetarians in August and again in October, 1894, at the village of Hsia Tien-ping. Again, although prompted to do his duty by his confidential secretary, Chiang (par. 30), he allowed himself to be intimidated and coerced into releasing Vegetarians that he had caused the arrest of for using seditious language; furthermore, he entered into negotiations with a lawless element, assembled at his yamên to intimidate him; he accepted their dictation as to the disposition of prisoners then in his custody, and as to degrading, punishing, and dismissing his secretary, who had influenced him on the side of law and order. He displayed cowardice and failed to take prompt and energetic measures to carry out his intentions (par. 31) in disposing of the numerous cases that had accumulated at

his yamên. Instead of taking proper measures to meet and to overcome the rebellious acts of Vegetarians (par. 32), he became alarmed (par. 33), and consented to and did confer with leaders of the rebels (par. 34), accepting their false statements upon the poorest of security. And he utterly failed to make known to the official (par. 35) sent by the viceroy to inquire into the condition of affairs that authorized his call (par. 33) for soldiers, the lawless condition rife in his magistracy—and this, either from fear of exposing his inability to cope with the situation, or from shame to confess the humiliation to which he had been subjected. He allowed this official to depart after a stay of but one day, and to carry back to the viceroy the impression (par. 35) that the condition of affairs at Kutien did not warrant the sending of troops to that district. Owing to his timidity, apathy, and supineness, this official is guilty of a gross and criminal neglect of duty. His acts give proof of his inefficiency, and merit severe punishment.

88. Li Sen-sang, the wo-iyuan, sent by the viceroy, T'an Chung-lin, in response to the calls of Wang Yu-yang, district magistrate, Kutien (par. 33), and of the British consul (par. 35), and the request of the United States consul (par. 36), did fail properly to perform his duties. This man had previously gained notoriety while magistrate of the Kien-yang district in a case involving a British missionary, in which a house was burnt and excrement thrown. He remained only one day at Kutien, and then returned to Foochow, reporting that the district was quiet, and that there were no grounds for disquieting rumors or the dispatching of troops—a gross dereliction of duty, as the lawless acts in the district of Kutien could have been learned if any but a most superficial inquiry had been made. The conduct of this official deserves the severest censure.

89. Tseng Kuang-kuei, the rich citizen of the First ward, Kutien, should be required to explain his action (par. 33) in opposing the sending of soldiers in response to the magistrate's call. Tseng Kuang-tou, brother of the above mentioned, should be interrogated as to his efforts, at the request of his brother, to prevent the sending of troops as called for (par. 33). The brothers merit censure for their interference and their want of supporting the magistrate accredited to the Kutien district.

90. Wang Ju-lin, the official who relieved Wang Yu-yang in May, 1895, as district magistrate, Kutien, undoubtedly fell heir to the disorganized condition of the district due to the failures and inefficiency of his predecessors. Apparently he accepted the situation and remained inactive until the murder at Cho-yang village (par. 38), when he made a request upon the viceroy for troops. It is reported that this magistrate, Wang Ju-lin, has been degraded. He was supplanted by I Chien. (It should be stated that this official, Wang Ju-lin, who was sent by Ho Ting, the deputy, to the scene of the massacre, upon the request of Dr. Gregory for soldiers, acted upon arriving at Huashan as if paralyzed with fear, remarking, "This is all the fault of the Foochow authorities. I never asked for soldiers, and what was the good of sending 200 when the Vegetarians are in thousands?")

91. Ho Ting, a deputy, was sent in response to the call of Wang Ju-lin (par. 39), to investigate his report. Although impressed with the gravity of the situation, he failed, after the arrival of the soldiers, to take any active steps tending to ascertain the truth of the rumors then flying about, or to disperse the Vegetarians assembled at Kung shan ch'i, or heed the calls from threatened villages (par. 40). He acted promptly after the massacre (par. 13) upon the demand of Dr. Gregory. This official is culpable, having shirked the responsibility of attacking the assembled rebels at the fastness, mainly for want of soldiers, thinking that the force at his disposal (200) greatly inadequate to the situation. Had he displayed the same promptness before the massacre that he showed afterwards, the necessity for the censure and future action in his case would not exist. It is reported that he gave no orders to the military to leave the city.

92. I Chien, acting district magistrate, who superseded Wang Ju-lin as the magistrate of Kutien district, arrived at Kutien August 5, four days after the massacre. He deserves praise for the avidity with which arrests were first made, also for the energy displayed in conducting the trials, but this zeal soon fell off and the arrests diminished (pars. 21, 47). He was responsible for the method of conducting examinations and the custody of the prisoners (par 57). Some were subjected to the most stringent examinations; in the case of others these were less exacting. It was evident that the prisoners connected with or identified with previous lawless acts, particularly those directed against officials, were treated with great severity, showing a strong desire on his part to punish offenders against the Chinese rather than those implicated with the case in hand. Some of the leaders were treated gently by the yamên runners, almost with deference. After the arrival of Hsii Taotai the proceedings before the magistrate were marked with an apathy, a listlessness, on the part of the magistrate and his deputies. This official displayed no desire to obtain any information tending to show the origin of the movement or the conception of the attack prior to the gathering at the fastness. This method prevented the committee from tracing direct responsibility for the attack beyond the murderers them-

selves. The issue of the obnoxious proclamation (par. 53), and its reissue (so to speak) mentioned in paragraph 54, undoubtedly showed an animosity against Christians, and proved detrimental to the inquiry. The unwarranted release of the suspects (par. 55) also showed the indifference of this official to the investigation by the committee. The attempt, by asking leading questions, to make the testimony of different prisoners (pars. 58, 59) harmonize, and to minimize the numbers engaged, showed a disposition to belittle the inquiry. The opinion is entertained that this man has undoubted ability, and that if free to act, unhampered by superiors, and if influenced by a desire to sift the matter, he would prove a fearless official. It is difficult to overlook his evident antiforeign sentiments; and for these he, as an official, deserves censure, for he at times showed disgust and contempt.

93. T'an Pao-chien, now acting salt taotai, was the prefect residing in Foochow. Unable to attend to both duties, he was relieved of the duties of prefect in July, 1895. Prior to July, being the superior official, he was in a measure responsible for the perturbed condition of his prefecture, and therefore deserves condemnation. His failure to see that his subordinates, the magistrates, performed their duties efficiently merits censure. He should have informed himself of the true state of affairs and have taken prompt measures to correct the growing lawlessness.

94. Ch'en Ping-chi, as acting prefect, the substitute for T'an Pao-chien, failed to inform himself of the true condition of affairs in his prefecture, or if informed did not take measures to remedy the same, not going to his post until after the massacre. While on his way to Kutien, he failed to render promptly the assistance requested by Dr. Gregory (pars. 14, 52), which humanity demanded. His refusal to allow the consuls to be present at trials (par. 22) should not be overlooked. He allowed the magistrate to issue the obnoxious proclamation (par. 23), and failed, when his attention had been called to the matter, to have the same at once recalled. He allowed the magistrate to release incriminated suspects (par. 55) without consulting the consuls, as agreed upon (par. 23), and failed to order rearrests. He, furthermore, allowed the magistrate and deputies to conduct examinations and record evidence in a manner at variance with the testimony elicited before the committee.

95. Hsü Hsing-yi, taotai, sent in response to request of the committee for a high official with plenary powers, arrived in Kutien September 10. From this date the arrests rapidly decreased, and the vigor of the prosecution on the part of the Chinese officials perceptibly diminished. He allowed the magistrate to reissue the obnoxious proclamation, after having supplied the consuls with official copies of a new proclamation that met with their approval (par. 54). When his attention was called to the duplicity of the magistrate, he accepted from him an explanation known to be inconsistent with the proper performance of duty. He, in his report to the viceroy, quoted by the Tsung-li Yamên to you, under date of October 6, falsely represented the condition of affairs, and made malicious and false charges against the native Christians.

96. T'an Chung-lin, viceroy prior to May, 1895, but now at Canton, failed to take proper measures to inform himself as to the true condition of affairs in the district of Kutien. He failed to take the necessary steps when informed by the British consul (par. 35) of the perturbed condition in Kutien district, to correct the same. He failed to act promptly upon the receipt of a request from the district magistrate, Wang Yu-yang, in March, 1895 (par. 33) for soldiers; but, instead of so doing, caused a delay by sending Li Sen-seng to investigate, who failed properly to perform his mission. This viceroy by removing the district magistrate, Wang Yu-yang, shortly afterwards, gives proof of the failure on his part properly to administer the laws, and also shows that he performed the duties of his high office in a most culpable and inefficient manner. He should be severely dealt with.

97. Pien Pao-ch'uan, viceroy since May, 1895, is culpable, (1) for failing to heed the warning contained in district magistrate Wang Ju-lin's request for troops in June, 1895 (pars. 38, 39), causing delay by sending Ho Ting to investigate, and (2), upon receiving the latter's report, for sending a force inadequate to the occasion; (3) for placing obstacles in the way of the committee reaching Kutien promptly to begin the investigation; (4) for so construing the law as to lessen the gravity of the crime; (5) for delay in sending Hsü taotai to Kutien in compliance with imperial edict; (6) for informing the consuls that Hsü taotai had been appointed on the foreign board, concealing the fact that the latter was appointed to assist in the inquiry, and (7) for delaying official action in the cases of criminals proved by their own confessions to have, by their acts, merited death. It is believed that two sets of instructions were issued by the viceroy to his subordinates at Kutien, one to be made public, the other private, materially altering the first, and productive of delay, which caused strong protests on the part of the committee.

98. Referring to paragraph 36, attention is called to the conduct of the president of the foreign board at Foochow, Taotai Ch'en, informing the United States consul, in answer to the latter's request that immediate steps be taken to suppress the growing lawlessness near Kutien, that 400 soldiers had been sent, whereas this information could not be substantiated at Kutien.

99. As a result of the investigation, 26 criminals have been beheaded—7 on September 17, and 14 on October 21, at Kutien, and 5 at Foochow, November 7, 1895. The committee has never asked, suggested, or recommended clemency, but persistently demanded that the participants in the massacre should be tried, convicted, and sentenced in accordance with the criminal code of China. The committee furthermore regarded its duty solely that of investigating, never assuming judicial or other functions, but recognizing that the ultimate settlement belonged to the United States Government.

Very respectfully, your obedient servant,

J. S. NEWELL,
Commander, United States Navy,
Member of Committee of Investigation on the part of the United States.

To Hon. CHARLES DENBY,
United States Minister, Peking, China.

APPENDIX A.

Statement of Miss Mabel C. Hartford.

August 1, 7.30 a. m., heard shouts and yells. Servants rushed in shouting for me to get up, the Vegetarians were coming; that they were tearing down the houses on the hill (belonging to English mission). Ten minutes later my teacher came to my door and told me to run. I put on my clothes, rushed to the door to be met by a man with trident spear, who yelled, "Here's a foreign woman," and pointed the spear at my chest. I twisted it to one side, and it just grazed my ear and head beside the ear. He threw me to the ground and beat me with the wooden end of spear. A servant came and wrenched the spear away and told me to run. I jumped down an embankment and ran along the road. A servant came and pulled me along until I got up the side of the hill, where I lay to get more breath. After resting twice I reached a secluded spot and lay there. All the time the yells went on and the two houses were burning to the ground. After a while the yells stopped, and we supposed the Vegetarians had gone away, so the servant went to see how matters were. He returned in half an hour telling me to come home; that five ladies of English mission had been killed, and some wounded were at my house. This was a rented native house and not troubled at all. I went home to find Miss Codrington much cut about head and beaten all over; Mildred Stewart (12 years) cut on knee, bleeding very hard; Herbert Stewart (6 years) cut on head, almost dead; Baby Stewart (1 year old) one eye black and swollen; the second Stewart girl, Kathleen (11 years), and the second boy, Evan (3 years), were beaten and pierced with spear, but not seriously injured. The boy vomited all day at times, but we thought from fright.

Mr. Phillips, of English mission, lived in a native house at some distance and escaped all injury, only arriving in time to see bodies of dead and hear the Vegetarians say, "We have killed all the foreigners." At first we heard some of the foreigners had escaped and were in hiding, but as Mr. Stewart did not come we feared the worst. Mr. Phillips went to ruins and found eight bodies—five not burned and three burned so as not to be recognizable. Dr. Gregory arrived at dark and dressed the patients. Coffins were made and bodies put in, and bones of burned put in boxes. Another burned one was found, making nine grown people massacred. (1) Rev. R. W. Stewart and (2) his wife, Mrs. Stewart; (3) a nurse from Ireland called Lena; (4) Miss Nellie Saunders, and (5) Miss Topsy Saunders, Australia; these lived in the upper house called "The Stewart House;" (6) Miss Hessie Newcombe, Ireland; (7) Miss Elsie Marshall, and (8) Miss Lucy Stewart, England; (9) Miss Annie Gordon, Australia.

The first four were burned beyond recognition. Miss Topsy Saunders ran out of the house and was killed outside. Miss Hessie Newcombe was thrown down an embankment, her head nearly severed from her shoulders. Miss Gordon's head was also nearly cut off. The bodies were put in coffins, and we left Hua-sang for Sui-kow at about 4 o'clock Friday p. m., August 2. Herbert died about three hours later just below Co-iong. We took on body in chair and had coffin made at Cui-kau;[1] reached Cui-kau at about 8 o'clock Saturday a. m. and telegraphed to Foochow for steam launch; left Cui-kau in two native boats at 3 p. m., and Sunday a. m. met steam launch going to Cui-kau, taking soldiers. Engaged them to tow us to Foochow, and soon met a rescuing party in a launch. The party consisted of the United States marshal and two English missionaries, bringing full supplies for sufferers.

When I was thrown down my teacher's wife called on some Hua-sang men who stood around to save me. There were four men there and only one Vegetarian, but they would not help me. She came and tried to pull me away as he beat me and

[1] Sui-kow.

the Vegetarian kicked her. When this Vegetarian who beat me started down the hill to come to our house there were three others with him, but these three ran off after some Chinamen, so I escaped with only one persecutor. I only saw the one man who attacked me, who shouted, "Here's a foreign woman." He had a trident spear. Some of them had swords, and there was at least one gun, for it was fired off. The natives say there were more. Hong, the Kutien magistrate, came up to Hausang Friday p. m., August 2, with 100 soldiers. He viewed the bodies, saw the injured, and inquired the names of all and places of injuries and wrote out an account. He did what he could to help us to get off to Cui-kau.

MABEL C. HARTFORD.

UNITED STATES CONSULATE, *Foochow, August 4, 1895.*

APPENDIX B.

Statement of Miss Flora Codrington.

It was about 6.45 on Thursday morning, August 1. I had been up about half-hour and was almost dressed, when I was startled by a sudden shout of men's voices, followed by a child's scream and rapidly succeeded by the loud report of a cracker and terrified cries from the servants' and teachers' quarters. I went at once to our front door, and there met Miss Gordon coming into the house (she had been sitting outside reading). In answer to my inquiry "What is the matter?" she answered "Something serious, I think; the rioters are here." Just as she was speaking one of our teachers rushed into the house and out the back way without speaking, and then I saw a man coming from the Stewarts' house brandishing a long spear in his hand. I got the front door shut and locked before he reached it, and calling to Miss Gordon to help close the shutters in front of the house as rapidly as possible at the same time, we both urged the other ladies, who were still in bed, to get their things on and come at once. The man outside began beating in the windows with his spear, calling others to join him. More men came, a cracker was let off in front of our house and then they all set to work to break in the front of the house. Miss Newcombe and Miss Marshall were soon ready and joined Miss Gordon and myself at Miss Stewart's door, which was fastened on the inside. After a little delay Miss Stewart opened her door, but she had not succeeded in getting her things on before the men had effected an entrance. Some one shut the bedroom door and fastened it, but we soon saw our position was more helpless shut in there, so we opened the door and made a rush to escape by the kitchen, hoping the men were too busy plundering to notice. Unfortunately the kitchen door was fastened on the inside, so we retired to Miss Stewart's room again to consult, Miss Marshall receiving a wound on her shoulder. We tried to escape by the window, had got the shutter open and were in the act of jumping out when two men rushed at us and drove us back with their spears. We knelt together in prayer as the men hammered on the door. Soon it burst open and in they rushed, but at first were too busy searching for money to molest us.

Seeing the kitchen door open, four of us, Miss Gordon, Miss Marshall, Miss Stewart, and I, made for that, but Miss Newcombe got separated from us and I never saw her again. We passed safely through the deserted kitchen and into the court at the back, where we were again confronted by men. They searched us to see if we had any money about us, and one pulled the ring off my finger. They were passing on into the house when another man came and asked them, "Have you secured anything? And the foreigners, have you killed them all yet?" "Not yet," was the reply. "Do it quickly, then," he said. I think it was just then a man, whose dress and appearance differed from all the rest, and who, I think, belonged to the Hwa Sang village, interposed and begged them to spare our lives. "If you give us $2,000," was the scornful reply given him. Miss Marshall then begged me to go to this man and get him to help us. I asked him to save us if he could. "They won't kill you," he said. By this time we had got outside and were standing between the Stewarts' house and ours, at the back. The men gathered round and threatened us with knives and spears. A division arose among them; some suggested taking us to Kucheng, for the hope of a reward; others shouted "Kill them," "Kill them." Miss Marshall's wound was bleeding profusely, and I begged her to let me try to staunch it, but she declared it was nothing. For a moment it seemed they decided not to kill us, but to bind us and take us to Kucheng. Miss Marshall again asked me to beg them not to bind us. I went to the seeming leader and said we would walk quietly, and told him if he killed us or ill-treated us the consequences would be most serious. "Walk on, then," he said. Just at that moment a man came rushing toward us carrying a red flag and crying, "Kill them, kill them, every one." A man seized me by the collar of my jacket and pointed a knife to my throat; then, as our eyes met, he dropped his hand and walked away. In the scuffle, I had been dragged away from

the others a little way, but now got back to them and, standing close together, we received the onslaught.

A blow on the head made me unconscious for a minute. When I came to I was lying between Miss Marshall and Miss Stewart. I still heard men's voices, so lay quite still. Miss Marshall was groaning a little at first and I hoped was still living. Soon I heard the order to start given, followed by the crackling of burning wood, which told me our houses were on fire. The next thing I remember was hearing Cassie Stewart's voice crying "Oh! they've killed them all." As soon as I dared, I got up. A glance told me Miss Stewart and Miss Gordon had gone, but Miss Marshall and Miss Topsy Saunders seemed to be breathing still. They were lying just under the wall of the house and with some difficulty I dragged them a little farther out of the reach of the flames, then, feeling my own strength fast giving way, I went in search of help. Standing on the hill, I looked down and saw a man standing below. I beckoned to him to come, but I think he was too frightened; still I knew by his signs he was friendly, and so, somehow I made my way down the hill to where he was standing. Cassie Stewart joined me on the way with baby and told me the other children were on the hill, but she did not know where her mother and father were. Some Christians then joined us. At first they were afraid to take us to Miss Hartford's house, which was close at hand, fearing the return of the rioters, but finding that I could not walk any farther they got me in there and then went for the children. I was unconscious after this, I think, for I do not remember anything now after till I heard Mr. Phillips and the children in the next room. Mr. Phillips came to me and stanched the bleeding with wet rags; he then went to see if the others still lived, but it was soon ascertained that of our mission only the children and myself survived. For Mr. Phillips's prompt attention I feel under God I owe my life. Later in the evening Dr. Gregory arrived and dressed our wounds. We owe much to his kind care then, and on the journey down. The next day we left for Foochow and arrived on Sunday afternoon.

(Taken from the Foochow Daily Echo of August 31, 1895.)

Appendix C.

Statement of Miss Kathleen Stewart.

Last Thursday morning (August 1) between 6.30 and 7 a. m. Mildred and I were in the garden (just outside the house on a hill we called the garden) picking ferns and flowers because it was Herbert's birthday and we were going to decorate the breakfast table. We saw coming along, and at first I thought they were "dang dangs" (load men). Milly saw their spears and told me to run, but I was so frightened I lay in the grass thinking perhaps they would not see me. The men did see me, and took hold of me and pulled me by my hair along toward the house. Just as we arrived there I fell down. They then began beating me. I got away from them and ran to the back door. I tried to shut it, but could not at first, as the men put their sticks in. I afterwards succeeded and bolted it. Then I went into our bedroom and got under the bed. Mildred was on her bed. Soon the men broke open the door and entered our bedroom. First they pulled off all the bedclothes, opened the drawers, and took what they wanted to, smashed windows and things, then began beating Mildred and cut her with their swords; afterwards they left the room. One man saw me under the bed as they were going out and gave me a knock on the head with a stick. We next saw Topsy Saunders, with her cheek very much cut, being walked backward and forward by the men, who were asking her questions, and if not answered quickly dug a spear into her. One question we heard them ask was about her money, and she told them that they had taken all that she had. Topsy afterwards came and told us to go into her room and we went out and lay on the bed in her room. Topsy then left the room. We saw Nellie Saunders lying by the door moaning. From the window we saw the men outside the backdoor beating and killing the "guniongs" (ladies). Four were outside, one "guniong's" head I saw quite smashed up in a corner. It was an awful sight. Very soon I heard a rushing noise like water. Went out to see what it was and found the house on fire. I went back to Mildred and told her and she got up and we walked through the servant's rooms to the nursery, where we found Herbert covered with blood, Lena lying on the ground (I think she was dead; she was covered with blood) with baby beside her and Evan sitting crying. I screamed at Lena, she did not answer; I tried to lift her up, but could not. I took baby first and laid her down outside, then went back for Evan. We then all (Mildred and Herbert included) went down past the "guniongs'" house, which was all in a blaze, into the little wood. After waiting there a little while I saw Miss Codrington with a Chinese man; I called out to her, and the

Chinese man then came and carried Herbert to Miss Hartford's house, I carrying baby, and Mildred and Evan waiting in the wood. I then went back and carried Evan to Miss Hartford's house, and was going back for Mildred, but met her on the way trying to walk. She could only walk a few steps and then I heard a cracking sound in her knee and she fell down. We saw a Chinese man; I beckoned to him, and he came and helped Mildred to walk a little way and then carried her to Miss Hartford's house. We stayed at Miss Hartford's house till Friday afternoon, when we started, about 4 p. m., for Foochow.

(Taken from the Foochow Daily Echo of August 10, 1895.)

APPENDIX D.

Statement of Rev. H. S. Phillips, C. M. S.

About 6.30 a. m. on August 1, hearing shouting from the direction of the Stewarts's house (I was sleeping in a house five minutes' walk off, though spending most of the day with the Stewarts), I went out, and at first thought it was simply a number of children playing, but I soon was convinced that the voices were those of excited men, and started off for the house. I was soon met by natives, who almost pulled me back, shouting the Vegetarians had come.

I said that I must go on, and soon got in sight of the house. I could see numbers of men—say, 40 or 50—carrying off loads of plunder; one man seemed to be the leader, carrying a small red flag. I could see nothing of any Europeans. As this was in full view of the rioters, I crept up a hill in the brushwood and got behind two trees, from 20 to 30 yards from the house. Here I could see everything, and appeared not to be seen at all.

As I could see no foreigners, I concluded they had escaped, and as to go down was certain death, I thought it better to wait where I was. After a minute or two the retreat horn sounded and the Vegetarians began to leave; but before they did so they set fire to the houses. Ten minutes after this every Vegetarian had gone.

I came down, looked about the front of the house, but could see nothing of anyone, though I feared something dreadful had happened, as I heard the Vegetarians as they left say repeatedly, "Now all the foreigners are killed."

I just then met one of the servants, who told me that the children were in the house in which Miss Hartford, of the American mission, was staying. I found Mr. Stewart's eldest daughter, Mildred, here with a serious wound in one knee and another severe cut. When I had washed these and put what calico we had to staunch the bleeding, I turned to Herbert, Mr. Stewart's son, who was fearfully hacked almost everywhere. Then Miss Codrington sent me a message that she too was in the house. I found her in a fearful condition, but by cold water and rags we managed to staunch the bleeding. She begged me to wait, as she thought Miss Topsy Saunders was still alive.

I then rushed to the back of the house and found the bodies of Misses T. Saunders, Stewart, Gordon, and Marshall. The latter was awfully cut, her head almost severed, but beyond wounds given in the struggle the bodies were not mutilated. Then later I found Miss H. Newcombe's body at the foot of a hill in front of the house, where it had evidently been thrown. As then I could see no traces of Mr. and Mrs. Stewart, Miss N. Saunders, and Lena, the nurse, we hoped some had escaped, and I returned to the house where the four Stewart children and Miss Codrington were.

Presently Miss Hartford arrived. She had received a nasty cut under one ear, but had been saved from death by a native man. I learned later from Miss Codrington that the five ladies of the Zenana Missionary Society, who lived in the lower of the two houses which form the Kutien Sanitarium, after a futile effort to escape, got out at the back and were immediately surrounded by Vegetarians.

At first they said they intended to bind them and carry them away, and they begged if this was their intention they might be allowed their umbrellas, but this was instantly refused. Some even of the Vegetarians seemed touched with their pleading for life, and an old Hua-sang man alone of the natives who did not take part begged that their lives might be saved. Some of the Vegetarians were inclined to spare them, but were ordered by their leader to carry out their orders. Had they been able to escape into the brushwood around there seems little doubt they might have been saved. The great misfortune was that only two of them were dressed.

Mr. and Mrs. Stewart, I learned from Kathleen, were not dressed. Lena, the nurse, died protecting baby, whom Kathleen managed to carry out of the house, though not before the baby's eye had been injured.

Miss Nellie Saunders, Kathleen told me, was also knocked down at the nursery door going to help the children, and as we afterwards found the remains of a burned body there we had little doubt it was hers.

For a long time we thought that at least Mr. and Mrs. Stewart had escaped, but later I found their bodies, or rather ashes, in what had been their bedroom.

The Hua-sang people seemed to have, as a whole, no hand in the affair, though doubtless four or five Vegetarian families were concerned; the natives say the Vegetarian band came from the east road (of Kutien city) and many from Ang-iong and A-dieng-bang, within 30 or 40 li of Kutien.

The Kutien former magistrate, Wong, came up in the evening to examine into the case.

H. S. PHILLIPS.

U. S. CONSULATE,
Foochow, August 4, 1895.

APPENDIX E.

Statement of Dr. J. J. Gregory, M. D.

At 12.30 p. m., on August 1, a native Christian rushed into my study, saying that several of the foreign ladies at Huasang,[1] a mountain resort 4 "puo" (12 miles) from Kutien city, had been killed, that morning and two houses burned.

Fifteen minutes later, a note from Mr. Phillips confirmed this report, for he wrote that 5 ladies were dead, the Stewarts missing, and 4 seriously wounded, and expressed the hope that I was then on my way to Huasang. I at once went into the yamên, where hundreds of excited natives had already gathered. I requested the district magistrate, Wong, to send soldiers at once to Huasang to protect those who were still living. In a half hour the magistrate himself went to Huasang under escort of about 60 soldiers.

At 3 p. m. I myself left Kutien city, under escort of 13 soldiers, arriving at Huasang at 8 p. m., to find that 9 adults (British subjects) had been murdered, and that all those alive at Huasang (8 only), had been more or less severely injured, excepting Mr. Phillips, who had arrived there only two or three days before and was lodging at a native house some distance from the English cottages.

I was delayed in leaving Kutien, owing to the fact that coolies refused to carry chairs.

On my arrival, I set to work to make the injured as comfortable as possible. Miss Codrington had received one sword wound, extending from the left angle of the mouth diagonally outward and downward, several inches long, completely dividing the lower lip and exposing the inferior maxillary bone; also one cut on crown, 3 inches in length and quite down to the inner table of the skull; one cut across nose and beneath right eye, 5 inches long, and another cut, 3 inches long, on right side of neck. The last two were skin wounds only. There were also two contusions on right arm and a deep-punctured wound on the outside of the right thigh. Her condition is serious. Miss Hartford, the only American citizen residing in Huasang at that time, was living in a small native house some 20 rods from the English cottages. She was attacked by one assassin armed with a trident, and received a cut on the lobe of the right ear. She was thrown to the ground and beaten on lower extremities and body. While the murderer was engaged in this attack, her servant grappled with the assailant. While they were struggling, Miss Hartford escaped to the hills and remained hidden until all was over. Her nervous system sustained serious injury.

Mildred Stewart, aged 12, received a wound on the outside of the right knee-joint 6 inches long, exposing the joint; two punctured wounds, one on left leg and one on left foot. Her condition is serious. Kathleen Stewart, aged 11, received several slight wounds and bruises on face and lower extremities, but not serious.

Herbert Stewart, aged 6, received a deep wound on right side of the neck 4 inches long; one on crown, which chipped up external table of skull; one on back part of head 4 inches long, cleaving the skull and exposing the brain; a circular scalp wound on left side of head 2½ inches in diameter; a small punctured wound on anterior part of the chest, and another stab in back. He died of injuries thirty hours later, while on road to Cui-kau.[2]

Evan Stewart, aged 3, was stabbed in the left thigh and received several bruises and scratches on head and body; not serious.

Baby Stewart, aged 13 months, received a severe injury in the right eye, a small, penetrating wound in the left frontal region, which entered the cranial cavity, and several severe bruises on head and body; probably fatal.

All wounds were apparently made by swords and spears.

Of those killed outright, Mr. and Mrs. Stewart, Miss Nellie Saunders, and Lena

[1] Huashan, [2] Sui-kow,

Yellup (Irish nurse) were almost wholly incinerated in one of the burned houses. They were in all probability murdered before the house was burned. Kathleen Stewart saw Miss Nellie Saunders lying unconscious on the nursery floor, and she removed baby Stewart from beneath the dead body of the nurse.

Miss Hessie Newcombe was cut on the left cheek and the left hand, probably with a spear, and then thrown over a steep embankment, where we recovered the body. Miss Marshall's throat was frightfully cut and a deep sword wound on the left wrist. I failed to find any serious wound on the body of Miss Stewart, and I am inclined to think that she died from shock. This opinion is sustained by Miss Codrington's report to me. Miss Gordon received a deep spear wound in face, another on side of neck, and one on the right side of the head. Miss Topsy Saunders's death was caused by a spear wound in right orbit, the weapon entering the brain. These last three bodies were lying in one heap.

Apparently no post-mortem mutilation was attempted on any of the bodies.

This frightful massacre was done by members of a secret society known as the "Vegetarians," who had been giving much trouble alike to Christians and heathen in and around Kutien City. From various reports of those who saw the attack, I believe that there were about 80 men engaged, armed with spears and swords, and seemed to be organized under one chief leader. The attack came like a thunderbolt from a clear sky, not one of the victims having received the slightest intimation of the intended assault. Thirty minutes from the time the onslaught commenced not a single Vegetarian was to be seen near the grounds of the massacre.

Miss Codrington tells me that the ladies were first seized and told that they were to be bound and taken away into captivity; afterwards several faint-hearted attempts were made to kill them, when they plead for their lives. At this time the leader appeared upon the scene, and noting the wavering of his gang, shouted to them, "You know your orders; kill them outright." And the orders were at once obeyed

Mr. Phillips and I worked all the latter part of the night placing the remains in coffins. We finished this sorrowful duty about 8 a. m. on the 2d.

Having finished placing the bodies in coffins, and fearing to longer remain at the scene, we then undertook to secure transportation to Cui-kau. According to our request, the district magistrate had remained, with his escort, on the ground, so we at once appealed to him for chairs for the living and bearers for the coffins. After urging, pleading, and finally commanding him, we were able to leave Huasang at 3 p. m. After traveling all that night, we managed to reach Cui-kau at 8.30 on the morning of the 3d, the saddest, most appalling procession ever formed in China. The magistrate had sent runners to Cui-kau, by our orders, and impressed four native boats for us, and we left there for Foochow in the afternoon. On the morning of the 4th we met a steam launch, taking the subprefect to Cui-kau. We boarded this, and insisted upon the launch towing our boats to Foochow, it being necessary for us to arrive there as soon as possible, since the effect of the extreme heat was proving serious to the wounded.

At 11 o'clock we met a steam launch, with United States Marshal Hixson, venerable Archdeacon Wolfe, and Rev. W. Banister on board, coming to our assistance with supplies. These friends we heartily welcomed, and in our hearts we devoutly thanked United States Consul Hixson for his prompt action and successful efforts in securing and immediately dispatching this rescue party, who by its presence greatly relieved the fatigue and suffering during the remainder of the journey to Foochow. At noon we were met by Mr. A. W. V. Gibb, who had kindly come in his house boat to meet us, bringing more supplies.

At 1.30 p. m. we arrived at the United States consulate jetty, Foochow, where we were met by Consul Hixson and a large party of friends, and soon had the injured comfortably resting in clean beds.

When the question is raised as to the cause of this terrible massacre, we need have no doubt that the Vegetarians are the active participants, and that the local and provincial authorities are particeps criminis is equally certain, for this society has been strong in and around Kutien for two years, and has been increasing in numbers and growing bolder in its threats and acts as the months passed. Early in July last several hundreds of them attacked a village near Kutien and killed and wounded several natives, not Christians. This outrage has never been punished, and the viceroy sent to Kutien the small force of 200 soldiers to assist the local authorities in settling with several thousand determined savages. This was a mere farce, and the local officers were unable to do anything, but criminally failed to promptly demand reenforcements from the viceroy.

It is obvious to all who have given the matter much thought, that China has been encouraged to continue her slack care of foreign life and property within her territory by the fact that heretofore a money indemnity has been accepted as the price of foreign blood spilt by her murderous subjects; and just so long as foreign powers

are satisfied with such settlement of this wanton, barbarous, destruction of life, just so long will China fail to govern her people as she should govern them in this enlightened century.

J. J. GREGORY.

U. S. CONSULATE,
Foochow, China, August 4, 1895.

Mr. Olney to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 21, 1895.

Ask Hixson and Newell for immediate preparation joint report.

OLNEY.

ASYLUM FOR MISSIONARIES ON RUSSIAN TERRITORY.[1]

Mr. Denby to Mr. Gresham.

No. 2182.] LEGATION OF THE UNITED STATES,
Peking, March 28, 1895. (Received May 13.)

SIR: In my dispatch No. 1283, of April 2, 1891, I brought to the attention of the Department the case of Rev. Paul D. Bergen. That gentleman, an American missionary, made application to me to have his passport viséed by the Russian legation here so that he could travel through Siberia en route for the United States.

The application having been telegraphed to St. Petersburg was refused by the minister of the interior on the ground that no ecclesiastic was allowed to go through Siberia.

In its dispatch No. 617, of May 18, 1891, the Department lays some stress on the fact that the minister of the interior "found it quite impossible at the present" to grant the request of Mr. Bergen.

The 20th instant I addressed to His Excellency Count Cassini, minister of Russia, a communication informing him that the Americans residing at Kalgan apprehended danger to themselves in the event of an insurrection breaking out in China; that they consisted of three ladies and three gentlemen, and that they begged that he would issue to them a passport or some official paper which would enable them to take temporary refuge in the territory of Russia if it became necessary to do so for the protection of their lives.

The 22d instant I received an answer from his excellency the Russian minister, wherein he informed me that the rules relating to the matter were very precise, and that it would be useless to telegraph to St. Petersburg on the subject. He suggests that the Americans go to Urga, and offers to give them, if desired, a letter to the Russian consul-general at that place.

My letter to the minister and his answer were written in French. Copies and translations thereof will be forwarded, if desired. I simply report this incident without comment.

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[1] See also, under Russia, pp. ——

Any action taken by the Department could have no effect on the actual case, and it is not for me to determine whether the general subject should be brought to the consideration of the Russian Government.

I have, etc.,

CHARLES DENBY.

Mr. Uhl to Mr. Denby.

No. 1069.] DEPARTMENT OF STATE,
Washington, May 17, 1895.

SIR: I have to acknowledge the receipt of your No. 2182, of March 28 last, in relation to the refusal of the Russian Government to grant permission for an American missionary to pass through Siberia en route to the United States, and to the position assumed by that Government that temporary refuge in Russian territory would not be accorded to Americans who might be impelled to seek such refuge by threatened danger to their lives.

The United States minister at St. Petersburg has been furnished with a copy of your dispatch, and he has been instructed to take occasion to inquire whether the Russian regulations against the residence or travel of foreign ecclesiastics or missionaries in Siberia are as strict as Count Cassini interprets them to be, even to the inhospitable degree of denying shelter to citizens of a friendly State whose lives might be imperiled.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Olney to Mr. Denby.

No. 1151.] DEPARTMENT OF STATE,
Washington, September 21, 1895.

SIR: Referring to previous correspondence in regard to the permission sought of the Russian Government for our missionaries in China to take refuge in Russian territory should their lives be endangered by Chinese mobs, I have to inform you that a telegram, dated September 17, from our minister at St. Petersburg, advises the Department that the desired permission has been granted without the imposition of any previous conditions on those seeking refuge.

I am, etc., RICHARD OLNEY.

MISSIONARY WORK IN CHINA.

Mr. Denby to Mr. Gresham.

No. 2172.] LEGATION OF THE UNITED STATES,
Peking, March 22, 1895. (Received May 13.)

SIR: During my recent short stay in the United States so many inquiries were made of me touching Christian missions in China and the work that they are doing, that I have concluded to send to you my views on this important subject.

I beg to premise that my official position causes me to be more guarded in expressing my views than I would otherwise be, I suppose

the main, broad, and crucial question to be answered touching missionary work in China is, Does it do good?

I think that no one can controvert the patent fact that the Chinese are enormously benefited by the labors of the missionaries in their midst. Foreign hospitals are a great boon to the sick. China, before the advent of the foreigner, did not know what surgery was. There are more than twenty charity hospitals in China, which are presided over by men of as great ability as can be found elsewhere in the world. Dr. Kehr's hospital at Canton is one of the great institutions of the kind in the world. The Viceroy Li Hung-chang has for years maintained at Tientsin, at his own expense, a foreign hospital. In the matter of education the movement is immense. There are schools and colleges all over China taught by the missionaries. I have been present often at the exhibitions given by these schools. They showed progress in a great degree.

The educated Chinaman, who speaks English, becomes a new man; he commences to think. A long time before the present war the Emperor was studying English, and, it is said, was fast acquiring the language. Nowhere is education more sought than in China. The Government is, to some extent, founded on it. The system of examinations prevailing in the district, the province, and Peking is too well known to require comment. The graduates become expectant officials. There is a Chinese imperial college at Peking, the Tungkuan, presided over by our distinguished fellow-citizen Dr. W. A. P. Martin, also an university conducted by the Methodist mission. There are also many foreign orphan asylums in various cities, which take care of thousands of waifs. The missionaries translate into Chinese many scientific and philosophical works. A former missionary, Dr. Edkins, translated a whole series of school readers. Reflect that all their benefactions come to the Chinese without much, if any, cost. Where charges are made they are exceedingly small, and are made only when they are necessary to prevent a rush, which in this vast population would overwhelm any institution. There are various antiopium hospitals, where the victims of this vice are cured. There are industrial schools and workshops.

This is a very brief and incomplete summary of what missionaries are doing for the Chinese. Protestants and Catholics from nearly every country under the sun are engaged in this work, and, in my opinion, they do nothing but good. I leave out of this discussion the religious benefits conferred by converting Chinese persons to Christianity. This, of course, is the one supreme object and purpose of the missionaries, to which all else is subsidiary, but the subject is not to be discussed by a minister of the United States. There is no established religion in the United States, and the American Buddhist, Mahommedan, Jew, infidel, or any other religionist would receive at the hands of his country's representatives abroad exactly the same consideration and protection as a Christian would. I can only say that converts to Christianity are numerous. There are supposed to be 40,000 Protestant converts now in China, and at least 500,000 Catholic converts. There are many native Christian churches. The converts seem to be as devout as people of any other race.

As far as my knowledge extends, I can and do say that the missionaries in China are self-sacrificing; that their lives are pure; that they are devoted to their work; that their influence is beneficial to the natives; that the arts and sciences and civilization are greatly spread by their efforts; that many useful Western books are translated by them

into Chinese; that they are the leaders in all charitable work, giving largely themselves, and personally disbursing the funds with which they are intrusted; that they do make converts, and such converts are mentally benefited by conversion. In answer to these statements, which are usually acknowledged to be true, it does not do to say, as if the answer were conclusive, that the literati and gentry are usually opposed to missionaries. This antagonism was to have been expected. The missionaries antagonize the worship of ancestors, which is one of the fundamental principles of the Chinese polity. They compel their converts to keep Sunday holy. The Chinese have no Sabbath. They work every day except New Year's day and other holidays. No new religion ever won its way without meeting with serious opposition. Under the treaties the missionary has the right to go to China. This right being admitted, no amount of antagonism can prevent its exercise. In the second place, let us see whether and how foreign countries are benefited by missionary work done in China.

Missionaries are the pioneers of trade and commerce. Civilization, learning, instruction breed new wants which commerce supplies. Look at the electric telegraph now in every province in China but one. Look at the steamships which ply along the coast from Hongkong to Newchwang and on the Yangtze up to Ichang. Look at the cities which have sprung up like Shanghai, Tientsin, Hankow—handsome foreign cities, object lessons to the Chinese. Look at the railroad being now built from the Yellow Sea to the Amoor, of which about 200 miles are completed. Will anyone say that the 1,500 missionaries in China of Protestants, and perhaps more of Catholics, have not contributed to these results? Two hundred and fifty years ago the pious Catholic fathers taught astronomy, mathematics, and the languages at Peking. The interior of China would have been nearly unknown to the outer world had not the missionaries visited it and described it. Someone may say that commercial agents might have done as much, but they are not allowed to locate in the interior. The missionary, inspired by holy zeal, goes everywhere, and by degrees foreign commerce and trade follow. I suppose that whenever an uncivilized or semicivilized country becomes civilized, its trade and dealings with Western nations increase. Humanity has not devised any better, or even any as good, engine or means for civilizing savage peoples as proselytism to Christianity. The history of the world attests this fact.

In the interests, therefore, of civilization, missionaries ought not only to be tolerated, but ought to receive protection, to which they are entitled from officials, and encouragement from other classes of people.

It is too early now to consider what effect the existing war may have on the interests of missions. It is quite probable, however, that the spirit of progress developed by it will make mission work more important and influential than it has ever been.

I have, etc., CHARLES DENBY.

PROTECTION OF LEGATION BY UNITED STATES TROOPS.

Mr. Gresham to Mr. Denby.

No. 1021.] DEPARTMENT OF STATE,
Washington, February 28, 1895.

SIR: I have received and considered your dispatches numbered 2064 and 2065, of December 18 and 20, 1894, in relation to bringing foreign troops to Peking as guards for the legations established there, and in

particular to your claim that such a guard or "escort" for the United States legation is a specific treaty right.

I do not find that article 5 of the treaty of 1858, to which you appeal, secures to the United States a right to maintain at Peking a military or other guard of 20 men. That article relates to the privilege, then stipulated, of making diplomatic visits to the Chinese capital for the transaction of business, not exceeding one visit each year; and the "entire suite" of the minister (exclusive of Chinese servants) on such journeys is limited to 20 persons. This is quite different from a military guard of 20 soldiers in addition to the personnel of the legation.

Moreover, the provisions of article 5 of the treaty of 1858 are virtually obsolete, since by the Anglo-Chinese treaty of June 26, 1858, the Franco-Chinese treaty of June 27, 1858, and subsequent treaties of China with other countries, the right of maintaining permanent legations at Peking has been granted to certain powers, and enjoyed by the United States as a favored-nation privilege.

I do not find in any of the treaties with China provisions authorizing the protection of the legations by foreign troops. You state in your dispatch that "The question of the right of the legations to have escorts here (Peking) is abstract and independent of the probability of its exercise." If this Government has the right, independently of treaty, to keep its own troops at Peking for the service of the legation, then it necessarily is the judge as to the character and strength or number of the guard. But, as a recognized principle of international intercourse, no government would, if it could prevent it, permit the introduction into its territory of such a foreign military force. China, like any other government, is bound to afford adequate protection to our legation. On the occasion of Mr. Burlingame's visit to Peking in 1862, a Chinese escort was furnished to him.

The President sees no reason why the legation should court danger by remaining at Peking in the face of imminent or threatening peril; and you would have the right to an adequate escort to assist you in avoiding it by removal to a place of safety where you would be under the immediate and legitimate protection of your own flag. Nevertheless, in view of your telegram of the 18th instant, reporting that other legations are bringing military guards to Peking with the consent of the Chinese Government, I telegraphed the 19th instant, as follows:

'You say troops have arrived with China's consent to protect other legations. In cooperation with Carpenter you are authorized to bring up marines under similar conditions.'

I am, etc., W. Q. GRESHAM.

TREATY OF PEACE BETWEEN CHINA AND JAPAN.

Mr. Denby to Mr. Gresham.

No. 2206.] LEGATION OF THE UNITED STATES,
Peking, April 29, 1895. (Received June 17.)

SIR: In my dispatch No. 2203, of the 25th instant, I inclosed a copy of the précis of the recent treaty of peace made at Shimonoseki between Japan and China. I have now the honor to inclose the full text thereof.

* * * * * * *

I am, etc., CHARLES DENBY.

[Inclosure in No. 2206.]

Treaty of peace between Japan and China.

His Majesty the Emperor of China and His Majesty the Emperor of Japan, desiring to restore the blessings of peace to their countries and subjects and to remove all cause for future complications, have named as their plenipotentiaries for the purpose of concluding a treaty of peace; that is to say, His Majesty the Emperor of China, Li Hung Chang, senior tutor to the heir apparent, senior grand secretary of state, minister superintendent of trade for the northern ports of China, viceroy of the province of Chili, and earl of the first rank, and Li Ching Fong, ex-minister of the diplomatic service, of the second official rank, and His Majesty the Emperor of Japan, Count Ito Hirobumi, Junii, grand cross of the imperial order of Paullownia, minister president of state, and Viscount Mutsu Munemitsu, Junii, first class of the imperial order of the second treasure, minister of state for foreign affairs, who, after having exchanged their full powers, which were found to be in good and proper form, have agreed to the following articles:

ARTICLE I.

China recognizes definitely the full and complete independence and autonomy of Corea, and in consequence the payment of tribute and the performance of ceremonies and formalities by Corea to China, in derogation of such independence and autonomy, shall wholly cease for the future.

ARTICLE II.

China cedes to Japan in perpetuity and full sovereignty the following territories, together with all fortifications thereon:

(*a*) The southern portion of the province of Fêng Tien within the following boundaries:

The line of demarcation begins at the mouth of the River Yalu and ascends that stream to the mouth of the River An-ping; from thence the line runs to Fêng Huang; from thence to Haicheng; from thence to Ying Kow, forming a line which describes the southern portion of the territory. The places above named are included in the ceded territory. When the line reaches the River Liao at Feng Kow, it follows the course of that stream to its mouth, where it terminates. The mid-channel of the River Liao shall be taken as the line of demarcation.

This cession also includes all islands appertaining or belonging to the province of Fêng Tien, situated in the eastern portion of the Bay of Liao Tung and in the northern part of the Yellow Sea.

(*b*) The island of Formosa, together with all the islands appertaining or belonging to said island of Formosa.

(*c*) The Pescadores Group—that is to say, all islands lying between the 119th and 120th degrees of longitude east of Greenwich and the 23rd and 24th degrees of north latitude.

ARTICLE III.

The alignments of the portions described in the preceding article and shown on the annexed map shall be subject to verification and demarcation on the spot, by a joint commission of delimitation consisting of two or more Chinese and two or more Japanese delegates to be appointed immediately after the exchange of the ratifications of this act. In case the boundaries laid down in this act are found to be defective at any point, either on account of topography or in consideration of good administration, it shall also be the duty of the delimitation commission to rectify the same.

The delimitation commission will enter upon its duties as soon as possible and will bring its labors to a conclusion within the period of one year after appointment.

The alignments laid down in this act shall, however, be maintained until the rectifications of the delimitation commission, if any are made, shall have received the approval of the Governments of China and Japan.

ARTICLE IV.

China agrees to pay to Japan as a war indemnity the sum of 200,000,000 Kuping taels. The said sum is to be paid in eight installments; the first installment of 50,000,000 taels to be paid within six months and the second installment of 50,000,000 taels to be paid within twelve months after the exchange of the ratifications of this act; the remaining sum to be paid in six equal annual installments, as follows:

The first of such equal annual installments to be paid within two years; the second, within three years; the third, within four years; the fourth, within five years; the fifth, within six years, and the sixth, within seven years, after the exchange of the

ratifications of this act. Interest at the rate of 5 per centum per annum shall begin to run on all unpaid portions of the said indemnity from the date the first installment falls due.

China shall, however, have the right to pay by anticipation at any time any or all of said installments. In case the whole amount of the said indemnity is paid within three years after the exchange of the ratifications of the present act, all interest shall be waived, and the interest for two years and a half or for any less period, if then already paid, shall be included as a part of the principal amount of the indemnity.

ARTICLE V.

The inhabitants of the territory ceded to Japan, who wish to take up their residence outside the ceded districts, shall be at liberty to sell their real property and retire.

For this purpose a period of two years from the date of the exchange of the ratifications of the present act shall be granted. At the expiration of that period those of the inhabitants who shall not have left said territories shall, at the option of Japan, be deemed Japanese subjects.

Each of the two Governments shall immediately upon the exchange of the ratifications of the present act send one or more commissioners to Formosa to effect a final transfer of that province, and within the space of two months after the exchange of the ratifications of this act such transfer shall be completed.

ARTICLE VI.

All treaties between China and Japan having come to an end, in consequence of war, China engages immediately upon the exchange of the ratifications of this act, to appoint plenipotentiaries to conclude with the Japanese plenipotentiaries, a treaty of commerce and navigation and a convention to regulate frontier intercourse and trade.

The treaties, conventions, and regulations now subsisting between China and European powers shall serve as a basis for the said treaty and convention between China and Japan. From the date of the exchange of the ratifications of this act until the said treaty and convention are brought into actual operation, the Japanese Government, its officials, commerce, navigation, frontier intercourse and trade, industries, ships, and subjects, shall, in every respect, be accorded, by China, most-favored-nation treatment.

China makes, in addition, the following concessions, to take effect six months after the date of the present act:

First. The following cities, towns, and ports, in addition to those already opened, shall be opened to the trade, residence, industries, and manufactures of Japanese subjects, under the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China.

(1) Shashih, in the province of Hupeh.
(2) Chungking, in the province in Szechuan.
(3) Suchow, in the province of Kian Su.
(4) Hang Chow, in the province of Chekiang.

The Japanese Government shall have the right to station consuls at any or all of the above-named places.

Second. Steam navigation for vessels under the Japanese flag for the conveyance of passengers and cargo shall be extended to the following places:

(1) On the upper Yangtze River, from Ichang to Chungking.
(2) On the Woosung River and the canal, from Shanghai to Suchow and Hangchow.

The rules and regulations which now govern the navigation of the inland waters of China by foreign vessels shall, so far as applicable, be enforced in respect of the above-named routes until new rules and regulations are conjointly agreed to.

Third. Japanese subjects purchasing goods or produce in the interior of China or transporting imported merchandise into the interior of China shall have the right temporarily to rent or hire warehouses for the storage of the articles so purchased or transported without the payment of any taxes or exactions whatever.

Fourth. Japanese subjects shall be free to engage in all kinds of manufacturing industries in all the open cities, towns, and ports of China, and shall be at liberty to import into China all kinds of machinery, paying only the stipulated duties thereon.

All articles manufactured by Japanese subjects in China shall, in respect of inland transit and internal taxes, duties, charges, and exactions of all kinds, and also in respect of warehousing and storage facilities in the interior of China, stand upon the same footing and enjoy the same privileges and exemptions as merchandise imported by Japanese subjects into China.

In the event additional rules and regulations are necessary in connection with these concessions, they shall be embodied in the treaty of commerce and navigation provided for by this article.

ARTICLE VII.

Subject to the provisions of the next succeeding article, the evacuation of China by the armies of Japan shall be completely effected within three months after the exchange of the ratifications of the present act.

ARTICLE VIII.

As a guarantee of the faithful performance of the stipulations of this act, China consents to the temporary occupation by the military forces of Japan of Wei-hai-wei in the province of Shantung.

Upon the payment of the first two installments of the war indemnity herein stipulated for and the exchange of the ratifications of the treaty of commerce and navigation the said place shall be evacuated by the Japanese forces, provided the Chinese Government consent to pledge, under suitable and sufficient arrangements, the customs revenue of China as a security for the payment of the principal and interest of the remaining installments of said indemnity.

It is, however, expressly understood, that no such evacuation shall take place until after the exchange of the ratifications of the treaty of commerce and navigation.

ARTICLE IX.

Immediately upon the exchange of the ratifications of this act all prisoners of war then held shall be restored, and China undertakes not to illtreat or punish prisoners of war so restored to her by Japan. China also engages to at once release all Japanese subjects accused of being military spies or charged with any other military offenses. China further engages not to punish in any manner nor to allow to be punished those Chinese subjects who have in any manner been compromised in their relations with the Japanese army during the war.

ARTICLE X.

All offensive military operations shall cease upon the exchange of the ratifications of this act.

ARTICLE XI.

The present act shall be ratified by their majesties the Emperor of China and the Emperor of Japan, and the ratifications shall be exchanged at Chefoo, on the 14th day of the 4th month of the 28th year of Kwang Hsii, corresponding to the 8th day of the 5th month of the 28th year of Meiji.

In witness whereof the respective plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done at Shimonoseki, in duplicate, this 23d day of the 3d month of the 21st year of Kwang Hsii, corresponding to the 17th day of the 4th month of the 28th year of Meiji.

LI HUNG CHANG. [L. S.]
Plenipotentiary of His Majesty the Emperor of China, Senior Tutor of the Heir Apparent, Senior Grand Secretary of State, Minister Superintendent of Trade for the North Ports of China, Viceroy of the Province of Chili, and Earl of the First Rank.

COUNT ITO HIROBUMI. [L. S.]
Junii, Grand Cross of the Imperial Order of Paullownia, Minister President of State, Plenipotentiary of His Majesty the Emperor of Japan.

VISCOUNT MUTSU MUNEMITSU. [L. S.]
Junii, First Class of the Imperial Order of the Sacred Treasure, Minister of State for Foreign Affairs, Plenipotentiary of His Majesty the Emperor of Japan.

Separate articles.

ARTICLE I.

The Japanese military forces which are, under Article VIII of the treaty of peace signed this day, to temporarily occupy Wei-hai-wei, shall not exceed one brigade, and from the date of the exchange of the ratifications of the said treaty of peace

China shall pay annually one-fourth of the amount of the expenses of such temporary occupation, that is to say, at the rate of 500,000 Kuping taels per annum.

ARTICLE II.

The territory temporarily occupied at Wei-hai-wei shall comprise the island of Liu Kung and belt of land 5 Japanese Ri wide along the entire coast line of the Bay of Wei-hai-wei. No Chinese troops shall be permitted to approach or occupy any places within a zone of 5 Japanese Ri wide beyond the boundaries of the occupied territory.

ARTICLE III.

The civil administration of the occupied territory shall remain in the hands of the Chinese authorities. But such authorities shall at all times be obliged to conform to the orders which the commander of the Japanese army of occupation may deem it necessary to give in the interest of the health, maintenance, safety, distribution, or discipline of the troops.

All military offences committed within the occupied territory shall be subject to the jurisdiction of the Japanese military authorities.

The foregoing separate articles shall have the same force, value, and effect as if they had been, word for word, inserted in the treaty of peace signed this day.

(Signed as above.)

Convention.

ARTICLE I.

The convention of armistice concluded on the 5th day of the 3rd month of the 21st year of Kwang Hsü, corresponding to the 30th day of the 3d month of the 28th year of Meiji, from this date.

ARTICLE II.

The armistice, which is prolonged by this convention, shall terminate, without notice on either side, at midnight on the 14th day of the 4th month of the 21st year of Kwang Hsü, corresponding to the 8th day of the 5th month of the 28th year of Meiji. The rejection in the meantime, however, of the said treaty of peace, by either high contracting party, shall have the effect of at once terminating this armistice without previous notice.

(Signed as above.)

Mr. Denby to Mr. Gresham.

[Telegram.]

PEKING, *May 9, 1895.*

The ratifications of the treaty were exchanged. Japan agrees not to occupy permanently Liaotung.

DENBY.

COLOMBIA.

ARBITRATION OF THE CERRUTTI CLAIM.

(See Italy.)

COSTA RICA.

PRESIDENT'S MESSAGE RELATIVE TO VENEZUELAN BOUNDARY DISPUTE.

Mr. Calvo to Mr. Olney.

[Translation.]

LEGATION OF COSTA RICA,
Washington, February 13, 1896.

SIR: I have the honor to inform you, in conformity with what I stated to you in person to-day, that the Government of Costa Rica has observed with pleasure the attitude of the Government of Washington in the Anglo-Venezuelan controversy as set forth in the paragraphs of the respective communication, of which I delivered a copy to you.

I avail, etc.,

T. B. CALVO.

DENMARK.

DISCRIMINATING DUTY ON SUGAR IMPORTED FROM BOUNTY-PAYING COUNTRIES.

Count Reventlow to Mr. Gresham.

LEGATION OF DENMARK,
Washington, January 19, 1895. (Received Jan. 21.

Mr. SECRETARY OF STATE: In a communication addressed, under date of the 30th of August last, by the honorable Secretary of the Treasury to the collector of customs at Baltimore, and published sub numero 15209 among the "Decisions under the tariff and navigation laws, etc., August, 1894," Denmark is placed among the countries which indirectly allow bounties on the exportation of sugar; it is consequently to be presumed that sugar of Danish origin imported into the United States will be subjected to the additional import duty of one-tenth of a cent per pound provided by the custom tariff act, section 182½, for sugar imported from countries that allow bounties on the exportation of that article.

The King's minister of foreign affairs remarks on this subject that as the privilege of the most favored nation is secured to Denmark as regards import duties payable in the United States, by Article V of the convention of April 26, 1826, and that as the additional duty in question is applicable only to certain foreign countries, the Royal Government can not consider the levying of this additional import duty on Danish goods as being in conformity with said convention.

However, if the United States Government is unable wholly to adopt this view, the Royal Government flatters itself that, when once the American Government is accurately informed with regard to the conditions on which sugar is exported from Denmark, the additional duty in question will not be levied upon Danish sugar, or at least the greater part of it, for direct bounties on the exportation of sugar are not allowed at all in the Danish Monarchy, and, as to indirect bounties, there is but a single case in which there can be any question of paying such a bounty.

The Kingdom of Denmark proper produces beet sugar only. The tax on the manufacture is paid, not according to the quantity of beets or of beet juice used, but simply according to the quantity of sugar that is manufactured, and the exact equivalent of the tax actually paid is refunded when the sugar is exported. There is but a single case in which there is a slight deviation from this system, viz, that in which sugar, darker-colored than Amsterdam standard No. 19, and on the manufacture of which there is a tax of 2.25 öre per pound, is refined and then exported. One hundred pounds of sugar, when refined, yields 80 pounds of powdered sugar (*melis*),[1] 10 pounds of brown sugar (*farin*),[1] and 7 pounds of molasses (*sirup*),[1] while 3 pounds are lost. In case of exportation the following refunds are made: On 80 pounds of melis, 2 crowns 40 öre; on 10 pounds of farin, 22½ öre; on 7 pounds of

[1] So called in Danish.

sirup, 7 öre; total, 2 crowns 69½ öre. After deducting the tax paid of 2 crowns 25 öre there remains the sum of 44½ öre; i. e., 0.556 öre per pound of melis.

In this case it may be claimed that there is an indirect export bounty of 0.556 öre per pound of melis, but this is the only case possible, and besides, it must be remembered that Denmark exports but little refined sugar to the United States. During the years 1889–1893 the average annual exportation to America amounted, it is true, to 2,660 pounds, but it appears that this was exclusively for consumption on board of the vessels on which it was shipped.

The Danish Antilles, in the West Indies, produce cane sugar only; the manufacture of this sugar is exempt from taxation; there are no refineries there, and not only are no bounties, direct or indirect, allowed on its exportation, but an export duty of 5 per cent ad valorem is levied.

The King's Government is naturally very desirous that Denmark should be stricken from the list of countries which allow bounties on the exportation of sugar; if, however, the United States Government, in view of the exceptional case above mentioned, does not think that it can comply with this desire, I have the honor to solicit your good offices, Mr. Secretary of State, to the end: First, that, in all cases, the Danish Antilles of the West Indies may be placed outside of the provision for the additional duty. Since those islands form a separate customs territory, with its own customs laws, there can be no objection to granting them a separate place in this respect; and, as appears from the facts above stated, there is no ground whatever for even a suspicion that a bounty, either direct or indirect, is allowed in those islands; second, that, as regards the Kingdom of Denmark proper, the Treasury Department may take measures to permit, according to paragraph 182½ of the tariff, the admission, without payment of the additional duty, of all sugar of Danish origin other than the above-named melis.

I herewith inclose a copy of the law in force relative to the tax on sugar produced in Denmark, and I beg your excellency to be pleased to submit to the proper Department the desires which I have just communicated to you on behalf of my Government, and then to enable me to inform the minister of foreign affairs of the decision that may be reached on this subject.

Be pleased, etc., F. REVENTLOW.

Mr. Gresham to Count Reventlow.

No. 3.] DEPARTMENT OF STATE,
Washington, January 30, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, concerning the discriminating duty of one-tenth of 1 cent a pound on sugar which receives a bounty on exportation to the United States from Denmark.

Your representations rest in part on the fifth article of the treaty of 1826, and in part on the considerations you adduce to show that no direct bounty whatever is paid on sugars exported from Denmark; that an indirect bounty is allowed by way of refund upon a certain class of refined sugar (melis) only when manufactured in Denmark and exported therefrom; and that no bounty, direct or indirect, is paid on sugars produced in and exported from the Danish West India Islands, but, on the contrary, those sugars are subject to an export duty of 5 per cent ad valorem.

Discussion of the questions you present may with propriety be postponed in view of the pendency of a bill in Congress providing for the repeal of the section of the present law imposing the differential duty. When that bill is disposed of, I may communicate further with you on the subject.

Accept, etc., W. Q. GRESHAM.

Mr. Uhl to Count Reventlow.

No. 6.] DEPARTMENT OF STATE,
Washington, February 15, 1895.

SIR: Referring to your note of the 19th ultimo, relative to bounties paid on the exportation of sugars from Denmark, I have the honor to inform you that the Department has received a letter from the Secretary of the Treasury stating that those sugars only which are refined from raw sugars under No. 19 in color by the Dutch standard, when imported from Denmark will be liable to the additional duty of one-tenth of 1 cent per pound in the absence of a certificate of nonpayment of bounty, under the provisions of paragraph 182½ of the tariff act of August 28, 1894.

The Secretary of the Treasury adds that the instructions to collectors of August 31, 1894 (S. 15209), have been modified to this extent, and that due notice of the modification has been given to those concerned.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

PEARY RELIEF EXPEDITION.

Mr. Uhl to Mr. Risley.

No. 62.] DEPARTMENT OF STATE,
Washington, February 28, 1895.

SIR: I inclose for your information a copy of a letter dated the 18th instant, from Mrs. Josephine D. Peary, wife of Civil Engineer R. E. Peary, U. S. N., asking the Department to obtain permission for a scientific expedition to visit Greenland in July next to carry on explorations, and to aid Mr. Peary in returning to the United States with his party.

You are instructed to bring Mrs. Peary's application to the attention of the Danish Government, and to request that the usual permission may be granted to the expedition in question. Any further particulars in regard to the subject which Mrs. Peary may be able to furnish will be promptly sent to you for communication to the Danish Government.

I am, etc., EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 in No. 62.]

Mrs. Peary to Mr. Gresham.

WASHINGTON, D. C., *February 18, 1895.*

SIR: I beg to inform you that a scientific expedition will start some time in the early part of July next for Whale Sound, North Greenland, to carry on explorations and investigations and to aid my hus-

band, Civil Engineer R. E. Peary, U. S. N., to return with his party to the United States.

I respectfully request that you obtain for me from the Danish Government the usual permission for the ship to touch at the ports in Danish Greenland, to enable the scientists to land and carry on their investigations.

Very respectfully.

JOSEPHINE D. PEARY.

[Inclosure 2 in No. 62.]

Mr. Uhl to Mrs. Peary.

DEPARTMENT OF STATE,
Washington, February 28, 1895.

MADAM: I have to acknowledge the receipt of your letter of the 18th instant, asking this Department to obtain permission from Denmark for a vessel which is to sail from this country for Greenland in July next to touch at certain ports there in order that the scientists on board the vessel may land to carry on their explorations and to aid Civil Engineer R. E. Peary in returning to the United States.

In reply I have to inform you that there is substantially no commerce between Denmark and Greenland. The communication consists only of casual vessels which are dispatched from Copenhagen two or three times a year at irregular intervals. The Danish Government last year officially called the attention of this Department to a Royal decree which prohibits foreigners from landing at any of the ports of Greenland without first obtaining permission to do so at Copenhagen.

In view of the foregoing circumstances, it is highly important that the Department should, as soon as practicable, be furnished with the name of the vessel in which the expedition to which you refer is to sail, and other particulars, in order that the same may be communicated to the Danish Government in ample time to enable it to send instructions to the local authorities of Greenland.

A copy of your letter has been sent to the American minister at Copenhagen with instructions to bring your application to the attention of the Danish Government with the statement that further information in regard to the proposed expedition will be furnished as soon as possible. Owing to the very liberal disposition which the Danish Government has heretofore manifested in aid of scientific explorations in Greenland, the Department is anxious that all the colonial regulations of that Government should be fully and carefully complied with.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Risley.

No. 64.] DEPARTMENT OF STATE,
Washington, March 7, 1895.

SIR: Referring to the Department's instruction No. 62, of the 28th ultimo, relative to the Peary scientific expedition to Greenland, I inclose for your information a copy of a further letter on the subject from Mrs. Peary, dated the 4th instant,

I will thank you to transmit a copy of Mrs. Peary's letter to the Danish foreign office as showing the efforts she is making to comply with all the requirements of the Government of Denmark on the subject.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 64.]

Mrs. Peary to Mr. Gresham.

WASHINGTON, D. C., *March 4, 1895.*

SIR: I have your esteemed favor of the 28th ultimo, in which you ask for the name of the vessel which is to convey the Greenland scientific expedition of 1895 to North Greenland.

In reply I beg to state that, owing to the loss of the *Falcon*, the vessel which has heretofore carried several of the Peary expeditions north, and to the fact that several owners are offering their vessels for the purpose, we are unable to give the name of the ship at present.

I take the liberty of mentioning that Mr. Peary has several times visited the Greenland coast and has always secured the permission of the Danish Government and so conducted himself that the permission was always readily granted.

My brother, Mr. Emil Diebitsch, will have charge of the business affairs of the coming expedition and will see to it that the colonial regulations of the Danish Government are carefully complied with.

In view of the above facts I trust the negotiations with the Danish Government will not be delayed on account of the vessel's name, which will be furnished as soon as we have chartered a ship.

Very respectfully,

JOSEPHINE DIEBITSCH-PEARY.

Mr. W. V. Risley to Mr. Gresham.

UNITED STATES LEGATION,
Copenhagen, May 9, 1895. (Received May 21.)

SIR: In the absence of the minister, I have the honor to inclose the original of a dispatch received at this legation from the Danish ministry of foreign affairs, relative to the proposed Peary relief expedition to Greenland. I have caused a copy of this dispatch to be kept on record at this legation.

I have, etc.,

W. V. RISLEY,
Private Secretary.

[Inclosure.—Translation.]

Minister of Foreign Affairs to Mr. Risley.

COPENHAGEN, *May 6, 1895.*

Mr. MINISTER: I have communicated to my colleague, the minister of the interior, the desire which you expressed to me in your note of the 20th of last March, that the expedition now preparing in the United States to go in search of Mr. Peary be permitted to enter the Danish

ports and settlements in Greenland, and that it may count upon receiving assistance from the local authorities. I have just received Mr. Hörring's answer, to the effect that on the first occasion the authorities shall receive the necessary instructions in order that they may lend their full support to this expedition, so far as the exigencies of the service and the interests of the natives will permit. As to the extent to which the authorities will have it in their power to furnish provisions and other essentials to the expedition, I refer you to the letters which I had the honor to address to your predecessor under the dates of March 22, 1892 and 1893.

I will be obliged to you to furnish me as soon as possible with the names of the vessel and captain, and other details of interest to the local authorities.

Be pleased to accept, etc.

Mr. Uhl to Mr. Risley.

No. 75.] DEPARTMENT OF STATE,
Washington, May 18, 1895.

SIR: Referring to the Department's instruction to you, No. 62, of the 28th of February last, relative to obtaining certain facilities for the Peary Arctic expedition to visit Greenland in July next, I inclose for your information a copy of a letter of the 16th instant,[1] from Mrs. Josephine D. Peary, stating that the steam whaler *Kite*, Captain Ash, master, has been chartered for the expedition, and that the vessel will sail from St. Johns, Newfoundland, about the 1st of July next.

I will thank you to convey this information to the Danish Government.

I am, etc., EDWIN F. UHL,
Acting Secretary.

Mr. Risley to Mr. Gresham.

No. 84.] LEGATION OF THE UNITED STATES,
Copenhagen, May 31, 1895. (Received June 14.)

SIR: I have had the honor to receive this day your No. 75, dated May 18, inclosing a copy of a letter received by you, dated May 16, from Mrs. Josephine D. Peary, stating that she had "chartered the steam whaler *Kite*, Captain Ash, master, and the expedition (for Greenland) will sail from St. Johns, Newfoundland, about July 1."

I have, just now, addressed a note to the Danish minister of foreign affairs conveying the above information.

I have, etc., JOHN E. RISLEY.

PROHIBITION OF AMERICAN CATTLE.[2]

Mr. Risley to Mr. Gresham.

No. 75.] LEGATION OF THE UNITED STATES,
Copenhagen, January 14, 1895. (Received Jan. 28.)

SIR: Referring to my No. 69, of November 21, 1894, relating to the action of Denmark in prohibiting the importation from the United

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[1] Not printed.

[2] See Foreign Relations, 1894, pp. 205–206.

States of live cattle or fresh meat, I have recently had a conversation with the minister of foreign affairs on the subject. He said Mr. Vedel had mentioned to him my conversation, referred to in No. 69, and had called his attention to the point that the language of the decree was broad enough to include sheep and swine and fresh meat from them; he had examined the question and found that it was liable to such construction; and thereupon he brought it to the attention of his colleague, the minister of the interior, who had issued the decree, and had been by him assured that it was not intended to prohibit or in any way affect the importation of other than live horned cattle and fresh meat from them, and that he would see that no broader interpretation should be given to it by executive officials. The minister pointedly remarked that the decree in no way interfered with the importation of canned meats. Indeed the decree expressly so states, but in an American newspaper of recent date I read allusion which seemed to imply that canned meats were also excluded. The Danes are now using considerable quantities of American canned meats, and the trade could be largely increased by proper efforts.

In a further conversation I called the minister's attention to the recent action of Sweden in largely increasing the import duties on wheat and flour, and expressed the hope that Denmark did not purpose to take similar action. He replied that he had heard of the action of Sweden with much surprise; that while it might in some very small degree benefit the agriculturists it would be very hard on the poor who had to buy bread; that Denmark imposed no duty whatever on wheat or flour, and had no intention to do so. He assured me that the Rigsdag, now in session, would make no material change in customs laws. He complained much that Denmark's immediate neighbors, Sweden on the north and Germany on the south, imposed heavy duties on all imports, and generally pursued the policy of excluding the merchandise of other nations from their markets.

I have, etc.,

JOHN E. RISLEY.

Mr. Risley to Mr. Olney.

No. 108.] LEGATION OF THE UNITED STATES,
Copenhagen, December 16, 1895. (Received Dec. 30.)

SIR: On receiving from the State Department, in October last, the Regulations issued by the Department of Agriculture concerning exportation of cattle and meat, I had a conversation with the minister of foreign affairs, who, it will be remembered, is also prime minister, in which it appeared that he was personally inclined to favor a revocation of the orders now in force excluding American cattle and fresh meat from this country. Thinking the time favorable, the next day I sent him a copy of the Regulations above referred to, accompanied by a note of which a copy is inclosed, marked A. I have now received an answer, of which I also inclose a copy, marked B.

It will be observed that the action of Denmark in excluding our cattle and meat is based wholly on the like action of Germany, precisely as I stated in my dispatch No. 69, of November 21, 1894. Before sending me the reply inclosed, the minister, in a conversation, stated that Germany now maintained a quarantine of ten days against Danish live cattle, on the pretext of fear of the foot-and-mouth disease, which he

said had not existed in Denmark in the past two years, though it prevails extensively in Germany itself. He added that his colleague would be glad to revoke the decrees I complained of, but feared if he should do so Germany would exclude Danish cattle entirely, which would be very injurious to the Danes.

I have, etc., JOHN E. RISLEY.

[Inclosure A.]

Mr. Risley to Baron Reedtz-Thott.

No. 59.] LEGATION OF THE UNITED STATES,
Copenhagen, October 3, 1895.

EXCELLENCY: Referring to the conference I had the honor to hold with you yesterday in relation to the exclusion by Denmark of cattle and fresh meat from the United States, and to our previous correspondence on the same subject, I beg to hand you herewith a pamphlet recently issued by the Department of Agriculture of the Government of the United States, containing the "Rules and regulations governing the operations of the Bureau of Animal Industry; also the acts of Congress under which they are made."

It is strenuously denied that "Texas fever" or any other infectious or contagious disease exists to an alarming or dangerous extent among the cattle of any part of the United States, but if it were otherwise, in view of the many inspections, rigid rules, and severe penalties prescribed by these laws and regulations, it appears to be nearly impossible for diseased animals or meat to be exported.

I desire to call particular attention to sections 2 and 4 of the law of March 2, 1895, on page 44; and the Regulations pursuant thereto, made by the Secretary of Agriculture, dated June 14, 1895, pages 5–12.

It will be observed that competent inspectors are appointed for each slaughterhouse (rules 3, 4). An antemortem examination must be made of all animals arriving at the stock yards for slaughter, and those found to be diseased or unfit for human food are condemned and rejected and destroyed (5).

Those found to be sound must again be inspected when about to be slaughtered (6). After they are slaughtered a careful examination must again be made, and if any carcass is found to be diseased or unfit for human food it is condemned and destroyed (7), or otherwise disposed of in such manner that it can not be put on the market or exported. Rules 9 to 13 prescribe such strict regulations for marking, stamping, and shipping that it would be practically impossible for any meat to pass that had not been subjected to these numerous inspections.

Rule 18, page 11, requires similar examinations and precautions for swine, and, in addition, a careful microscopic examination of such swine meat as is intended for export to countries requiring it, among which is Denmark (19). A copy of the inspector's certificate will accompany the shipping bill (21).

No clearance shall be given to any vessel having on board any fresh, salted, canned, corned, or packed beef, being the meat of cattle killed after the passage of this act, for exportation to and sale in a foreign country from any port in the United States until the owner or shipper shall obtain from an inspector appointed under the provisions of this act a certificate that said cattle were free from disease, and that the meat is sound and wholesome. (Section 2, law of March 2, 1895.)

Section 4 of the same law prescribes severe penalties of both fine and imprisonment for any person who shall forge, counterfeit, alter, or destroy intentionally any of the tags, labels, or certificates required.

The foregoing is a hasty sketch of a part only of the laws and regulations now in force for preventing the export of unhealthy meat. Equally strenuous laws and regulations exist to prevent the export of diseased or unsound live cattle or sheep; and most careful provision is made for the comfort and care of all animals while in transit, in order that exposure or suffering shall not render them unfit for human food. (Regulations, pp. 13–21.)

I submit that a careful reading of these laws and regulations can hardly fail to convince anyone that there can be no risk to health in using cattle or meats exported from the United States; and I hope that the Government of His Majesty will agree in the view that the prohibition now existing against the import of cattle and meat from the United States can, with entire safety to Denmark, be removed.

I am confident that such action would be very pleasing to the Government and people of the United States, and would add much to the already increasing commercial relations of the two countries. At the present moment I think this particularly desirable, in view of the increased facilities offered by the free port of Copenhagen and the new line of steamships about established between this port and New Orleans.

Accept, etc., JOHN E. RISLEY.

[Inclosure B.]

Baron Reedtz-Thott to Mr. Risley.

COPENHAGEN, *December 12, 1895.*

Mr. MINISTER: I hastened to consult with my colleague, the minister of the interior, in regard to the contents of the note which you were pleased to address to me on the 3d of October last, and in which you urged the revocation of the prohibition, which is now in force, of the importation of live cattle and fresh beef from America into Denmark.

My colleague has just replied that the prohibition in question was rendered necessary by the measures taken some years since by Germany to prevent the importation of American cattle into Germany. As it is of the utmost importance for Denmark to retain the privilege of exporting her cattle to Germany, it has been necessary to guard against the danger that would arise if exporters of American meat effected an entrance to the German market by way of Denmark, with a view to taking advantage of the favors granted to our country by Germany. In case of such abuses, there would be reason to fear lest Germany, as regards the importation of cattle, would impose upon us the same rigorous conditions that have been imposed upon the United States, which, in our case, would be equivalent to a prohibition.

In view of the way in which our trade in cattle has become developed, the minister of the interior is of the opinion that we are obliged to proceed on the same lines that are followed by Germany in connection with the importation of cattle from foreign countries, and he does not see his way clear to revoking the prohibition in question so long as Germany continues to exclude American cattle.

In having the honor to acquaint you with my colleague's reply, I avail myself, etc.,

REEDTZ-THOTT.

CATTLEMEN LEFT DESTITUTE IN FOREIGN COUNTRIES.[1]

Count Reventlow to Mr. Gresham.

WASHINGTON, *January 4, 1895.*

The Danish minister has the honor to state that, according to reports from His Majesty's consuls in British ports, the shippers of live cattle from the United States to Great Britain—mainly from New York and Boston—appear to be in the habit of employing as cattlemen on board the steamers destitute paupers, giving them free passage but no pay whatever, and leaving them behind without any means of existence. If these men happen to be of Danish nationality by birth, they recoil upon the Danish consuls, to considerable annoyance for these.

Count Reventlow learns that the American commercial agent at Swansea, Wales, has recently reported in similar manner to the United States Government, and that is why he should think it likely that the proper authorities might have taken the matter into consideration and possibly have suggested some steps to prevent the malpractice in question so that, at all events, a reasonable pay may be secured to the men in charge of the cattle.

In case of such measures being contemplated, the Danish minister would be exceedingly obliged to the honorable Secretary of State if the latter would kindly apprise him thereof and eventually furnish him with a copy of the regulations which may be issued on the subject.

He avails, etc.,

REVENTLOW.

Mr. Gresham to Count Reventlow.

No. 11.] DEPARTMENT OF STATE,
Washington, April 4, 1895.

The Secretary of State has the honor to acknowledge the receipt of the Danish minister's note of January 4 last, stating that, according to reports from His Majesty's consuls in British ports, the shippers of live cattle from the United States to Great Britain—mainly from New York and Boston—appear to be in the habit of employing destitute paupers as cattlemen on board the steamers, giving them free passage but no pay whatever, and leaving them behind without any means of existence; and that if these men happen to be of Danish nationality by birth they recoil upon the Danish consuls.

The Secretary of State in reply has to inform Count Reventlow that this matter has been the subject of consideration by this and the Treasury Department with a view of remedying the evil complained of, but there seems to be no way of reaching it under present laws. The Secretary of the Treasury reports that most of the vessels shipping these men are under the British flag. Publicity was recently given to a report of the hardships entailed upon these men when left destitute in foreign ports, made by the United States commercial agent at Swansea, in the hope that the practice might be checked, in a measure at least, by calling public attention to it.

The Secretary of State renews to Count Reventlow the assurances of his highest consideration.

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[1] See also under Great Britain, p. —.

DOMINICAN REPUBLIC.

FIRING UPON THE SCHOONER HENRY CROSBY.*

Mr. Smythe to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES TO SANTO DOMINGO,
Port au Prince, December 15, 1893.

Commandant killed at Azua, Santo Domingo. Bold attempt to assassinate Heureaux. Meade† cables American schooner attacked; two sailors wounded at Azua. Have cabled instructions.

SMYTHE.

Mr. Smythe to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Port au Prince, December 18, 1893. (Received December 29.)

SIR: I cabled you on the 15th that a bold attempt at revolution had been made in Santo Domingo, that the general commanding at Azua, a town 72 miles from the capital, had been killed, and that an attempt had been made to assassinate President Heureaux. After receiving this news through the secretary of state for Haiti, I received a telegram from our consul at Santo Domingo, and embraced its contents in my message to the effect that "an American schooner had been fired upon at Azua and two seamen wounded." The dispatch added that "this was done by Dominican soldiers." It has occurred to me that perhaps the schooner carried the insurgents to Azua (where the insurrection broke out), and I cabled to Meade to "obtain facts and report." Up to to-night we have no further advices, though I will be in possession soon of all that shall be cabled to the foreign office here. I think it possible that the attempted revolution has been quelled by Heureaux, but if not, we should have a naval vessel in these waters at once. Will give you all particulars.

I am, etc., HENRY M. SMYTHE.

Mr. Smythe to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, January 12, 1894.
(Received January 24.)

SIR: I have the honor to report the arrival of the U. S. S. *Kearsarge* at this port yesterday evening. To-day Admiral Stanton (who arrived

* Reprinted from House Doc. No. 164, Fifty-fourth Congress, first session.
† Consul at Santo Domingo City.

almost at the same time on the Atlas steamer), together with Commander Hyerman and a subaltern officer, made an official visit to the legation. The officers, crew, and marines of the vessel are in perfect health, and the captain reports all quiet in Santo Domingo. As well as I can determine, the American schooner fired upon at Azua had entered a closed port, 6 miles from the port of Azua, and the firing occurred under the stimulus of the excitement incident to a very small attempt at revolution. Ample apology was made, but in the absence of any information from Consul Meade, I am not prepared to make any direct conclusion as to the matter. I presume, since I can hear nothing from the consul, that I will have to rely on the Department for information and instruction.

I have, etc.,

HENRY M. SMYTHE.

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*Mr. Smythe to Mr. Gresham.**

No. 6.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, January 22, 1894.
(Received January 29.)

SIR: I inclose herewith the testimony forwarded to me by Consul Meade, relating to the incident at Azua. This shows the affair practically as reported to me by the commander of the *Kearsarge*, and is the only official intelligence I have received except the brief dispatch which I forwarded to you.

It seems right to consider, first, that the vessel was anchored at a closed port; second, that the whole countryside was in arms trying to apprehend or prevent the escape of the parties who had assassinated the governor of the province; and, third, that the mate, instead of proceeding boldly to the shore and making inquiries as soon as he saw a few men with arms in their hands turned the bow of his boat to the vessel and retreated, thus confirming the suspicions of the ignorant soldiery in the belief that the vessel was either concerned in the uprising or was there (in a closed port) to carry away the assassins of the governor.

I have unofficial information that the mate is well, and the seaman, Smith (who, it seems, is a Swede), is recovering rapidly.

I have, etc.,

HENRY M. SMYTHE.

P. S.—I have just learned that it will be impossible to copy the evidence, etc., for this mail, and hence I send this dispatch to give the Department an idea of the situation. My opinion is that no discourtesy was intended to our flag, but think a reasonable indemnity should be demanded for the wounded sailors, unless the circumstances debar them from remuneration.

The papers will follow in next mail, and can then be connected with this dispatch.

Very truly, your friend and servant,

HENRY M. SMYTHE.

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* Printed in Foreign Relations, 1894, p. 207.

[Inclosure 1 in No. 6.]

Mr. Meade to Mr. Smythe.

UNITED STATES CONSULATE,
Santo Domingo, December 30, 1893.

SIR: I inclose you herewith copies of the depositions of the master, mate, and sailor (with accompanying medical certificate) of the American schooner *Henry Crosby*, who were connected in the recent shooting affair at Azua, and an account of which has been telegraphed you as received from Consular Agent Hardy at that port.

I have, etc.,
[L. S.] JOHN R. MEADE,
United States Consul, Santo Domingo.

[Inclosure 2 in No. 6.]

Mr. Hardy to Mr. Meade.

No. 71. UNITED STATES CONSULAR AGENCY,
Azua, December 26, 1893.

SIR: Your dispatch No. 2, dated December 16, received and contents noted.

According to instructions I inclose copy of depositions made at this consular agency by A. F. Stubbs, master, William H. Brooks, first mate, and Charles Smith, seaman, all belonging to the American schooner *Henry Crosby*, now lying at this place, the originals of said depositions being entered and sworn to in the record books in this office. I also inclose certificate of medical attendant regarding nature of wound received by the above-named Charles Smith on the 10th day of December last.

You will observe that there is an unimportant addition to the captain's declaration. This was added at the request of the authorities here, who desired Captain Stubbs to sign a declaration drawn up by them which did not recognize the fact of the vessel's national flag being displayed. To avoid dispute I advised Captain Stubbs to send a copy of his declaration to the consular agency, which was done in the form inclosed. In explanation of the Dominican Government's wish that the master certify to the fact that he was anchored outside the limits of any port, I may mention that Azua and Baralrona are the only two ports in this section where foreign vessels are allowed to enter unless under special permit from the Government. Captain Stubbs was misled by the information he received in New York regarding the situation of Azua, and it is to be regretted that he did not provide himself with a United States hydrographic chart of 1886, or sailing directions from the same office, published in 1892, before leaving New York. The arrival of the *Henry Crosby* occurred while the country was in a state of unrest. The governor-general of the province and Bara Huna having been assassinated on the Sunday previous, the whole population was under arms to prevent the escape of the murderers, and by some error the authorities were advised that the vessel reported at anchor on the coast was from Bara Huna, hence the dispatch of an armed force to watch her motions. Of course a moment's consideration ought to have convinced the authorities that a vessel engaged in any illegal ——— would hardly anchor in the middle of the day and remain twenty-seven hours within rifle shot of the beach with her colors flying. In any case, the dispatch of an armed force in a boat from , as afterwards was done, would resolve any suspicions that existed.

The seaman Charles Smith is progressing favorably.

Trusting inclosures will be found satisfactory, etc.,

JOHN HARDY,
United States Consular Agent.

[Inclosure 3 in No. 6.]

Deposition of William H. Brooks.

UNITED STATES CONSULAR AGENCY,
Azua, December 22, 1893.

Be it known that on the 22d day of December, 1893, personally appeared before me, John Hardy, consular agent for the United States of America for the port of Azua, William H. Brooks, chief officer of the American schooner *Henry Crosby*, who maketh the following declaration and answers under oath:

That the said William H. Brooks is an American citizen with residence in Rockland, Me.; that he has been attached to the American schooner *Henry Crosby* upward of one year; that he left New York in the said schooner in the capacity of mate on 24th November last.

That on the 10th day of December, while the vessel was lying at anchor off what was supposed to be the port of Azua, at 11.30 a. m., he received an order from A. J. Stubbs, the master of the vessel, to take two seamen in the small boat to ascertain if the vessel was really in the port of Azua, with the additional order not to land. That in obeying these instructions the boat was taken within hailing distance of the shore, where two men were observed and the question asked, "Is this the port of Azua?" Understanding them to give an affirmative answer, and further alarmed by the sudden appearance of a large body of armed men, the order was given to pull back to the vessel; immediately the men on the beach opened fire on the boat, great numbers of bullets falling near to and passing through the planking of the boat, one of the latter striking him, the deponent, on the hip and for the moment disabling him.

That up to the time of the firing no intimation which he could understand had been given him, that he was desired to land, consequently he carried out the orders given by the master of the vessel, and seated with his back to the shore he was unable to see the soldiers making ready to fire, and with the first volley he became disabled. After a time, finding that one of his boat's crew was dangerously wounded and the other in hiding, by a great effort he took to the oars in the endeavor to get the boat out of range or on the other side of the vessel. In this he succeeded.

That he further declares that the schooner *Henry Crosby* held no other communication with the shore from the time of his leaving New York, and that during the time of the vessel lying at anchor off the Boca de Jura the national flag was displayed from sunrise to sunset, and that at the time of the firing the flag on the ship was plainly discernible.

To the above declaration the said William H. Brooks subscribes his name and maketh oath the day and date above written.

WM. H. BROOKS.

This declaration made and sworn to before me this 22d day of December, 1893.

JOHN HARDY,
United States Consular Agent.

UNITED STATES CONSULAR AGENCY,
Azua, December 26, 1893.

I, John Hardy, consular agent of the United States of America, do hereby certify that this is a true copy of the original on the record book of this agency.

Given under my hand and seal the day, month, and year mentioned.

JOHN HARDY,
United States Consular Agent.

[Inclosure 4 in No. 6.]

Deposition of Charles Smith.

UNITED STATES CONSULAR AGENCY,
Azua, December 23, 1893.

Be it known that on the 23d day of December, 1893, the following declaration was made and sworn to by Charles Smith, seaman, belonging to the American schooner *Henry Crosby*, of Bangor, Me., the said Charles Smith being confined to his bed on account of a wound received in the line of his duty as seaman on board the said vessel. Said Charles Smith makes declaration that he is a native of Sweden, but has sailed in American vessels for upward of three years past.

He further declares that he sailed from New York in the above-mentioned vessel in the capacity of able seaman on the 24th day of November last; that nothing of importance occurred until the 10th day of December, the ship then lying at anchor off the coast of Santo Domingo. Shortly before noon of the above date the deponent was ordered to go into the boat, and accordingly pulled toward the shore, with Seaman Johnson pulling and the chief officer, Mr. Brooks, steering. When within hailing distance of the shore, the mate turned the boat's bow toward the vessel and then the mate ordered us to stop rowing. The mate then asked some man on shore—speaking in English, "If this was the port of Azua?" Whatever answer was given was not understood by me.

During this conversation I noticed a number of men issuing from the bush, armed with rifles and big knives, and called the mate's attention to it. The mate then gave

the order to give way on the oars. Almost at the same moment the men on shore commenced firing, the balls dropping in and around boat in great quantity. Very soon afterwards I saw the mate fall from his seat, face forward, to the bottom of the boat, Johnson having stopped his oar and hid in the bottom of the boat. I seized the two oars and endeavored to pull on board, but very soon receiving a bullet in the front of the thigh, which passed through and left my body at the posterior, and, getting faint from pain and loss of blood, I, too, abandoned the oars and later was hoisted on board and my injuries temporarily dressed by the captain.

Charles Smith further maketh declaration that the ship held no communication with the shore of Santo Domingo than as above stated, and that during the time of the firing on the boat the flag of the vessel was plainly discernible.

To all of which the said Charles Smith declares on oath that the statement is true.

CHARLES SMITH.

This declaration made and sworn to before me on the 23d day of December, 1893.

JOHN HARDY,
United States Consular Agent.

UNITED STATES CONSULAR AGENCY,
Azua, December 26, 1893.

I, John Hardy, consular agent of the United States of America at Azua, do hereby certify that this is a true copy of the original on the record book of this agency.

Given under my hand and seal the day and date ad supra.

JOHN HARDY,
United States Consular Agent.

[Inclosure 5 in No. 6.]

Deposition of Capt. A. F. Stubbs.

UNITED STATES CONSULAR AGENCY,
Azua, December 22, 1893.

Be it known that on the 22d day of December, 1893, personally appeared before me, John Hardy, consular agent of the United States of America at the port of Azua, A. F. Stubbs, master of American schooner *Henry Crosby*, who makes the following declaration and answer under oath:

That the said A. F. Stubbs is a citizen of the United States, with residence in Brooklyn, N. Y.; that as master of schooner *Henry Crosby* he sailed from the port of New York, bound for the port of Azua, and that nothing of importance occurred until the morning of the 9th day of December, when the vessel was off Salina Point. Acting under the best information he could obtain before leaving New York, and also consulting the chart used by him on board, he was led to believe that Azua was about 15 miles distant in a northwest direction; with the sea breeze a corresponding course was steered until he supposed himself opposite the inland town of Azua, when the anchor was dropped at 1.30 p. m., in 6 fathoms of water, and the colors kept flying in expectation of a visit from custom-house authorities, the tend of the shore showing an indentation of a small port; that the colors were kept flying during daylight of the 9th and hoisted at sunrise Sunday, the 10th; that at 11.30 a. m. of the 10th, no communication having been received from the shore, and observing two or three men on the beach, he ordered William H. Brooks, first mate of the vessel, to take the small boat with two seamen and approach near enough and hail if it was the port of Azua or not, but on no account to land.

Watching the mate, he saw him get near to the beach and turn the bow of his boat seaward. After apparently changing speech with the men on shore, the men in the boat commenced to pull toward the ship. That during the time of the mate's speaking with the men on shore he was surprised to see a great number of armed men issue from the woods, probably thirty or forty, and the moment the boat commenced to move toward the ship they opened fire on the boat, the result being that the mate, William H. Brooks, having been struck on the hip by a ball which had probably passed through the woodwork of the boat and thus lost a great part of its force, fell from his seat. His injury proved to be a large contusion. The man pulling the after oar hid himself in the bottom of the boat, and Charles Smith, seaman, the bow oar, was shot so severely that he fell from his seat. The crew of the boat being apparently totally disabled the troops on shore opened fire on the ship, the rifle balls passing through the rigging and some few landing on deck, so that it became necessary to order the rest of the crew below for safety.

The said A. F. Stubbs further declares that during his voyage he held no communication with the shore and was engaged in peaceful and lawful occupation. To all which he affirms under oath the day and date above mentioned.

A. F. STUBBS,
Master of American Schooner Henry Crosby.

This declaration was made and sworn to before me the 22d day of December, 1893.

JOHN HARDY,
United States Consular Agent.

ADDITION.

As the clause concerning the anchorage of the schooner *Henry Crosby* is deemed not sufficiently clear, it is acknowledged that through bad information and unacquaintance, the vessel was anchored in a part of the coast not recognized as a port of entry and uninhabitable.

A. F. STUBBS.

I certify to the above signature.

JOHN HARDY,
United States Consular Agent.

UNITED STATES CONSULAR AGENCY,
Azua, December 26, 1895.

I, John Hardy, consular agent of the United States of America at Azua, certify that this is a true copy of the original on the record books of this agency.

Given under my hand and seal the day, month, and year above written.

JOHN HARDY,
United States Consular Agent.

Mr. Herbert to Mr. Gresham.

NAVY DEPARTMENT,
Washington, January 25, 1894.

SIR: I have the honor to transmit herewith for your information copy of a communication received from the commanding officer of the U. S. S. *Kearsarge*, dated January 2, 1894, relative to the recent outbreak at Azua, Santo Domingo.

The report mentioned in paragraph 10 of this inclosure has not been received.

Very respectfully, etc.,

H. A. HERBERT.

[Inclosure.]

Commander Heyerman to Mr. Herbert.

U. S. S. KEARSARGE, THIRD RATE,
Azua Bay, Santo Domingo, January 2, 1894.

SIR: In obedience to the Department's orders of December 20, 1893, after careful investigation I have the honor to make the following report of the recent outbreak at Azua, Santo Domingo, and of the firing on a boat of the American schooner *Henry Crosby* by Government soldiers, and the wounding of two men of that schooner:

1. On December 3, 1893, Gen. G. Campo, governor of Azua, was assassinated by revolutionists. Measures were taken to prevent the escape of the assassins from the country, and strict orders were given to watch every vessel that touched on the coast.

2. On December 9, 1893, the American schooner *Henry Crosby*, of Bangor, Me., A. F. Stubbs, master, from New York, for the port of Azua, loaded with machinery and railway material, consigned to Mr. John Hardy, United States consular agent at Azua, anchored at Puerto Viejo, which is not a port of entry. The schooner hoisted American colors and signaled for a pilot. No customs officials visited the schooner, and the captain was undecided if he were at the seaport of Azua. On the morning of December 10, the mate, W. H. Brooks, and two seamen were sent in a boat to inquire if that was the port of Azua. The mate was ordered not to land, and the schooner had American colors flying.

When near the shore the mate stopped the boat and asked two soldiers on shore, in English, if that were the port of Azua. The reply was in Spanish and not understood, but was supposed to be in the affirmative. At this moment a number of soldiers, about 25, came out from behind bushes. The mate became alarmed and began to return to the schooner. The soldiers opened fire on the schooner's boat The mate was struck and fell in the bottom of the boat. The bullet grazed him and stunned him, but he soon recovered. Charles Smith, seaman, was hit in the thigh and severely wounded. The third man in the boat dropped out of sight. The soldiers then began firing on the schooner and several shots hit her.

3. Mr. John Hardy, consignee of the schooner, heard of the shooting and sent a boat to see if it were the schooner he expected. Upon learning that it was he at once reported to the governor of Azua, Gen. Luis Pelletier, that soldiers had fired on an American schooner while she had American colors flying. The schooner came to Azua Bay and her unloading was not delayed. The wounded seaman, Charles Smith, was taken to Azua and given medical attendance; he is improving and will probably entirely recover.

Depositions setting forth the above facts are on file at the consular agency at Azua, and are signed by A. F. Stubbs, master; William H. Brooks, mate; and Charles Smith, seaman; and copies have been forwarded to the American minister.

The master of the schooner had made every effort to find the location of the port of Azua before leaving New York, as it is not charted. The schooner made no ports between New York and Puerto Viejo.

4. President Heureaux has ordered the governor of Azua to watch strange vessels to prevent the assassins of Governor Campo from leaving the country and the landing of arms and ammunition for use by revolutionists. It was for this purpose that the soldiers were sent to Puerto Viejo when the *Henry Crosby* was sighted. The firing on the boat was done without any investigation whatever to ascertain the character of the schooner.

5. By order of President Heureaux, Gen. G. Marchena and eight others, supposed to be leading revolutionists, were shot at Azua on December 21, 1893.

6. I sent an officer to Azua to call on the governor, and I was informed that the governor would call on me to-day, which he did. During the interview Governor Pelletier stated that he deeply regretted that the American vessel had been fired upon, and attributed it to the ignorance of the officer in charge of the detachment sent to Puerto Viejo. The governor expressed the kindliest feelings for Americans, and assured me he gave no orders to fire on an American vessel. During his visit he was received with honors due his rank.

7. The condition of affairs in the Republic of Santo Domingo are at the present time most quiet. The recent shooting of General Marchena and others will tend to prevent outbreaks in the future.

8. I am informed by the American consular agent, Mr. John Hardy, that Americans are treated with consideration, and that American interests are perfectly safe in Santo Domingo, and I have every reason to believe that such are the facts.

9. I have given the details of the firing on the schooner, as I believe, in accordance with the facts, and any recommendation on my part I deem unnecessary.

10. I forward herewith an account of the recent outbreak furnished by a Government official of Azua, through the consular agent, Mr. Hardy, as giving the Government's side of the trouble.

11. On my return to Santo Domingo City I shall cable to the Department.

Very respectfully,

O. F. HEYERMAN, *Commodore Commanding.*

Captain Stubbs to Mr. Gresham.

[Telegram.]

NEW YORK, *March 10, 1894.*

Has there been any settlement or attempt to settle on the part of the Government of Santo Domingo for the injuries to schooner *Henry Crosby* and crew, at Azua, December 10? Please wire reply care Smith, Gregory & Winters, New York.

A. F. STUBBS,
Master Schooner Henry Crosby.

Mr. Gresham to Captain Stubbs.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 10, 1894.

A. F. STUBBS, *Master Schooner Henry Crosby:*
(Care of Smith, Gregory & Winters, New York City.)

No.

W. Q. GRESHAM.

Messrs. Goodrich, Deady & Goodrich to Mr. Gresham.

NEW YORK, *April 3, 1894.*

SIR: We have the honor to transmit herewith memorial, affidavits, etc., in the claim of Henry Lord and others, owners, master and crew of the schooner *Henry Crosby*, which was fired upon by soldiers of Santo Domingo in December, 1893.

We have a power of attorney to act for all the memorialists.

We beg to request immediate action for the redress of an insult to our flag, and of damages suffered by the memorialists.

Respectfully, yours,

GOODRICH, DEADY & GOODRICH.

[Inclosure.]

Memorial of Henry Lord et al.

NEW YORK, *April 3, 1894.*

Hon. WALTER Q. GRESHAM,
Secretary of State.

SIR: Your memorialists, namely, Henry Lord, and Edward and Isaiah K. Stetson, executors and trustees of the estate of George Stetson, deceased; Edward Stetson and Sarah J. Stetson, trustees of the estate of Isaiah Stetson, deceased; Edward Stetson and Isaiah K. Stetson, copartners as E. & I. K. Stetson; Edward B. Nealley, Delia E. Hinks, administratrix; Terence F. Cassidy, Henry Rollins, George Davenport, all of Bangor, Me.; George B. Hook, of Brewer, Me.; Abel F. Stubbs, of Brooklyn, N. Y.; Howard M. Baker and George D. Carver, copartners as Baker & Carver, and Henry Griswold, of New York City, are the owners of the schooner *Henry Crosby;* and your memorialist, Henry Lord, is the owner of a one-sixteenth part of said schooner, and is the managing owner thereof.

Your memorialist, Abel F. Stubbs, was the master of said schooner; your memorialist, W. H. Brooks, the first mate; Alexander Renney, the second mate; Julius Paul, steward, and George Derr, Charles Smith, A. E. Swenson, and John Janson, the seamen thereon.

All of your memorialists are citizens of the United States, except as stated in the annexed affidavits.

The said schooner *Henry Crosby* belongs to Brewer, Me. She was built there in the year 1884, and is 391 tons net register. She is valued at the sum of about $20,000.

On the 24th day of November, 1893, the schooner, with the foregoing crew on board, sailed from the port of New York with a cargo of railroad iron, lumber, bricks, a hoisting engine, and other cargo, from Messrs. Hugh Kelley & Co., consigned to John Hardy, at Azua, Santo Domingo. Neither the vessel nor any of the persons on board of her had ever been at the port of Azua before. The consignee of the cargo was the United States consular agent at the port of Azua. Before the schooner left the port of New York, Captain Stubbs made inquiries as to the location and character of the port of Azua, and was informed that the port bore northwest from Salinas Point. Accordingly, she was headed northwest, a flag for a pilot was set and kept flying, and at 1 o'clock on Saturday, the 9th of December, 1893, reached

a place which corresponded with the description of Azua. The place was subsequently ascertained to be Old Azua, and not the port of Azua to which the vessel was consigned.

The vessel came to anchor about 400 yards from the shore, and laid at anchor there until Sunday noon, but was not visited by the customs officers, a pilot, nor any of the authorities. On Sunday at noon, Captain Stubbs sent the yawl boat in command of the first mate, William H. Brooks, and two sailors, Charles Smith and John Janson, to make inquiries as to whether the place was the port of Azua. Captain Stubbs directed the mate not to attempt to land, but to make inquiries from any person that he saw on the beach. The boat went to a point about 200 feet off the beach and stopped.

The schooner at this time lay headed about south, her stern being to the shore. Captain Stubbs stood on the quarter deck with his glass, watching the movements of the yawl boat. The United States flag was flying at the mizzen topmast of the schooner, as it had been since coming to anchor the day before. There were on the beach at that time some ten or twelve soldiers, and no other persons, so far as could be discerned from the schooner or the yawl boat. The mate asked if the place was the port of Azua, and received the reply that it was. He thereupon turned his boat head off from shore and started to row back to the schooner. He had gotten perhaps 100 yards offshore, when from behind the bushes there came a large number of soldiers in uniform. They formed a file; there appeared to be an officer in command of them. They immediately fired upon the small boat, and continued to fire for some time, both at the small boat and at the schooner, until the small boat reached the schooner's side and the men got on board. The mate, Brooks, was wounded in the thigh and the seaman, Smith, was also wounded in the thigh. A very large number of shots was fired—at least several hundred. The officers and crew of the schooner were compelled to take refuge below decks.

Captain Stubbs took care of the wounded men, and afterwards obtained for them medical attendance when they reached Azua.

That same evening, Sunday, the 10th of December, a barge came alongside having on board a number of soldiers, and also a pilot sent by Captain Hardy, the consignee of the vessel. The soldiers remained on board until the vessel was moved the next day to Azua.

Captain Stubbs subsequently ascertained that the place where he first came to anchor was old Azua, and was not the port of Azua to which he was consigned. The port of Azua was about 10 miles away At Azua the cargo was delivered.

William H. Brooks, the mate, was taken care of by Captain Stubbs on board of the vessel. His wound consisted of a flesh wound in the left thigh. The ball struck the exterior of the thigh a few inches below the hip bone, striking the hip bone and glancing off. A severe injury to the hip bone was produced by the shot. Brooks was partially incapacitated for work for some six weeks after the injury and suffered a good deal of pain. He was attended by Captain Stubbs, who dressed his wound and took care of him.

The sailor, Smith, was struck also in the left thigh, the ball entering the under side of the thigh and coming out below the pelvis. The wound was some 17 inches long.

After the yawl boat came alongside of the schooner it was hoisted on deck with Smith in it, and Smith was then lifted out and carried into the cabin. There Captain Stubbs attended to him as best he could until medical attendance could be obtained. Captain Stubbs dressed the wound, and if it had not been for his prompt attention to it Smith would have undoubtedly bled to death. Medical attendance could not be procured until Monday afternoon at 4 o'clock, some twenty-eight hours after he was wounded. At that time Captain Stubbs obtained a doctor from Azua, who came on board and attended Smith. Subsequently Smith was carried to the town of Azua on a litter, some 4 miles from the place were the vessel was at anchor, and he was kept there until taken to New York. Smith up to the present time has not been able to work, and there is a likelihood of there being a permanent injury. He was not brought home by the schooner, but was sent home by a steamer from Azua by the United States consular agent.

After the vessel had partly discharged her cargo, and while she was lying at anchor off the port of Azua, the captain of the port came on board and demanded of Captain Stubbs that he go at once to Azua, that the president wished to see him. Captain Stubbs at first declined to go, and demanded of the port captain his authority from the President directing him to appear. The port captain replied that he had no letter, but the President had sent him personally to bring Captain Stubbs to Azua. Finally Captain Stubbs agreed to go, and proceeded on horseback to Azua. He first went to the office of Captain Hardy, the United States consular agent, and had a conversation with Captain Hardy's clerk, who informed him that the President wished Captain Stubbs to go to the governor's office and there sign a paper.

Captain Stubbs went with the interpreter of the consular agent's office to the

office of the governor. When they reached the governor's office a paper written in Spanish was presented and Captain Stubbs was directed to sign it. Captain Stubbs twice declined, saying that he could not understand Spanish and was not willing to sign any paper written in that language. Upon his refusal the governor gave some order in Spanish, which was followed by a bugle signal, and immediately upon the giving of the signal soldiers to the number of 75 or 100 surrounded Captain Stubbs. Upon the appearance of the guard the interpreter said that he would go to the consular agent and bring him to the governor's office. He was considerably alarmed at what was happening. When the consular agent appeared, he asked Captain Stubbs what was the matter. Captain Stubbs replied that he was asked to sign a paper written in Spanish, and that he was not willing to do so. Captain Hardy thereupon went into the governor's room.

In the meanwhile the President had come and gone into the governor's room. He called Captain Hardy in there and Captain Hardy went in. Captain Stubbs overheard a conversation in Spanish, the words of which he did not know, but from the manner of both the participants in the conversation there seemed to be considerable dispute between them. The conversation was carried on in an angry tone. Captain Hardy, after the conversation with the President was over, upheld Captain Stubbs in his refusal to sign the paper unless it should be interpreted into English and Captain Stubbs given a chance to examine it. Captain Stubbs and Mr. Hardy thereupon left the governor's office without molestation.

On their return to the consular office what purported to be a translation of the paper was submitted to Captain Stubbs. It was an exoneration of the soldiers, the officers of the Government, and the Republic of Santo Domingo from all blame for the firing upon the vessel when at anchor off Azua. Captain Stubbs declined to sign it. Subsequently Captain Hardy was requested by the President to prepare a statement for Captain Stubbs to sign, stating that the vessel had come to anchor at Puerto Viejo by mistake for the port of Azua. That document Captain Stubbs signed.

By reason of the premises aforesaid the schooner was delayed at the port of Azua for two or three days. After she had taken in some forty tons of cargo she proceeded to the port of Macoris to take in sugar. When the schooner arrived there she was delayed for some twelve days by reason of her arriving later than the time at which she ought to have reported there, because of the arrival of the steamer which was loaded ahead of her, it being the custom of that port, as well as of other ports, to give steam vessels precedence over sailing vessels in loading or discharging.

George Hardy, the son of Captain Hardy, the consular agent at Azua, heard the soldiers who had fired upon the yawl boat boasting in Azua that they had killed three of the American sailors.

Annexed hereto are the affidavits in support of this memorial, and also a certificate of the physician at the marine hospital at New York, showing the condition of your memorialist, Smith, at the date of this memorial.

Your memorialists, by reason of the foregoing facts, have suffered indignities, insult, and some of them physical injury. The action of the soldiers of Santo Domingo was an outrage wholly without cause, and was an insult not only to the schooner and her crew, but to the flag. No blame of any sort is to be attached to your memorialists for the part they took in the affair, but the assault was entirely unprovoked and causeless.

Your memorialists, the owners of the vessel, were compelled to pay out various sums of money and suffer various items of loss, a statement of which is annexed hereto marked "Expenses incurred at Azua."

Wherefore your memorialists respectfully pray that damages may be asked through the Department of State from the Government of Santo Domingo. Damages to the owners of the vessel in the amount of $5,000, in addition to the amounts stated in the statement hereto annexed and entitled "Expenses incurred at Azua;" damages to your memorialists, Brooks and Smith, each in the sum of $15,000; damages to your memorialist, Johanson, in the sum of $5,000; damages to your memorialist, Stubbs, in the sum of $5,000; damages to each of your memorialists, Renney, Derr, Paul, and Swenson, in the sum of $1,000 each.

And your memorialists will ever pray.

HENRY LORD,
Managing Owner.
ABEL F. STUBBS.
WILLIAM H. BROOKS.
CHARLES SMITH.
GEORGE DERR.
JULIUS PAUL.
ALEC. E. SWENSON.
JOHAN JANSEN.

[Subinclosure 1.]

Deposition of William H. Brooks.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

William H. Brooks, being duly sworn, says:

I am an American citizen, having been born at Papenburg, Germany, and came to this country when I was 17 years of age, and went to reside in Brooklyn, N. Y., where I have lived ever since. I am now 27 years of age. I took out my naturalization papers in the city of Brooklyn in 1889 or 1890. I have followed the sea ever since I was 13 years of age.

I was first mate on the schooner *Henry Crosby* on her last voyage from New York to Azua, Santo Domingo. We had aboard a cargo of railroad iron, bricks, lumber, machinery for sugar mill, and one small hoisting engine, spikes, and bolts, and other railroad material, and some spars on deck. The vessel was chartered to Hugh Kelley & Co., who loaded the lumber for the voyage in question.

We left New York about the 24th day of November, 1893, having on board the master, first and second mates, four seamen, and a cook. We arrived off Ocoa Bay, which is on the southern side of Santo Domingo, on or about the 8th of December, 1893, and going up the bay, anchored off the River Via, on which Azua is situated, on the 9th of December, about 1 o'clock in the afternoon, shore time. Our anchorage was about one-fourth of a mile from the shore in about 5 or 6 fathoms of water. The United States flag was set at the mizzen topmast on the morning of the 9th, at daylight, and also an American jack at the fore. These continued to be flying until sundown, when they were taken in. The next morning at sunrise we set the American ensign at the mizzen top, and it remained there every day during daylight as long as we remained at anchor.

About half past 11 a. m. on Sunday, the 10th, the captain ordered the mate and two seamen, Charles Smith and John Johnson to take the yawl boat and go toward the shore, where men were seen, for the purpose of inquiring whether that was the port of Azua. The captain directed me to go near enough to the shore to talk with the men, but not to go ashore. We got into the boat, pulled toward the shore, saw the men, and got to within about 150 feet of the shore. There were on the beach two men; I asked these men if that was the port of Azua. As near as I could understand them, they said yes. I don't speak Spanish, but spoke to them in English. As soon as we got the answer that it was the port of Azua, we headed the boat for the schooner, and started to go toward her. I was sitting in the steering, my back being to the stern of the boat. Shortly after we started for the ship my men informed me that there were other men on the shore besides the two men; that 30 or 40 men came out of the bush and were getting ready to fire upon us, and a volley was fired at us. I and John Johnson laid down in the bottom of the boat, but the other man, Smith, continued to row. We had hardly laid down when the man that was rowing was struck with a shot and fell into the bottom of the boat; then I got up and took the oars and began to row. Almost immediately another bullet struck me on the left hip bone and glanced off, causing a wound. I continued to row, and got the wounded man aboard the ship. While I was rowing I saw all of the 30 or 40 men were shooting as rapidly as they could, and I heard the bullets whistling around me. This was while we were in a direct line between the men and the schooner, and many of the shots must have reached the schooner.

We remained at anchorage until the next morning at 8 o'clock. On Sunday night, however, a pilot came off in a boat with about fifteen soldiers, and came aboard the vessel and remained there all night. The next morning, Monday, about 4 o'clock, we got up our anchor under the instructions of the pilot and sailed to somewhere near a wharf, which is the landing wharf of the port of Azua, and we anchored about a quarter of a mile off that pier. We remained at that anchorage until about January 17, 1894, occupying that time in discharging our cargo by lighters to the wharf and in taking in a portion of our return cargo. Thence we went to Macoris, Santo Domingo, some 50 or 60 miles to the eastward of Ocoa Bay, where we took in the balance of our cargo, and sailed for New York, where we arrived on or about March 3, 1894.

After we arrived on board the schooner the captain dressed my wound, and after a while it healed; but it troubled me for some time, hindering me somewhat in my work aboard the vessel.

While I was lying in the bottom of the boat two or three bullets struck the boat, and one or some of them splintered the boat so that a lot of splinters and slivers of wood were driven into my left cheek, which were extracted by the captain after I

got aboard the ship. These splinters covered the whole of my left cheek down to my collar, and there must have been 30 or 40 of them.

WILLIAM H. BROOKS.

Sworn to before me this 19th day of March, 1894.
[SEAL.]

AVERY F. CUSHMAN,
Notary Public, Kings County.

(Certificate filed in New York County.)

[Subinclosure 2.]

Deposition of Charles Smith.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

Charles Smith, being duly sworn, says:

I was born in Sweden and came to this country when I was 19 years of age. I am now 22 years of age and have followed the sea since I was 16 years old. I live at No. 19 Columbia street, Brooklyn, when I am in port.

I have read the affidavits of William H. Brooks and Alexander Renney, and declare that the contents thereof are true.

I was one of the men who went in the yawl boat of the schooner *Crosby* toward the shore for the purpose of making inquiries of the men whom we saw ashore. I was rowing the boat and after we had made inquiries of the men whether that was the port of Azua and started to return to the ship, I saw a number of men, I should think 30 or 40 of them, some of them in uniform and some without uniforms, but all of them with guns and knives, come out of the bushes on the shore and prepare to fire at us, which I told Mr. Brooks, the mate. I continued to row as hard as I could, but had not got very far when I was struck with a ball on the upper part of my left leg at the side, the ball going into the flesh and coming out behind, making an ugly and painful wound 17 inches long. I fell to the bottom of the boat and remained there until the boat got alongside of the schooner, when the boat was hoisted out with me in it, and I was taken out and put on the deck, and subsequently taken to the second mate's room in the cabin, where I remained until the morning of the 12th of December, when I was taken on a stretcher and carried 4½ miles away to a private house at Azua, where I remained about fifty eight days, when I was sent to New York on the steamer *State of Texas* by Mr. Hardy, the United States consualr agent.

While I was on the schooner my wound was attended to by Captain Stubbs, the master of the schooner, but I received no medical treatment until the afternoon of the 11th of December, when a doctor came and cared for me, and I also received medical treatment during the time that I remained ashore at Azua.

While I was on board of the steamer *State of Texas*, I had to dress my own wound and care for it with medicine that I received from the doctor at sea. I got no medical attendance until I arrived at New York, since which time I have been several times to Castle Garden, where my wound has been dressed by the doctor there.

My wound still troubles me. I am unable to work, and am suffering great pain with it.

CHARLES SMITH.

Sworn to before me this 20th day of March, 1894.
[SEAL.]

AVERY F. CUSHMAN,
Notary Public Kings County.

(Certificate filed in New York County.)

[Subinclosure 3.]

Deposition of Abel F. Stubbs.

UNITED STATES OF AMERICA, STATE OF NEW YORK,
City and County of New York, ss:

Abel F. Stubbs, being duly sworn, says: I was born at North Buckport, Me., where I reside in the summer time, although my residence is in the city of Brooklyn. I am 56 years of age. I have followed the sea since I was 12 years old. I am master of the schooner *Henry Crosby*, and have been such ever since she was built in 1884, and am the owner of three-sixteenths of her. The schooner is about 391 tons net. She was built in Brewer, Me., and is owned by the following persons, all of whom are American citizens, viz:

Abel F. Stubbs.....Six thirty-seconds.
(Of Brooklyn, N. Y.)
Henry Lord.....Two thirty-seconds.

George Stetson.....Four thirty-seconds.
Estate of Isaiah Stetson.....Four thirty-seconds.
Edward and Isaiah Stetson.....Four thirty-seconds.
Edwiard B. Nealley.....One sixty-fourth.
Delea E. Hinks (administratrix).....One sixty-fourth.
Ter nce F. Cassidy.....One thirty-second.
Henry Rollins.....Two thirty-seconds.
George Davenport.....One thirty-second.
(All of Bangor, Me.)
George B. Hook.....One thirty-second.
(Of Brewer, Me.)
Howard M. Baker and G. M. Carver.....Two thirty-seconds.
Henry Griswold.....Four thirty-seconds.
(Of New York.)

In November last the schooner was chartered to Hugh Kelley & Co., for a voyage from New York to Azua, Santo Domingo, with a cargo of merchandise as stated in the affidavit of William H. Brooks, hereto attached. She was chartered to return to New York with a cargo of general merchandise from other ports in Santo Domingo. I have heard read the affidavit of William H. Brooks, and the facts therein stated give a general history of what transpired on the voyage and at Santo Domingo.

I have read the memorial to which this is attached and state that the same is true.

ABEL F. STUBBS.

Sworn to before me this 19th day of March, 1894.

[SEAL.]

AVERY F. CUSHMAN,
Notary Public, Kings County.

(Certified in New York County.)

[Subinclosure 4.]

Deposition of Julius Paul.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

Julius Paul, being duly sworn, says: I was born in Germany and came to this country when I was 16 years of age. I am now 23 years of age. I have lived in Brooklyn and for a little while in Milwaukee. I was naturalized in the city of New York in 1893 and am an American citizen. I was cook on board of the schooner *Henry Crosby* on her last voyage, and I have heard read the affidavits of Mr. Brooks and Mr. Renney, and declare that the contents thereof are true.

JULIUS PAUL.

Sworn to before me this 12th day of March, 1894.

FRED. GIBLIN,
Notary Public, Kings County.

(Certificate filed in New York County.)

[Subinclosure 5.]

Deposition of George Derr.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

George Derr, being duly sworn, says: I was born in Bremen, Germany, and came to this country when I was 14 years of age, and have, since that time, lived at the city of New York. I am now 24 years of age. I have followed the sea since I was 15 years of age.

I have heard read the foregoing affidavits of William H. Brooks and Alexander Renney, and declare that the contents of the same are true.

GEORGE DERR.

Sworn to before me this 12th day of March, 1894.

FRED'K GIBLIN,
Notary Public, Kings County.

(Certificate filed in New York County.)

[Subinclosure 6.]

Deposition of Alexander Renney.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

Alexander Renney, being duly sworn, says: I have read the affidavit of Williams H. Brooks, mate, and declare that the same is true in all particulars. I was born at Riga, Russia, and came to this country when I was 13 years of age, and am now 34 years of age. I came to this country with my parents and went to Fryburg, Pa., to reside, and have lived there since that time.

While the yawl boat was coming back to the vessel repeated volleys were fired upon the schooner by the men from the shore. I could hear the balls whistling about my ears. I saw some of them which had struck portions of the vessel bound off and fall back into the water. I saw wounds on the vessel made by them and helped to pick out the balls. There must have been several hundred shots fired at the boat and the schooner. During all this time the American flag was flying from the schooner in plain sight, the wind being sufficient to keep it extended.

ALEXANDER RENNEY.

Sworn to before me this 12th day of March, 1894.

FRED'K GIBLIN,
Notary Public Kings County.

(Certificate filed in New York County.)

[Subinclosure 7.]

Deposition of Alex E. Swenson.

UNITED STATES OF AMERICA,
Southern district of New York, ss:

Alex E. Swenson, being duly sworn, says: I was born at Halsenburg, Sweden, and am 30 years old. I came to this country in 1887, and went to live in Brooklyn. I took out my first papers in May, 1893, but have not taken out my second papers.

I was an able seaman on the *Henry Crosby*. I have heard read the affidavits of Messrs. Renney and Brooks, and state that they are true to the best of my knowledge.

ALEX E. SWENSON.

Sworn to before me this 3d day of April, 1894.

FRED'K GIBLIN,
Notary Public Kings County.

(Certificate filed in New York County.)

[Subinclosure 8.]

Deposition of Johan Janson.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

Johan Janson, being duly sworn, says: I was born at Gothenburg, Sweden, and am 24 years old. I have never been naturalized.

I was in the yawl boat with Mr. Brooks and Smith. I have heard read their affidavits and Mr. Renney's, and state that the same are true.

JOHAN JANSON.

Sworn to before me April 3, 1894.

FRED'K GIBLIN,
Notary Public Kings County.

(Certificate filed in New York County.)

[Subinclosure 9.]

Certificate of Dr. Athey.

OFFICE OF MEDICAL OFFICER IN COMMAND,
Marine-Hospital Service.

To whom it may concern:

Charles Smith (aged 22 years, born in Sweden, seaman for past three years in United States merchant-marine service on board schooner *Henry Crosby*) has been for

four times and is at present being treated at this office for a wound on hip, which wound, he states, was made by a rifle shot (or ball).

Treatment began the 3d day of March, 1894. Present condition does not warrant work, and it is impossible to state how long before recovery.

[SEAL.]

W. L. ATHEY, M. D.,
A. A. Surgeon, Marine-Hospital Service.

[Subinclosure 10.]

Expenses incurred at Azua.

To amount paid doctor for medical attendance	$143.00
To amount paid druggist for medicines	10.80
To amount paid for board	74.00
To amount paid men for carrying sailor	6.00
To mattresses, bedding, etc., destroyed	40.00
To amount paid extra labor at Azua	180.00
To amount paid board ten weeks and two days	51.45
To amount paid for labor and board at Macoris	48.00
To amount of expenses, Captain Stubbs, on account of Smith	25.00
To twelve days' demurrage, at $40 per day	480.00
To amount paid Smith for one month's extra pay	15.00
To damages to the small boat	30.00
To amount paid Hardy on account of Smith, sundry small expenses, medicine, medical attendance, etc	29.64
Total	1,132.89

Mr. Uhl to Messrs. Goodrich, Deady & Goodrich.

DEPARTMENT OF STATE,
Washington, April 10, 1894.

GENTLEMEN: I have received, together with your letter of the 3d instant, a memorial of the owners, officers, and crew of the schooner *Henry Crosby*, requesting the Department to assert a claim for damages in their behalf against the Government of Santo Domingo.

The facts to be gathered from the memorial and affidavits accompanying it, from the affidavits taken before the American consular agent at Azua, and from the reports made by Commander Heyerman, of the *Kearsarge*, and Mr. John R. Meade, late consul at Santo Domingo, are as follows:

The *Henry Crosby* left New York the latter part of November last, bound for the port of Azua in Santo Domingo.

On the 9th of December following she reached a place which her officers supposed to be Azua, and came to anchor about 400 yards from the shore. The place was not Azua, however, and was not a port of entry.

About a week before this time the governor of Azua had been assassinated by revolutionists, and strict measures had been taken by the authorities of the country to prevent the escape of the assassins, orders being given to watch every vessel touching on the coast.

The *Crosby* remained where she had anchored (as above noted) during the balance of the day—the 9th of December—and during that night and the following morning. A little while before noon of the 10th of December the master, Captain Stubbs, seeing some persons on the shore, ordered the mate, Brooks, and two seamen (one named Smith and one named Johansen) to take the yawl boat and approach near

enough to shore to inquire of the persons seen there whether the place was Azua. Brooks and his companions pulled the boat to within 150 or 200 feet of the shore, and asked in English if that was Azua. Answer was given, which they understood to be in the affirmative, though as none of the parties in the boat spoke Spanish, they could not have been clear as to the meaning of the reply they received. Understanding, however, that they were at Azua they started back to the vessel, and as they started back a number of soldiers, who had been concealed in bushes on the shore, emerged from their hiding place and opened fire upon them. Numerous shots were fired. One of them penetrated the side of the boat and slightly wounded Brooks, another seriously wounded Smith, while Johansen, dropping in the bottom of the boat to protect himself as far as possible, escaped unhurt.

The soldiers not only fired upon the boat and did the damage which has been mentioned, but they also fired numerous shots at the vessel, which at the time was flying the American flag, plainly visible from the shore. No damage, however, seems to have been done the vessel, the balls passing through the rigging or striking harmlessly about her sides. That evening a pilot came aboard, and it was ascertained that the vessel was not at Azua, but at what was called "Old Port," the present port of Azua being some 10 miles distant. The next morning the *Crosby* was taken up to Azua, anchored in what seems to have been the usual place, and her unloading proceeded with by means of lighters. This was Monday, the 11th of December. The process of unloading and taking on cargo continued there until about the 17th of January following, when the *Crosby* sailed for Macoris.

Smith (the badly wounded man) was left at Azua, and the vessel seems to have incurred some expense there on his account. He was subsequently sent to New York by a steamer. Brooks was for a time somewhat, but not very seriously, incapacitated for work by the wound he had received in the firing.

It is stated in the memorial that the vessel was detained at Azua two or three days longer than she should have been by the action of the authorities, who were endeavoring to get Captain Stubbs to sign a paper exonerating the Government from any liability for the occurrence of the 10th of December. But it is also stated that the captain was sent for with this object in view, after the vessel had partly discharged her cargo and while she was still lying at anchor off the port of Azua. It is not clear, therefore, that even this trifling delay was due to the action of the authorities.

It further appears that after the schooner arrived at Macoris she was delayed for some twelve days because a steamer had arrived there ahead of her, and had precedence in receiving cargo over the *Crosby*, which was a sailing vessel.

In the statement of expenses which is filed with the memorial, one of the principal items is for twelve days' damage, which evidently relates to the delay at Macoris. After this delay at that point the *Crosby* appears to have taken on her cargo and returned in due course and without further trouble to New York.

I am unable to see that the owners of the vessel have any claim for damages, except to the limited extent hereinafter indicated. True, some shots were fired at her, but there is no charge that any real injury was done. If there had been nothing in the circumstances of the country at the time to warrant unusual fears and suspicions on the part of the authorities and the soldiers, a case might be presented for demanding some pecuniary payment from the Dominican Government,

though no actual damage had been done to the vessel; but I am of opinion that, while the soldiers acted in a very indiscreet way and without proper precautions, the state of excitement which existed on account of the recent assassination of the governor should be considered in extenuation of their act. So far, therefore, as the firing is concerned, I do not think the owners have any claim. It does not appear that the occurrences of Sunday, December 10, caused any delay in the time of the vessel's arrival at the present port of Azua. She got there quite as early as she would have done had no trouble of that sort occurred. Nor do I think that the short delay of a day or two at Azua, just before the vessel sailed for Macoris, even if it was due directly to the detention of the captain by the authorities (which is not clear), furnishes a ground for damages. Neither was this delay so directly connected with the subsequent delay at Macoris (arising from the previous arrival of a steamer there) as to make the latter a proper item of claim.

I am, however, of opinion that whatever expenses the vessel was put to directly on account of the action of the soldiers in firing upon it should properly be reimbursed by the Dominican Government; such expense, for instance, would embrace the injury done to the yawl boat, medical attention upon Smith, money paid for his board, care, and attention at Azua, the injury to bedding which is alluded to, which I suppose happened in the dressing of his wounds, or any other matters of expense which were necessarily incurred by reason of the attack which the soldiers made upon the boat. Beyond this I do not see that the vessel or her owners can set up any claim.

If Smith were an American citizen I should say that he was entitled to the intervention of this Department to secure an indemnity for his injuries. He is not, however, an American citizen, nor does he come within that statute which provides that a foreigner serving as a seaman on an American vessel shall be entitled to American protection, if he has declared his intention to become a citizen; for it does not appear that he ever made such a declaration. Mr. Brooks is, perhaps, entitled to a small indemnity, though I may observe that no certificate of his naturalization is filed with the papers, as is required to be done when claims are preferred by naturalized citizens. I am unable to see that any other of the officers or crew are entitled to any damages.

The unfortunate occurrence grew out of the mistake made in anchoring the *Crosby* and sending a boat toward the shore at a place which was not a port of entry, and at a time when, by reason of the recent assassination of the governor and the expectation that an attempt would be made to effect the escape of the assassins by sea, this conduct could not fail to excite suspicion and fear in the minds of the authorities.

I may observe that Consular Agent Hardy suggests that this mistake might have been avoided had Captain Stubbs provided himself with the United States hydrographic chart of 1886, or the sailing directions from the same office, published in 1892.

It is clear that no insult to the flag was intended, since the governor of Azua, when called upon, expressed great regret at the occurrence, and Minister Smythe has reported that ample apologies were made.

On the whole, after careful consideration, I am compelled to say that the Department can not present the claim to the Dominican Government in the shape in which it is now formulated, or present it at all, except to the limited extent which I have above indicated.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Messrs. Goodrich, Deady & Goodrich to Mr. Gresham.

NEW YORK, *July 26, 1894.*

DEAR SIR: The sickness and absence of members of our firm, covering several months of time, must be our excuse for apparent neglect of the interests of our clients in answering the Department's letter of April 10, relative to the schooner *Henry Crosby.*

We beg now to inclose an additional affidavit from Captain Stubbs, the master of the vessel, which we hope will throw some new light on the affair.

In regard to the reference in Captain Stubbs's affidavit to the United States man-of-war *Baltimore*, and the reparation made by Chile to the aliens aboard of her, we are aware that the analogy is not perfect, as the *Baltimore* was a public vessel, but it certainly seems clear to us, as private citizens, that the Government should be as quick to protect our private persons and property as it is to protect public property, and to protect even aliens who are in the employ of American citizens on a private vessel.

The assault on the flag carried by the *Henry Crosby* may be explained and apologized for to the Government, but it seems to us as if reparation should also be made to the private citizens who were also assaulted and fired upon by the authority of a foreign government. This would seem to be the protection owed to its citizens.

We would respectfully urge that the Department will reconsider the conclusions of its letter of April 10 and demand reparation for the indignity and injury which has been inflicted upon the memorialists, our clients.

Yours, respectfully,

GOODRICH, DEADY & GOODRICH.

[Inclosure.]

Affidavit of Captain Stubbs.

UNITED STATES OF AMERICA,
City, County, and State of New York, ss:

Abel F. Stubbs, of Brooklyn, N. Y., being duly sworn, says: I have read the letter of Hon. Edwin F. Uhl, Acting Secretary of the Department of State, dated Washington, April 10, 1894, in regard to the matter of the schooner *Henry Crosby.*

In answer to some of the suggestions of said letter I desire to say, in regard to the reference to my failure to have aboard the vessel a United States hydrographic chart of 1886, that I had aboard an English chart of the locality, which is in use by all mariners. The hydrographic chart of 1886 states, in a marginal note, that it is taken from the English and Spanish charts, and contains no further information about the port of Azua than does the English chart, as will be seen by a comparison of the two charts.

In relation to the objection that Charles Smith is not an American citizen, either by birth or naturalization, I call attention to the fact that the United States did not hesitate to demand and recover damages for an attack upon the sailors of the man-of-war *Baltimore* in Chile during the troubles there, where many of the sailors aboard that vessel were injured while ashore, and received compensation therefor through the intervention of our Government.

In relation to the report of consular agent Hardy, I desire to make the following statement: At the time of the outrage upon the schooner *Henry Crosby*, Mr. Hardy, with certain citizens of the United States, had obtained a concession from Heureaux, President of Santo Domingo, for the building of a sugar mill at or near Azua, with liberty to import into the country all materials necessary for the construction of the mill, and free of all duties or port charges to the vessel. The cargo of the *Crosby* was a portion of the machinery intended for the mill. Upon the arrival of the vessel a claim was made by the port authorities for the payment of port charges, amounting to something over $900. Captain Hardy gave a bond to secure this until

he saw the President. On meeting the President there at Azua, he said that it hadn't become a law, as his secretary had neglected to advertise it in the Santo Domingo papers, but after that he would allow the balance of the stuff to come in free.

When the *Kearsarge* arrived, Captain Hardy and myself went aboard of her, and I made my statement to Captain Heyerman in the presence of Captain Hardy, and Captain Heyerman thought it was a very severe thing; he said he hadn't heard anything like it in his time. Some few days afterwards Captain Hardy was to call for me and we were to go on board the *Kearsarge* together; Captain Hardy, instead of calling for me, went on board the *Kearsarge* and was there some three or four hours.

I ask that the Government will investigate Mr. Hardy's relation with President Heureaux, by reason of his concession from the President, because I believe that his report to the Government, while apparently frank and impartial on its face, is yet colored by his interests to maintain his concession and secure the favor of the Government.

In regard to the alleged revolution in Santo Domingo, I am informed there was no revolution at the time of the *Crosby* affair. There was a man that had a feeling against the governor of Azua, and he had made a bargain with five men that he would give to either one or all of the persons who would kill the governor $50 apiece; and he had paid $10 to three of them. Shortly before the *Crosby* arrived, about a week before, the governor was assassinated by these men on the highway. This is the only public disturbance there was, so far as my knowledge or information extends.

A. F. STUBBS.

Sworn to before me this 26th day of July, 1894.

[SEAL]

FRED'K GIBLIN,
Notary Public, Kings County.

(Certificate filed in New York County.)

Mr. Gresham to Messrs. Goodrich, Deady & Goodrich.

DEPARTMENT OF STATE,
Washington, August 1, 1894.

GENTLEMEN: Your letter of the 26th ultimo, and the affidavit of Mr. A. F. Stubbs, have been examined in connection with the papers already on file here relative to the schooner *Henry Crosby*, and in reply I have to say that I see no reason to change the opinion expressed in the Department's letter to you under date of April 10 last.

I am, etc.,

W. Q. GRESHAM.

Mr. Uhl to Mr. I. F. Fischer, M. C.

DEPARTMENT OF STATE, *December 6, 1895.*

SIR: In compliance with my promise to you in our conversation of the 5th instant, I have the pleasure to inform you touching the present situation of the claim of the owners and master of the American schooner *Henry Crosby* for injuries received at Azua, Santo Domingo, at the hands of the Dominican authorities.

The facts of the incident are stated very fully in the inclosures to dispatch No. 6, of January 22, 1894 (printed in Foreign Relations of the United States, 1894, pp. 207–213), from Mr. Henry M. Smythe, minister of the United States at Port au Prince, and also chargé d'affaires accredited to the Dominican Republic. The Department is also in possession of a report of the occurrence submitted by the commanding officer of the U. S. S. *Kearsarge* under date of January 2, 1894, made in pursuance of instruction to visit Azua and report concerning the affair.

Following the Department's usual rule, a duly formulated claim on behalf of the aggrieved parties was awaited before considering the question of presenting a reclamation to the Dominican Government. This was not received until Messrs. Goodrich, Deady & Goodrich, of New York, attorneys for Henry Lord and others, owners, master, and crew of the *Henry Crosby*, presented a memorial, with accompanying affidavits, in substantiation of a claim amounting to $1,132.89 for expenses incurred at Azua by reason of the firing upon the vessel by soldiers of Santo Domingo in December, 1893.

The claim so presented was carefully considered, and on the 10th of April I, being then Acting Secretary of State, wrote very fully on the subject to Messrs. Goodrich, Deady & Goodrich, summarizing the facts related in the memorial, and reaching the conclusion that the owners of the vessel had no claim for damages except to a limited extent on account of the aforesaid action of the Dominican soldiers, embracing, for instance, injury done to the yawl boat, medical attention upon the wounded man, Smith, money paid for his board, care, and attention at Azua, injury to the bedding, which is mentioned in the claim and was supposed to have happened in the dressing of Smith's wounds, or any other matters of expense necessarily incurred by reason of the attack made upon the yawl boat.

As to individual claims for damages, Smith was not entitled to the intervention of this Department, not being an American citizen, nor having come within the statute which provides that a foreigner serving as a seaman on an American vessel shall be entitled to American protection if he has declared his intention to become a citizen, as it did not appear that he had ever made such a declaration.

The chief officer of the *Henry Crosby*, Mr. William H. Brooks, I suggested might perhaps be entitled to a small indemnity, although no certificate of his naturalization had been presented. With this exception I was unable to see that any other of the officers or crew were entitled to any damages.

I further pointed out that in view of the recent assassination of the governor of Azua and the turbulent condition of that part of Santo Domingo, the conduct of the *Henry Crosby* could not fail to excite suspicion and fear in the minds of the authorities, and that it was clear that no insult to the flag of the United States was intended, since the governor of Azua, when called upon, expressed great regret at the occurrence, and Minister Smythe had reported that ample apologies were made.

My conclusion was that, after careful consideration, the Department could not present the claim to the Dominican Government in the shape in which it was formulated, or present it at all, except to the limited extent above indicated. I inclose for your information a copy of my aforesaid letter of April 10, to Messrs. Goodrich, Deady & Goodrich.

Here the matter rested until July 26, 1894, when Messrs. Goodrich, Deady & Goodrich sent to the Department an additional affidavit from Captain Stubbs, the master of the vessel, in the hope that it might throw some new light on the affair, and requested a reconsideration of the Department's conclusion. Upon reexamination, Mr. Secretary Gresham replied August 1, 1894, that he saw no reason to change the opinion expressed in the Department's letter to the attorneys under date of April 10, 1894.

Since that time no renewed presentation of the claim has been made.

I have, etc.,

EDWIN F. UHL.

RESCISSION OF COMMERCIAL ARRANGEMENT.

Mr. Wos y Gil to Mr. Gresham.

[Translation.]

OFFICE OF THE CHARGÉ D'AFFAIRES
OF THE DOMINICAN REPUBLIC,
Washington, October 26, 1894.

EXCELLENCY: I have the honor to inform your excellency, in compliance with instructions I have received, that my Government acquiesces in the rescission of the commercial arrangement of June 4, 1891, which has been effected in virtue of one of the alternatives of termination contained in a clause of the said arrangement.

The existence of the aforesaid treaty of commercial reciprocity has had a great influence, most excellent sir, in the development of the commercial relations of the two countries, so that it is legitimate to hope that the mutual benefit flowing from its practical operation will not be diminished otherwise than by the natural consequences of its revocation; and that the trade and industry of the one and the other country may find in the new financial situation advantages and benefits proportionate thereto.

I improve this opportunity, etc., A. W. Y GIL.

Mr. Adee to Mr. Wos y Gil.

DEPARTMENT OF STATE,
Washington, October 27, 1894.

SIR: I have the honor to acknowledge receipt of your note of the 26th instant, by which you express the acquiescence of your Government in the rescission of the commercial arrangement of June 4, 1891.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

FRANCO-DOMINICAN DIFFICULTY.[1]

Mr. Wos y Gil to Mr. Gresham.

[Translation.]

DOMINICAN LEGATION,
February 5, 1895. (Received Feb. 6.)

MOST EXCELLENT SIR: I have the honor herewith to transmit to your excellency a memorandum explanatory of the Franco-Dominican difficulty, concerning which I took occasion to speak to your excellency during the interview which you granted me on the 6th instant.

Your excellency will be enabled by this document to judge of the facts which have led to the rupture of diplomatic relations between Santo Domingo and France, and of the efforts, thus far fruitless, which my Government has made with a view to reaching a satisfactory settlement.

[1] See, also, under France, p. 397.

The mediation of your excellency's Government would, beyond a doubt, be the most effective intervention that Santo Domingo could ask for, now that the unfortunate Caccavelli incident has brought to a standstill the negotiations which the mediation of Spain had brought to a point that was practically definitive.

Consequently, most excellent sir, in laying before you the documents explanatory of the facts in question, I solicit, through your excellency, in the name of my Government, the mediation of the North American Government, which undoubtedly, if accepted by the French Government, can not fail to facilitate the settlement of the difficulty referred to, thus reestablishing between Santo Domingo and France the cordial relations that have always existed between them, and still further strengthening the bonds of friendship that unite Santo Domingo and the Republic of the United States of America.

I am, etc., A. W. Y GIL.

[Inclosure 1.]

Explanatory memoranda connected with the cable correspondence between Santo Domingo and Paris, and the demands made by France against the Dominican Government.

The cordial diplomatic relations existing between Santo Domingo and France were interrupted in consequence of a lawsuit terminating two years ago, involving some private matters between the National Bank of Santo Domingo and General Heureaux. The bank, after having made its appearance before the court of first instance as a defendant and alleged such matters as it saw fit, proceeded to appear as a plaintiff before the supreme court of Santo Domingo. Thus the bank accepted and agreed to submit to the jurisdiction of the courts of the Republic, and this acceptance on its part absolutely excludes any right on its behalf to ask for international intervention to settle the case then pending, such as the French Government has sought to attribute to it, after the bank failed to win its case before the national tribunals.

The bank corporation recognized the judges of the Dominican courts as the proper arbiters of its quarrels, and by submitting to their decision, acquiesced in the legal and moral competency of these judges to decide for or against the claims of the bank, as the case might be.

The judgment proved to be adverse to the bank, and therefore the officers of justice proceeded to levy upon the goods and effects belonging to the bank, in execution of the sentence of the court. At this moment the agent of the French consul appeared and placed the consular seals upon the matters subjected to the general terms of the levy, claiming to suspend thereby the effects of the judicial judgment, declaring that the execution thereof must be made to await such time as the French Government could examine its terms and agree thereto.

By this act the French agent disregarded the national sovereignty of the Dominican Republic, and by causing war vessels to visit the port of Santo Domingo, gave to the matter in question such a shape that Admiral Abel De Libran, who was in command of the French fleet, was unable to find any way out of the difficulty, except to reiterate the demands already made by the agent to the Dominican Government. He added thereto a notification of an ultimatum, declaring broken the diplomatic relations theretofore existing between the two Governments.

The other claims are matters which relate to the case of Boimare and that of Chiapini, and are of but little relative importance.

The Dominican Government had no doubt whatever that a deliberate and proper discussion of all the matters of difference between the two countries, without the resort to any demonstration to force by France, would duly result in an entirely adequate and satisfactory solution of all the pending questions. This was clearly shown to be the fact by the results of the negotiations, which were thereupon undertaken under the efforts and mediation of Spain, and which had progressed in an orderly manner until they had nearly reached a termination. The Spanish ambassador, resident in Paris, had been arranging the bases for a peaceful solution, and had concluded their formal determination. Santo Domingo, anxious to renew diplomatic relations, only made some minor changes in the matter of the reparation claimed on account of the French citizen, Boimare, although deeming the indemnity very much exaggerated; at the same time the French Government agreed upon its part to submit to arbitration the decision of some questions which were of great moral interest for the Dominican Republic, and which up to this time have never been subjected to any

reasonable discussion. Among these were the matters concerning the National Bank of Santo Domingo and the Chiapini case.

It so happened, however, upon the very eve of the final signing of a definitive arrangement, that the French Government was informed of another circumstance, to wit, the murder of one Noel Caccavilli, which was committed about the middle of November last in the port of Samana. This person also claimed French citizenship. This occurrence was at once seized upon by the French Government as a pretext to break off all further negotiations, alleging the responsibility of the Dominican Government, and refusing to renew the discussion of pending matters until the execution of the assassin.

The facts were that Caccavilli was engaged in mercantile pursuits at Samana, and being about to pass down to the wharf in order to take a steamer to the capital, was assaulted by an ordinary laboring man of the country, which resulted in his death. Apparently a sporadic instance of private malice or personal revenge, there is absolutely no reason to allege any responsibility on the part of the Dominican authorities or Government beyond the mere fact that the victim was a Frenchman.

The assassin was at once arrested, and criminal proceedings were instituted in the usual manner.

Therefore, while such proceedings were pending, it was manifestly improper for the Dominican Government to comply with the peremptory demand made for the immediate execution of the culprit. It would appear to be a mere pretext brought forward at this juncture to get away from the method of arriving at a just agreement, since the main interest of the French Government ought not to be in the infliction of a violent penalty, but rather that justice should be meted out in accordance with the sanctions of the penal laws, after a thorough sifting and investigation of all the surrounding facts.

At this point, as appears by the cable dispatches, the intimation was presented to the Dominican Government that as an ultimatum the demands of France must be complied with or they would be enforced by its fleet.

One of the essential parts of this unusual and peremptory ultimatum demands that the custom-houses of the Dominican Republic must respond thereto and guarantee the payment of the sums specified. As all of the revenues were long since by laws and solemn contracts pledged to an American corporation, whose officers have been and are now faithfully collecting and applying the same as stipulated, it is manifestly impossible for the Dominican Government to comply with such demands. A forcible attempt to do so would seriously injure the large interests of citizens of the United States and furnish a basis for just complaint therefor.

The Dominican Republic has, with the aid and encouragement of American citizens, been gradually building up its credit, and is determined to maintain an honorable position. It views with deep regret the attitude assumed by so great and powerful a nation as France toward a weak and defenseless small one, and solicits the good offices of the United States to prevent any overt acts against the sovereignty and the peaceful administration of its laws, in order that it may preserve its self-respect before its own people and the world.

The Government of Santo Domingo is at all times ready to make any just reparation, and hopes and believes that the friendly mediation of the United States will bring about a speedy adjustment of all the differences which have arisen with France.

[Inclosure 2.]

Translation of cablegrams which passed between Paris and Santo Domingo relating to the Franco-Dominican question.

No. 1.

PARIS, *December 28, 1895.*

To the PRESIDENT, *Santo Domingo:*

The French minister says to the Spanish ambassador that the arbitration arrangement is broken in consequence of the assassination [of Caccavilli]. They will renew negotiations when his assassin may be executed. Answer.

ESCORIAZA,
Dominican Ambassador to Spain, Resident in Paris.

No. 2.

SANTO DOMINGO, *January 3, 1895.*

To MENDEL, *Fiscal Agent of Dominican Republic, Paris:*

Say to Escoriaza that he request Spanish ambassador to take leave of the minister of foreign affairs while justice applies the sanctions of the penal code to the assassin,

and that he also obtain an authorization from the Spanish minister of state in order that the Spanish consul [in Santo Domingo], now in charge of French interests, may go to Samana to investigate for himself the procedure taken relating to the assassin. The Dominican Government does not need threats of force to fulfill its duties. Answer.

HEUREAUX,
President of the Dominican Republic.

No. 3.

PARIS, *January 4, 1895.*

To HEUREAUX, *Santo Domingo:*

The ambassador of Spain says to Escoriaza that the president of the council offers to reopen negotiations here following the condemnation of the assassin. It is urgent to do that [i. e., to secure condemnation]. By cable to-day the French Government orders Pichon [the French admiral in the West Indies], to go immediately in order to inform himself of the facts. In view of that fact, the ambassador of Spain states that it is useless to ask anything from the minister of foreign affairs in relation to the consul.

MENDEL.

No. 4.

SANTO DOMINGO, *January 5, 1895.*

To MENDEL, *Rue Lione, Paris:*

We are thoroughly informed. Escoriaza ought to convince the Spanish ambassador that we are anxious to discover the particulars of the crime, but the proceedings should not be hurried. Assuredly Admiral Pichon will inform the French Government of our rectitude.

HEUREAUX.

No. 5.

SANTO DOMINGO, *January 7, 1895.*

To ESCORIAZA, *50 Boulevard Courcelles, Paris:*

I confirm my last cable to Mendel. Tell the Spanish ambassador to obtain an official declaration from the French Government that precipitation in the proceedings will not make ground or will not be afterwards alleged as a basis for claims for want of proper procedure. If approved the assassin will be executed at once and summarily.

HEUREAUX.

No. 6.

PARIS, *January 10, 1895.*

To the PRESIDENT, *Santo Domingo:*

The French minister of foreign affairs communicated to the Spanish ambassador the agreement by the French Government that Admiral Pichon will go. Warships will go very soon and they will establish a blockade. They will support morally the enemies of the [Dominican] Government if you do not accept in the case of Caccavilli, that the execution of the sentence shall be immediate. They demand as an indemnization [in the Caccavilli case], 400,000 francs cash. In the Boimare case 150,000 francs cash; 15,000 francs monthly guaranteed upon the customs. The matter of the National Bank of Santo Domingo and the Chiapini case will be submitted to the arbitration of the Spanish Government. There shall be deposited with the Spanish Government the sum taken from the National Bank of Santo Domingo and 25,000 francs to respond to the results of arbitration. Answer.

ESCORIAZA.

No. 7.

SANTO DOMINGO, *January 10, 1895.*

To ESCORIAZA, *50 Boulevard Courcelles, Paris:*

We can not accept that. We will await Admiral Pichon. Consult with the Spanish ambassador if you ought to withdraw.

HEUREAUX.

No. 8.

SANTO DOMINGO, *January 11, 1895.*

To ESCORIAZA, *50 Boulevard Courcelles, Paris:*

Ask the Spanish ambassador if the coming of Admiral Pichon excludes the mediation of the Spanish Government.

HEUREAUX.

No. 9.

PARIS, *January 11, 1895.*

To the PRESIDENT, *Santo Domingo:*

We have obtained from the French minister of foreign affairs a reduction in the cash amount for the Caccavilli case of 200 francs; remainder the same as by cable of Wednesday. The Spanish ambassador, in case you do not accept, will communicate to the minister of foreign affairs the termination of my efforts. Answer if I shall await here the result of the going of the war ships.

ESCORIAZA.

No. 10.

PARIS, *January 12, 1895.*

To the PRESIDENT, *Santo Domingo:*

Admiral Pichon only will go with vessels to impose by force the ultimatum. In that case the action of the Spanish ambassador will cease. It is necessary to state limits of the concessions.

ESCORIAZA.

No. 11.

SANTO DOMINGO, *January 14, 1895.*

To ESCORIAZA, *50 Boulevard Courcelles, Paris:*

The Dominican Government considers unjust the demand for the death of Caccavilli. Request the French Government to send a person authorized to investigate the facts. If the Dominican Government is found culpable then it will accede to the claim; in the other matters it will rest upon the former agreement. This is justice. If the French Government does not recognize this, then it will do what its will dictates, and we must succumb to the law of force. In that case thank the Spanish ambassador for favors. Withdraw yourself without concluding anything and notify Spanish Government. I urge reply.

HEUREAUX.

Mr. Gresham to Mr. Smythe.

No. 17.] DEPARTMENT OF STATE,
Washington, February 11, 1895.

SIR: I transmit herewith for your information a copy of a letter from Smith M. Weed, esq., president of the San Domingo Improvement Company, of New York, an American corporation.

Mr. Weed explains that by virtue of contracts between his company and the Government of Santo Domingo, and in pursuance of the law of that Republic, the company is in possession of and is administering the Dominican custom houses for the security and reimbursement of moneys due to it by that Government. He further states that the French Government has presented certain claims against Santo Domingo, and is about to take action to compel payment of them. The action contemplated, it is thought, involves either a seizure of the custom-houses by France, or such a demonstration of force as will compel the Dominican authorities to take possession of them for the purpose of speedily providing the necessary funds to meet the French claims. Either course would injuriously affect the company's rights.

An instruction has been sent to the United States ambassador at Paris,[1] authorizing him to notify the French Government of the rights of this American company in the custom-houses and custom revenues of Santo Domingo, in order that they may be protected in any action France may take for the enforcement of her claims.

I am, etc.,

W. Q. GRESHAM.

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[1] Printed on p. 397.

Mr. Gresham to Mr. Wos y Gil.

No. 1.] DEPARTMENT OF STATE,
Washington, February 12, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, inclosing a memorandum of the circumstances which led to the rupture of diplomatic relations between the Dominican Republic and France.

The question has been made the subject of appropriate instructions to our ambassador at Paris and chargé d'affaires near the Dominican Republic.

Accept, etc., W. Q. GRESHAM.

Mr. Wos y Gil to Mr. Gresham.

[Translation.]

DOMINICAN LEGATION,
New York, February 18, 1895. (Received Feb. 20.)

SIR: It was with great satisfaction that I noted at the last interview which your excellency was good enough to concede to me, on the 16th of the present month, the course which matters had taken in respect to the Franco-Dominican difference, thanks to the instructions transmitted by your excellency to the American ambassador in Paris.

But your excellency will permit me to state the idea that the French Government might seek some other way to exert a pressure upon the Dominican Government, and, saving the existing American interests in Santo Domingo, might carry into effect its plan of assault against our sovereignty, has not been lost sight of by my Government.

In case of such an event transpiring, I beg to say to your excellency that my Government, in defense of its rights and the principles of justice upon which its cause is based, is disposed to resist all coercive acts and to solicit the assistance of the Government of the United States.

For this purpose I beg to inform your excellency that I have received special instructions from my Government, and in the event that such a contingency should arise they will be at once submitted for your consideration.

I can not forego the present opportunity to express to your excellency the high appreciation in which my Government holds that of the United States, and how deeply it esteems its aid and sympathy, so potent and so powerful that no suggestion of other assistance has been made.

A. WOS Y GIL,
Chargé d'Affaires Dominican Republic.

Mr. Gresham to Mr. Wos y Gil.

No. 2.] DEPARTMENT OF STATE,—
Washington, March 1, 1895.

SIR: A perusal of your note of the 18th ultimo, of which I have the honor to acknowledge the receipt, suggests that you may not entirely have comprehended, or I may not have expressed with sufficient clearness in previous interviews, the position of this Government with regard

to the apprehended purpose of the French Government to press the adjustment of certain claims against the Dominican Republic. At least I may assume that this is so, from your repetition of the statement heretofore made orally that the Dominican Government is disposed to resist all coercive acts on the part of France, "and to solicit the assistance of the Government of the United States."

In our recent conversation, after you had stated your Government's denial of the complicity of any of its authorities in the Caccavilli murder, which forms the more prominent feature of the French complaint, I explained that the United States could not claim that the Dominican Government's contract with an American corporation precludes France from exercising against that Government whatever means of redress are sanctioned by international law; but that, as a friendly neutral, and mindful of the interest of American citizens under the contract in question, we might legitimately express the hope that France will exhaust all peaceful means of settling the controversy before resorting to force.

I have telegraphed to Mr. Eustis in this sense, adding that your Government denied that any of its officials were in any manner guilty of complicity in Caccavilli's murder.

Accept, etc., W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 18.] LEGATION OF THE UNITED STATES,
Port au Prince, March 2, 1895. (Received March 13.)

SIR: I received to-day your No. 17, of Santo Domingo series, transmitting a letter of Smith M. Weed, esq., president of the San Domingo Improvement Company, and also your No. 18, of same series, inclosing copy of note from the Dominican chargé at Washington, giving a memorandum of circumstances which led to the rupture of diplomatic relations between France and Santo Domingo. I had unofficially notified the French minister here of the interests vested in American companies and individuals, and have recently received from him an informal assurance that the matters in controversy between his Government and Santo Domingo were in process of amicable settlement. Inasmuch as Mr. Pichon was charged with the negotiations, and is in position to know the conditions there, I feel sure that all danger of the execution of the ultimatum (which would have seriously affected American interests) is passed.

I have, etc., HENRY M. SMYTHE.

Mr. Smythe to Mr. Gresham.

No. 18B.] LEGATION OF THE UNITED STATES,
Port au Prince, March 4, 1895. (Received March 13.)

SIR: A delay in the mail's departure affords me time to examine the memoranda supplied by the Dominican chargé. The facts therein stated are substantially those communicated to me by the Dominican minister here, and which I received from other (unofficial) sources, and confirm my opinion that the situation did not justify a resort to extreme meas-

ures, and that the ultimatum was not seriously proclaimed, but intended only to expedite a settlement of pending questions.

An unimportant error in the cable correspondence assigns Mr. Pichon to command of the fleet. He is French minister here and was delegated by his Government to conduct negotiations. He was made acquainted very early with the status of affairs there as relating to the claims and rights of American citizens, and I think he has been most solicitous for a peaceful solution of the questions. I am sure that the Department may allay any anxiety that may be felt by Mr. Weed or other American citizens who may be interested by the assurance that there is nothing in the situation that threatens their interests, of which I gave the French minister (unofficially) due notice two months since. The demand for the summary execution of a criminal, as well as the similar apparent disregard of local laws in the case of the bank, it would seem, would scarcely be considered a satisfactory basis for so stern an ultimatum. My intention now is to go to Santo Domingo the 10th of April.

I am, etc.,

HENRY M. SMYTHE.

Mr. Smythe to Mr. Gresham.

No. 21.] LEGATION OF THE UNITED STATES,
Port au Prince, March 16, 1895. (Received March 26.)

SIR: I am unofficially informed by Mr. Pichon, the French minister here, and also by Dr. Llenas, the Dominican minister, that the various matters in dispute between the French Government and President Heureaux have been satisfactorily adjusted. Mr. Pichon will soon go to Santo Domingo City to restore relations.

I am, etc., HENRY M. SMYTHE.

Mr. Wos y Gil to Mr. Gresham.

[Translation.]

DOMINICAN LEGATION,
New York, April 2, 1895. (Received April 3.)

EXCELLENCY: I have the honor to inform your excellency that the special Dominican mission in Paris has just signed articles for the definitive settlement of the Franco-Dominican difference.

In communicating this news to your excellency as I have received it from the minister of foreign affairs of my country, I have pleasure in informing you that my Government has appreciated at its high worth the moral support seasonably offered to it by the Government of the United States in defense of certain interests, the nonrecognition of which would have notably affected the fundamental principles of our autonomy.

To the special charge which I have received to convey to your excellency this expression of gratitude, it is gratifying to me to join to the prayers of my Government for the prosperity and glory of the American people the wishes I personally entertain for your excellency and your Government.

With sentiments of high consideration, I am, etc.,

A. W. Y GIL.

Mr. Uhl to Mr. Wos y Gil.

No. 3.] DEPARTMENT OF STATE,
Washington, April 5, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, stating that the Dominican special envoy has just signed at Paris the protocol for the final settlement of the Franco-Dominican differences, and expressing the appreciation of your Government for the moral support given to it by that of the United States.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

ECUADOR.

SHELTER AS DISTINGUISHED FROM ASYLUM.

Mr. Tillman to Mr. Olney.

No. 29.] LEGATION OF THE UNITED STATES,
Quito, September 1, 1895. (Received Sept. 24.)

SIR: I have the honor to inform you that since my Nos. 16, 17, and 25 on the political conditions, I have made no further reports—first, because there was nothing of a definite or decided character for me to report; and second, the State Department, by means of ocean cable and steamers, could have, and no doubt had, knowledge of the movements of Alfaro much earlier than I had, being separated from him by two armies and 100 miles of mountain roads without the means of telegraphing. I now report that on the 13th and 14th of August General Savasti, minister of war, in command of the Government forces near Riobamba, was defeated and his army, composed mainly of conscripts, was completely disorganized, and went, some to Alfaro, many to their homes, and a few returned to the capital, where, after a week of unsuccessful efforts to reorganize and increase the fighting force, the struggle was given up and the chief actor for the Government, minister of foreign affairs, Señor A. Rivadeneira, left for Colombia with his family on the morning of the 19th, carrying with him, it is said, about 100,000 sucres, which had been raised by the priests a few days previously for the purpose of organizing a force and preparing for the resistance of Alfaro at the gates of or within the city. The vice-president, the minister of finance, and other members of the cabinet remain in the city, some of them being in foreign legations and others at their own homes. The wife and daughters of General Savasti came to the house occupied by me on the night of the 17th of August, and are still here with my consent. General Savasti came on the following night, and remains here quite ill.

During the month preceding the flight of Mr. Rivadeneira, I refused all applications for an asylum, from the humble mechanic seeking to shun military duty to the richest merchant who was under suspicion of the Government. But since the flight of Mr. Rivadeneira and the abandonment of the public offices by other members of the cabinet, all the legations have been filled with women and children, boxes and trunks, especially during the 18th and 19th of August, when there was no Government—either municipal, provincial, or national—and when the streets were filled with men and boys firing the abandoned rifles of the dispersed troops of the Government.

Good order has prevailed since the 20th, under the municipal management of a friend of Alfaro—Señor Alban Mestanza, who has been named by the people as governor of the province of Pinchincha. General Savasti's defeat and retreat was hardly known before he was

charged with treason and with selling the battle to Alfaro, but his associates in the administration did not make the charge, and no well-informed man, native or foreigner, believed that he could win with the army under his command. General Alfaro is still at Ambarto, but it is expected that a portion of his command will reach here to-morrow, and he will follow in a few days.

I beg leave to ask for such instructions as you may think proper to give me.

I am, etc., JAMES D. TILLMAN.

Mr. Olney to Mr. Tillman.

No. 31.] DEPARTMENT OF STATE,
Washington, September 25, 1895.

SIR: I have received your dispatch No. 29, of the 1st instant, in which you report the collapse of the titular government at Quito and the dispersion of its members in anticipation of the occupation of the capital by the successful revolutionary forces of General Alfaro.

I note your statement that the family of the late minister of war came to your residence on the 17th of August seeking shelter, and that, at the date you write, they were still inmates of your house. You add that General Savasti himself joined them on the following night, and still remains your guest, quite ill. The shelter thus given by you to one of the prominent members of the overturned government, and as it appears similarly granted by other foreign representatives to the families of members of the late government, does not appear up to the time of writing to have been of the nature of asylum, as the word is properly understood by international authorities, there having been apparently no national or municipal government in the capital. Shelter under such circumstances was a mere act of humanity, unaccompanied by any assumption of extraterritorial prerogatives by you, or interference with any rights of legitimate government or sovereignty. This is quite distinct from the so-called right of asylum, which can logically only be exercised in disparagement of the rights of the sovereign power by withdrawing an accused subject from its rightful authority. The practice of this kind of asylum is not a right derived from positive law or custom; it is not sanctioned by international law, and can only find excuse when tacitly invited and consented to by the State within whose jurisdiction it may be practiced.

The Government of the United States has constantly declined to be bound by such questionable titles to accept its exercise, and has on many occasions and in positive terms condemned the usage and discouraged resort thereto by its representatives. In 1875, to select one among several examples, Mr. Fish instructed Mr. Cushing, then minister to Madrid, that—

> The right of asylum, by which I now refer to the so-called right of a political refugee to immunity and protection within a foreign legation or consulate, is believed to have no good reason for its continuance, to be mischievous in its tendencies, and to tend to political disorder. These views have been frequently expressed, and, while this Government is not able of itself to do away with the practice in foreign countries, it has not failed on appropriate occasion to deprecate its existence and to instruct its representatives to avoid committing this Government thereto.

In 1884, answering a request of the German Government for the views of the United States as to the propriety of restricting the exercise of

an asylum in Haiti to the citizens or subjects of the sheltering State, Mr. Frelinghuysen wrote:

> While indisposed from obvious motives of common humanity to direct its agents to deny temporary shelter to any unfortunate threatened with mob violence, it has been deemed proper to instruct them that it (the United States Government) will not countenance them in any attempt to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice.

Your concluding request for instructions is presumed to relate to this incident of the shelter given by you to General Savasti and family. The foregoing citations will have sufficiently indicated the uniform rule of this Government to discountenance asylum in every form and to enjoin upon its agents the exercise of the utmost care to avoid any imputation of abuse in granting such shelter. It may be tolerated as an act of humanity when the hospitality afforded does not go beyond sheltering the individual from lawlessness. It may not be tolerated should it be sought to remove a subject beyond the reach of the law to the disparagement of the sovereign authority of the State.

Sections 46, 47, and 48 of the Department's printed personal instructions relate in terms to the extension of asylum to unsuccessful insurgents and conspirators. It seems to be very generally supposed that the case of a member of an overturned titular government is different; and so it may be until the empire of the law is restored and the successful revolution establishes itself in turn as the rightful government competent to administer law and justice in orderly process. Until that happens the humane accordance of shelter from lawlessness may be justifiable; but when the authority of the State is reestablished upon an orderly footing, no disparagement of its powers under the mistaken fiction of extraterritoriality can be countenanced on the part of the representatives of this Government.

I am, etc., RICHARD OLNEY.

RECOGNITION OF DE FACTO GOVERNMENT.

Mr. Adee to Mr. Tillman.

No. 27.] DEPARTMENT OF STATE,
Washington, September 6, 1895.

SIR: The Department has received a dispatch, dated the 17th ultimo, from our consul-general at Guayaquil, announcing the defeat of the Government forces by those of General Alfaro, and, in view of the uncertain condition of political affairs in Ecuador, thinks it well to advise you that intercourse for the disposal of current matters affecting American interests with the de facto authority administering the public affairs of the State with the general acquiescence of its people and controlling the machinery of government to that end, is in accordance with the traditional policy of this Government. (See Wharton's International Law Digest, vol. 1, sec. 70.) In accordance with that policy, it is for you on the spot to determine with sound discretion the responsible authority to which you are to address yourself. Any professed formalities of recognition should await the instructions of your Government, which may be sought and obtained by cable if necessary.

I am, etc.,

ALVEY A. ADEE.

Mr. Tillman to Mr. Olney.

No. 30.] LEGATION OF THE UNITED STATES,
Quito, September 7, 1895. (Received Oct. 4.)

SIR: I had the honor in my dispatch No. 29,[1] dated September 1, but which should have been dated August 31, to inform you of the flight of the minister of foreign relations and the abdication of the other cabinet officers, and that the municipal government was the only source of order and that a friend of Alfaro was civil and military chief.

Governor Alfaro entered the city on the 1st of this month with his army, and everything has been quiet. His course has been moderate and magnanimous. He yesterday notified General Savasti that he was at liberty to return to his own home, with the assurance that he should not be molested, but there is a disposition on the part of all parties, either from ignorance or prejudice, to attribute the act even of a half-drunken soldier to the Government in power. I hand you herewith a letter, copy of original and translation, from Louis F. Carbo, minister of foreign relations under Alfaro's régime, addressed to me, and my reply to the same.

I have to-day made a personal call upon General Alfaro, and found him easy and affable, having the appearance of a man of decided character. He impresses me as a man who is moved by the highest motives. He took occasion to express to me his admiration for the real republican character of the United States Government. I informed him that I had from time to time informed my Government as to the progress of events in this country.

I am, etc., JAMES D. TILLMAN.

[Inclosure in No. 30—Translation.]

Mr. Carbo to Mr. Tillman.

REPUBLIC OF ECUADOR,
Guayaquil, August 29, 1895.

MOST EXCELLENT SEÑOR: On the 5th of August of the present year the people of Guayaquil proclaimed Gen. Eloy Alfaro jefe supremo of the Republic of Ecuador and general in chief of the army. This popular proclamation was immediately seconded by all the provinces of the coast and by some of the interior of the Republic. As soon as General Alfaro arrived from abroad he informed his cabinet in this city, as it appears in the decrees and proclamations, which your excellency will see in the "official record," copies of which I have the pleasure of sending you with this note. The resistance which the Government, not recognized in the proceedings of the coast, offered to the expressed will of the country compelled the supreme chief to open a campaign against the interior of the Republic, but not without having first exhausted conciliatory efforts with commissioners of peace, whom he sent to Quito and Cuenca without results, on account of the obstinacy of those who attempted to exalt themselves above the national will, clearly and honestly manifested in the public press and in the military camps.

It was therefore necessary for the government of Guayas to appeal to arms to reduce to submission those who, working on the religious sentiment of the country, were engaged in sustaining a shadow of gov-

[1] See p. 244.

ernment, which was, in fact, but a mockery, and leaves behind it sad records. The victories obtained by our valorous army in the center and south of the Republic, the defection of the troops who sustained in Quito the expiring Government, the flight of some of the members of the cabinet, and the seeking of asylums by others in foreign legations, the proclamations, and the entry of our army into the capital, where the jefe supremo will be when this note reaches you, are circumstances more than sufficient to convince you that the Government which I represent, whose jurisdiction extends over the whole Republic, is in very truth the national Government, while the faction of fugitives who wander toward the north and will soon disappear no longer deserve to be taken into account. In the official record, to which I have referred your excellency, you will be able to inform yourself as to the policies and tendencies of this Government, as well as its actual residence in this city, as represented by the council of ministers charged with the executive power. The undersigned, being honored with the presidency of the council, has the satisfaction to assure your excellency that the new Government of Ecuador proposes to bind still further, if possible, the friendly relations of your country and ours.

Please accept, etc., LOUIS F. CARBO.

[Inclosure 2 in No. 30.]

Mr. Tillman to Mr. Carbo.

LEGATION OF THE UNITED STATES,
Quito, September 6, 1895.

SIR: I had the honor of receiving yesterday your communication of August 29, 1895. The narration of political events and military movements for the past three months is in accord with my own observation and information, and the conduct of General Alfaro since his entrance to the capital has been characterized by moderation and magnanimity. All the public offices of national rank have been abdicated by those to whom three months ago I presented my letter of credence from the President of the United States. I unite with you in the desire to strengthen still more, if possible, the friendly relations which have existed between Ecuador and the United States of America. I have informed my Government from time to time of the progress of events and General Alfaro's movements, and will forward to Consul-General Dillard by your agent another dispatch to be mailed to the Secretary of State, from whom I must hear before I can further take action in my character as minister to Ecuador.

I am, etc., JAMES D. TILLMAN.

Mr. Olney to Mr. Tillman.

No. 37.] DEPARTMENT OF STATE,
Washington, November 6, 1895.

SIR: I have received your No. 30, of the 7th of September last, reporting the further progress of the successful revolutionary party of Ecuador toward the establishment of a Government and the administration of public affairs.

I am gratified that your personal relations with General Alfaro have been cordial and satisfactory. It was entirely proper that you should

testify to him the courtesy and good will suitable in your relations with one who, with the apparent assent of the greater part of the population of Ecuador, has been elevated to unopposed power. I note that in acknowledging the communication of Señor Carbo, minister of foreign affairs, you say that you must hear from the Secretary of State before you can further take action in your character as minister to Ecuador.

The precedents by which the intercourse of the United States with foreign nations is governed have established the clear right, under the law of nations and treaties, to maintain, through its properly appointed agents, communication with the de facto authorities of a foreign state upon all matters affecting either this Government or its citizens, the only limit to this proviso being that our agents are bound to avoid interference in the domestic questions of the state. In the present instance no such interference appears likely, or even possible, as the government of General Alfaro is understood to be in full possession of the machinery of the State. The right and propriety, therefore, of your conducting all current relations with it in your capacity as minister to Ecuador can not be questioned.

As to formal recognition, the practice of this Government has been to enter into effective relations with the de facto government when it shall have been fully established with the general consent of the people. I assume from the communication of Señor Carbo that such a government has been organized in Ecuador, although its style and title are not stated by him. It would seem to be a provisional government, controlled by a council of ministers, with General Alfaro as its president and supreme head of the State. On this understanding, and being satisfied that the new Government is in possession of the executive forces of the nation, and administering the same with due regard for the obligations of international law and treaties, you will enter into full relations with it.

I am, etc.,

RICHARD OLNEY.

Mr. Tillman to Mr. Olney.

No. 48.] LEGATION OF THE UNITED STATES,
Quito, December 6, 1895. (Received Jan. 2, 1896.)

SIR: I have the honor to hand you herewith a copy of a letter addressed to Hon. Ignacio Robles, minister of foreign affairs in Ecuador, advising him of instructions from my Government to enter into full diplomatic relations with the ministerial officers of the Republic of Ecuador, represented in the matter of foreign affairs by himself.

I am, etc.,

JAMES D. TILLMAN.

[Inclosure 1 in No. 48.]

Mr. Tillman to Mr. Robles.

LEGATION OF THE UNITED STATES,
Quito, December 5, 1895.

SIR: I have the honor to inform you that on the 3d of this month I received from the Secretary of State at Washington a communication dated November 6, 1895, in which I am instructed to enter into full diplomatic relations with the ministerial officers of the Republic of Ecuador.

This communication is addressed to you, as minister of foreign affairs, to advise you of my instructions and to confirm the telegram from this legation on the 3d of this month addressed to the supreme chief. If any action on the part of your Government is necessary to give full force and effect to the official acts of the consul-general, Mr. Dillard, at Guyaquil, and to other officials of the United States, I beg leave to ask that your Government will give to them every facility and assistance which they may need in the discharge of their duties. Again expressing for your country, and the personnel of the administration of which you form a part, the friendliest feelings of my Government and myself,

I am, etc., JAMES D. TILLMAN.

[Inclosure 2 in No. 48.—Telegram.]

Mr. Tillman to General Alfaro.

LEGATION OF THE UNITED STATES,
December 3, 1895.

By letter dated November 6, 1895, I am directed by the United States Government to enter into full diplomatic relations with the ministerial officers of Ecuador, of whom you are the chief. Mr. Dillard, consul-general of the United States, unites with me in congratulating you and the Republic of Ecuador.

TILLMAN.

ARBITRATION OF TERRITORIAL CLAIMS.

Mr. Strobel to Mr. Gresham.

No. 24.] LEGATION OF THE UNITED STATES,
Quito, December 18, 1894. (Received Jan. 14.)

SIR: After the rejection by the Congress of Ecuador of the Garcia-Herrera treaty for the settlement of the boundary question with Peru, reported in my No. 11, of August 2 last, negotiations were reopened at Lima in pursuance of the authority conferred upon the President. Colombia insisted upon taking part in a conference as an interested party, and her claim was allowed. Bolivia also made a like attempt, but it was ineffectual.

I now have the honor to report that the President of this Republic received yesterday a telegram from Mr. Castro, the representative of Ecuador, stating that the result of the conference was the signing of a treaty by the representatives of the three Republics, providing for the settlement by arbitration of their conflicting territorial claims.

The telegram also states that Spain is to be the arbitrator, and that the decision is to be made not merely upon the records and arguments of law, but also with due consideration for the natural claims of the contestants, which would seem to imply that the final judgment should concede to each country an outlet to the Atlantic by the Amazon and its tributaries.

I have, etc., EDWARD H. STROBEL.

FRANCE.

CASE OF JOHN L. WALLER.[1]

President's Message.

To the House of Representatives:

I transmit herewith, in answer to the resolution of the House of Representatives of December 28, 1895, a report from the Secretary of State, accompanied by copies of correspondence and other papers in regard to the case of John L. Waller, a citizen of the United States, at present in the custody of the French Government.

It will be seen upon examination, as would of course be expected, that there is a slight conflict of evidence upon some of the features of Mr. Waller's case. Nevertheless, upon a fair and just consideration of all the facts and circumstances as presented, and especially in view of Mr. Waller's own letters, the conclusions set forth in the report of the Secretary of State do not appear to admit of any reasonable doubt, nor to leave open to the Executive any other course of action than that adopted and acted upon as therein stated.

It is expected that Mr. Waller's release from imprisonment will be immediately forthcoming.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 11, 1896.

Report of the Secretary of State.

The PRESIDENT:

I have to acknowledge the receipt by reference from the Executive of the following resolutions of inquiry:

SENATE RESOLUTION.

Resolved, That the President be, and he is hereby, requested, if in his judgment not incompatible with the public interest, to communicate to the Senate all information which has been received by him or by the State Department in regard to the

[1] Reprinted from House Document No. 225, Fifty-fourth Congress, first session.

arrest and trial of John L. Waller, a citizen of the United States, by French authorities in the island of Madagascar, and his imprisonment in Paris, in the Republic of France, including all correspondence between Edward Telfair Wetter, United States consul at Madagascar, and Mr. Edwin F. Uhl, of the Department of State, and all records, documents, and evidence in any way touching said matters in his possession or in possession of the State Department.

HOUSE RESOLUTION.

Resolved, That the President be, and he is hereby, requested, if in his judgment not incompatible with the public interest, to communicate to the House of Representatives all information which has been received by him or by the State Department in regard to the arrest and trial of John L. Waller, a citizen of the United States, by French authorities in the Island of Madagascar, and his imprisonment in the Republic of France, and all records, documents, and evidence in any way touching said matters in his possession or in the possession of the State Department.

John L. Waller, a native-born citizen of the United States, was appointed United States consul at Tamatave, Madagascar, in February, 1891, entered upon the duties of the office and continued to hold the office till the last of January, 1894. From that time until October, 1894, he resided at Antananarivo, the capital of Madagascar.

W. F. Crockett, a citizen of the United States residing in Madagascar, died in June, 1892, leaving a native wife and two minor children. By a quasi-testamentary paper, he expressed the wish that his property might be placed in native hands so as to escape the fees and expenses which would result from its administration by the United States consul. In November, 1892, Waller reported these facts to the Department, but added that as there were claims against the estate he had assumed charge of it. The Department approved his action January, 1893, and directed him to administer upon the estate in accordance with the consular regulations. Excepting a later report from Waller to the effect that he had converted the property into money, nothing further on the subject was heard from him.

The present United States consul, Edward T. Wetter, who took charge of the consulate at Tamatave the last of January, 1894, found the records of the consulate in a state of great confusion. Waller had disappeared, the consulate was in charge of an acting vice-consul named Geldart, and there was no account on the records relating to the Crockett estate subsequent to November, 1892, when Waller took charge of it. It subsequently appeared that Waller had taken possession of the estate as appointee of the widow under a paper entitled "Appointment of John Waller as administrator and guardian for the estate of the late W. F. Crockett." This document authorized Waller to bring up the daughter in his family and—

to lend the money which belongs to me and my children at such interest as will pay for the clothes, board, and care of the children without consuming the principal for that purpose. I want the interest paid at the end of each six months, provided that it shall always be applied to the board, lodging, and care of the children. I want a statement showing the amount of interest the principal has earned at the end of each six months.

Waller's duty with reference to the estate is declared by sections 1709–1711 of the Revised Statutes.

March 29, 1894, Wetter called upon both Waller and Geldart for an account of the Crockett estate. Geldart's reply was that Waller had not turned over to him any part of the Crockett estate, but had gone away with it, claiming to be accountable to the State Department only.

Under these circumstances, Wetter caused a civil suit, in the name of the United States, to be brought against Waller, based upon averments of his negligence and mismanagement of fiduciary trusts. This suit was to have been tried in June, 1894, but on account of Waller's health,

was not actually tried till October of that year. It is in connection with this trial that two American citizens by the names of Duder and Poupard first appear upon the scene. They had been invited by the consul to sit with him as associate judges. They were, however, objected to by Waller—on what ground does not appear—and were thereupon withdrawn by the consul.

The court, as finally made up, consisted, to quote Consul Wetter's statement:

> Besides myself, of Messrs. Geldart and Ryder (Messrs. Duder and Poupard having been objected to by Waller), and of Mr. Howe, a new American arrival here. Mr. Geldart is Waller's most intimate friend and champion. Messrs. Ryder and Howe are perfectly neutral; hence the utmost impartiality has been secured to Mr. Waller.

The court thus composed, under date of October 1, 1894, rendered judgment as follows:

TAMATAVE, *October 1, 1894.*

[The United States v. John L. Waller, administrator, guardian, etc. Negligence and mismanagement of fiduciary trusts.]

FINDING OF THE COURT.

This court, after careful consideration of the evidence submitted and the statements of the accused, finds:

(1.) That Mr. Waller has been guilty of gross mismanagement of the funds of said estate.

(2) That Mr. Waller has in no way benefited the widow of W. F. Crockett or his minor children, either as guardian or administrator.

(3) That the items appearing upon his accounts as charges for a trip to Antalaka, amounting to $128, were expenditures wholly unwarrantable by the exigencies of the case, and are likewise exorbitant, and are therefore disallowed.

(4) That Mr. Waller has been guilty of abuse and negligence of his fiduciary trusts, both as a citizen and as an official.

(5) That we therefore adjudge him unworthy of further confidence, and order his removal from said fiduciary capacities.

(6) That he pay into the United States consular court sitting in probate jurisdiction at Tamatave, within forty-five days hereof, the amount of the balance due said Crockett's heirs now in his hands, to wit, $1,961.67, Madagascar currency.

(7) That he be further adjudged, in view of the fact that with due diligence he could have readily found investment for said amount here at Tamatave, to pay interest at 8 per cent on said sum, $1,961.67, from January 1, 1893, amounting to $294.25 in same currency.

(8) That said defendant pay all charges of this action, costs of court, etc.

EDWARD TELFAIR WETTER,
United States Consul, Acting Judicially.

Undersigned:
J. O. RYDER,
R. W. GELDART,
DANIEL J. HOWE,
Associate Justices.

In the dispatch of October 26, 1894, reporting this judgment, and in other subsequent dispatches, the consul refers to collateral facts of more or less importance in connection with this judgment, but not necessary to be here repeated. His letter of the 26th asks for permission to prosecute Waller criminally, to which the Department replied that it could not give any specific instructions in the matter, but if the criminal law had been violated it was the consul's duty to take the proper measures This reply was not received, however, by the consul until after Waller was arrested by the French. In a letter dated April 21, 1895, the consul calls for such information and instructions as will enable the judgment of October 1 to be satisfied either from Waller's estate in the United States or by proceedings against the sureties on his bond.

This same letter contains an allusion to the Waller rubber concession or land grant near Fort Dauphin. After indicating various ways in which the Crockett money may have been consumed by Waller, there

is a suggestion that some of it may have been spent in bribes to secure the concession. But no evidence to that effect is reported, and neither is there any proof of the nature, extent, validity, or value of the concession. That it was believed to have some value is shown by the account of Mrs. Waller's efforts to raise money on it for the payment of the judgment against Waller. On the other hand, the value may have been supposed to be dependent upon the issue of the contest then going on between the French and the natives, while it is certain that the French authorities have always held the concession to be without any validity.

As has already been stated, Waller returned to Tamatave from Antananarivo in October, 1894, being, as he declares, then on his way to America. He was prevented from proceeding, however, by his inability to pay the Crockett judgment, which payment the consul insisted upon as a condition of his departure. In December, 1894, the French bombarded Tamatave, captured it, took military possession, installed a garrison of seven or eight hundred men, proclaimed martial law, as Waller himself says, and put the mails under surveillance. This situation must have been well understood by Waller, for, though he afterwards professed ignorance of it, in the intercepted letter to his wife of January 20 he says:

> I shall slip this letter out by English steamer via Natal; then it will not be read by the French, as all letters are here at this time.

On the 5th of March, 1895, Waller was arrested by the French authorities and his papers seized. He was subjected to the customary preliminary examinations, and on the 18th of March was brought to trial before a military tribunal described as "Marine first permanent council of war." The charges against him were in effect, first, the dispatching of a letter from Tamatave without the same having been viséed by the French authorities in contravention of a public order promulgated January 18, 1895; and second, attempting to correspond with the enemies of France and to furnish them information prejudicial to the military and political situation of France. The counsel selected by Waller and his friends having declined to act unless money was raised for his compensation in advance, the French authorities assigned him counsel, who was assisted by Consul Wetter in the preparation of Waller's case and who acted in his defense. The trial took place in open court; the accused was interrogated and identified certain alleged incriminating letters written by him, and the testimony of witnesses was taken, including that of Paul Bray, Waller's stepson. After argument on both sides, the court, by a unanimous vote, found Waller guilty on both charges, and sentenced him to twenty years' imprisonment. An appeal taken from the judgment and sentence to a council of revision was rejected March 23.

The case having been reported to the Department by Consul Wetter, Secretary Gresham, by letter dated April 10, 1895, instructed our ambassador at Paris to call upon the French Government for a record of all the proceedings, including a copy of the evidence. This request was partially complied with in June by furnishing a document showing the charges, the general course of procedure at the trial, the judgment and sentence, and the denial of the appeal therefrom. The evidence called for did not reach the French minister for foreign affairs until the 5th of October. After scrutiny by him, and without any admission of the duty of the French Government to permit an inspection of the evidence—a duty which that Government claimed from the outset did not exist—the evidence was submitted to Mr. Eustis for such examina-

tion as he chose to make. He accordingly examined the same, and, under instructions from the Department, has reported the conclusions thereupon reached by him.

Waller's guilt upon the first charge, sending a letter from Tamatave without permitting the French authorities to inspect it—an offense said to be punishable by a nominal fine—stands confessed. As respects the second charge—a charge, of course, of much greater gravity—Mr. Eustis reports as follows:

The Waller record consists mainly of the following papers: The sentence of the court, embracing part of the proceedings already communicated; reports of various officials charged with collecting the evidence; interrogatories of the accused and witnesses in the secret preliminary proceedings, called in French "l'instruction;" two letters of Waller written at Tamatave under date of January 28, 1895, and addressed one to Mr. Tessier, the agent of the Hovas, and the other to his wife, both of whom were then at Antananarivo.

In order to understand the significance of the information communicated, it must be borne in mind that the French had a garrison at Tamatave and the Hovas had one at Faratafi. These two points were distant from each other a few miles. In a letter to Tessier he describes the condition at Tamatave; that smallpox is raging; that many are dying; that there are more than one hundred French soldiers in the hospitals; that they have dysentery and fever, and unless there should be a change in the order very soon the fatality of both soldiers and citizens will be very great. Then he speaks of the scarcity of provisions; of the arrest of several Hovas who were reported to have been shot.

To have communicated the enfeebled and straitened condition of the garrison at Tamatave might certainly have provoked the attack by the Hovas from Faratafi, the information being given to an agent of the Hovas.

He describes the rapes and outrages committed by French soldiers upon Malagasy women, and says that it seems strange that civilized men should commit such crimes upon the poor Malagasy women, and speaks of much Malagasy property having been destroyed by the French troops. Whether these statements were true or false, they were certainly calculated to increase the horrors of war by provoking retaliation on the part of the Hovas.

He writes that all mail leaving Tamatave for Antananarivo is read by the colonel of the French army before it can pass; that he has a chance to send this letter by the English steamer via Natal, because it will escape the eyes of the officials.

In his letter to his wife he denounces D. and P. (who are identified as Draper and Purdy) as French spies, and asks her to inform Tessier and friends of the fact. It is true that he advises that they may be sent away from the capital, but he doubtless knew that spies in time of war are not banished, but are usually shot, and when asked by the presiding officer why he exposed these two men to be executed, he replied that he did it from motives of revenge. I am credibly informed that these two men were American citizens.

He says that he will slip this letter out by English steamer via Natal, then it will not be seen or read by the French; that if she acknowledges the receipt of this letter, not to mention anything in it, but simply say, "Your 44 received;" and after she and Tessier have read it to destroy it, and not to mention its contents except to Tessier and secretaries (the latter are interpreted as meaning secretaries of the Hovas Government).

He details outrages committed by French soldiers upon Malagasy women, giving a terrible account of it. He adds that no one will know what he has suffered for the Malagasy, and that he is liable to be shot at any moment.

These letters are in the handwriting of Waller, and at the trial he acknowledges having written them.

These conclusions, stated in a letter of December 12, 1895, had been briefly summarized in a telegram of December 7, as follows:

It is proper to state that before examining the evidence I had been inclined to believe from the information I could gather that Waller was perhaps convicted on insufficient evidence; that on account of the prejudice against him he might not have had a fair trial. After examining the original letters of Waller, I have no doubt whatever of his guilt. It was not a case of inadvertent or imprudent writing, but was a deliberate attempt to give information to the enemy to the prejudice of the military situation of France. The evidence fully sustains the charge. The whole tenor of the correspondence discloses his guilty intention and no court could have hesitated to condemn him.

It should be further stated that considerable corroboration of the conclusions thus arrived at by Mr. Eustis is found in the collateral information which has come to the possession of the Department, including the statement of Mrs. Waller and her son Paul Bray. The counsel who defended Waller at the trial made some extracts from the alleged incriminating letters—doubtless those he thought most important—and also made minutes of some portions of the oral testimony. Thus, his memorandum of Waller's letters of January 23, 1895, is as follows:

VII. Letter of Waller to his wife, January 23, 1895.

1. The case of Geldart *v.* Lyons. Calling up of his own case.

2. "Geldart, Duder, and Poupard are as thick now *as three in a bed*, and Wetter is their god. I will inform you that D. and P. are on their way to Antananarivo, and they will likely reach there long before this letter leaves Tamatave." "Please inform M. Tessier and our *friends* that both of these men have been sent up there by the French to find out secretly all the movements of the Hova Government, which they will send to the French authorities from time to time. Therefore the Government had better keep a strict watch of these men and order them from the capital as soon as possible. Both of them are for French.

I shall slip this letter out by English steamer via Natal; then it will not be read by the French, as all letters are here at this time. I shall be anxious to learn that you have received this letter; therefore, when you get it, do not mention anything you find in it, but simply say, "Your No. 44 received," and please destroy it as soon as you and M. Tessier have read it, and do not mention to anyone but M. Tessier and secretaries about the information which I send you. ———.

3. Smallpox. Numerous rapes of which he has been witness on the part of soldiers.

4. May God grant that the money shall have been raised and forwarded by you and our *friends* before this time. ———.

5. Details as to the material difficulties of living at Tamatave; he therefore intends to go to Tamatave as soon as possible.

VIII. Letter from Waller to Tessier:

JANUARY 23, 1895.

"1. I send an important letter under your cover to my wife, which I will be pleased to have you hand her in *person* on account of its importance.

"I need not inform you that she will call your attention to a certain matter therein contained, the importance of which will at once challenge your most careful attention and place our *friends* on their guard. This matter is strictly *confidential* and I can assure you that our friend can not afford to lose any time in attending to it."

"Small-pox—violence—destruction of property, poverty, provisions of beef—letter."

Waller's counsel also reports Waller as having testified at his second examination as follows:

He maintains that D. and P. are not Duder and Poupard.

He did not think that in writing on the subject of D. and P. he could do them any harm, for they are English; he simply wished to revenge himself for the rascally proceedings of which he had been the subject by causing them to be expelled from the capital.

These extracts from letters and minutes are not only in line with the results reached by Mr. Eustis, but raise the serious question whether Waller was not intriguing not merely against the French but against the safety and lives of American citizens. He states that by D. and P. in his letter to his wife he did not mean Duder and Poupard—two persons so named in but two lines previous of the same letter. He declares he meant two other persons, viz, Draper and Purdy. But both his wife and his stepson affirm that they had no knowledge of any such persons, nor is anyone else shown to have heard of them. On the other hand, Duder and Poupard were the two American citizens whom Consul Wetter asked to sit with him in the Crockett case and whom Waller objected to. And since Waller admits that his allusion to D. and P. was for the purpose of revenge, the inference that Duder and Poupard were the persons aimed at is well nigh irresistible. Certainly his wife, to whom the letter was addressed, and who did not know Draper and Purdy, could not have understood the initials except as referring to Duder and Poupard.

On all the evidence, and in view particularly of his own letters, Waller was unquestionably guilty of an offense against the French Government of a serious character, and fully justifying severe punishment. It will be seen, however, that at a time when it seemed uncertain whether or not an inspection of the evidence in Waller's case would be permitted, Mr. Eustis, by direction of the Department, submitted the record of the charges, procedure, sentence, etc., to an eminent French lawyer, M. Eduard Clunet, and asked his opinion upon the validity of the proceedings as thus shown. The opinion, given in writing, is annexed to this report. It points out that a proclamation of martial law was the basis of the jurisdiction of the court, and that the record is defective in not showing the issuance of such a proclamation. But as there is no doubt that such a proclamation was issued—Waller himself so states—the defect would seem to be of a technical rather than a substantial nature, and easily curable by an amendment of the record.

The opinion also sets forth certain other peculiarities of the procedeings, which are treated by M. Clunet rather as irregularities than as matters touching the jurisdiction. His conclusion upon the whole case, however, is that there is no mode by which the Waller judgment could be successfully challenged through the courts, and that any relief from his sentence must be sought through an application for clemency. If the evidence had not been produced and the substantial merits of the case thus disclosed, it might have been the duty of this Government to test the accuracy of M. Clunet's findings by appropriate legal proceedings or otherwise. But the evidence having been exhibited and Waller having been thus satisfactorily shown to have given the French Government grave cause of complaint and to be guilty of the offenses charged against him, an attack upon the proceedings of the Tamatave court for alleged irregularities—even if attended with the most successful result—could not do more for Waller than accomplish his release.

So far as compensation by damages for any illegal arrest or detention is concerned, this could only be sought later, either through the action of the United States or by suit by Waller himself in the French courts. But in view of Waller's willful and culpable attempt against the French authority in Madagascar, it is manifest that no claim for damages on Waller's account could be properly pressed by the United States, or could be expected to be entertained by the French Government. An international reclamation, the rejection of which may justify reprisals or even be treated as a *casus belli*, ought not to rest on pure technical-

ities when the facts and evidence are against the claim. It should be founded upon something more than the mere nonobservance of legal formalities—upon something more than irregularities originating in ignorance or inadvertence rather than in intention, and not necessarily nor actually working any substantial wrong or injustice.

The rule laid down by the Supreme Court of the United States (110 U. S., p. 74) in relation to claims before an international tribunal of arbitration a fortiori applies to a claim made by one Government upon another direct.

> International arbitration must always proceed on the highest principles of national honor and integrity. Claims presented and evidence submitted to such a tribunal must necessarily bear the impress of the entire good faith of the Government from which they come, and it is not to be presumed that any Government will for a moment allow itself knowingly to be made the instrument of wrong in any such proceeding. No technical rules of pleading as applied in municipal courts ought ever to be allowed to stand in the way of the national power to do what is right under all the circumstances. Every citizen who asks the intervention of his own Government against another for the redress of his personal grievances must necessarily subject himself and his claim to these requirements of international comity.

Hence, in accordance with this rule, notwithstanding the appearance of omissions and irregularities in the record and proceedings of the tribunal, it can not be said that substantial injustice has resulted therefrom, since upon the facts and the evidence of Waller's own letters the result must have been the same if every technical requirement had been observed. So, though Waller has been deprived by the French of his liberty for nine or ten months, it can not be said that the penalty to which he has been subjected has been disproportionate to his offense. On the contrary, the penalty regarded as the outcome of a lawful proceeding would universally be regarded as an exceedingly moderate one. In short, the production of the evidence in Waller's case showed him to have been guilty of a grave offense, though perhaps the strictly legal formalities and procedure necessary to make his trial unquestionably regular were not complied with.

In any event it became quite clear that any objections to the legal proceedings in the case were either technical and formal, and so not necessarily fatal to them, or, if more serious because jurisdictional or substantial, they might be met by the French Government by remanding Waller for a new trial, which upon the undisputed facts could not be expected to result any differently from the first trial.

In these circumstances, after urgent representations by this Government, an offer was made by the French Government to release Waller from further imprisonment and pardon his offense upon the condition that the affair be thereby terminated as between the two Governments and that the United States should make no claim in behalf of the prisoner based upon his arrest, conviction, or imprisonment. The acceptance of this offer seemed to be so favorable to Waller, and in view of all the facts so considerate toward our Government, that under the direction of the President our ambassador to France has been instructed to give notice of such acceptance on our part and to exchange the notes necessary to carry out the arrangement.

Waller has not consented to this adjustment and still insists that he should receive compensation from the French Government.

The fact has not been overlooked that Waller is reported to have at one time declared that on the voyage to Marseilles from Tamatave he was subjected to gross personal indignity and abuse. In view, however, of the intrinsic improbability of the charge, of its never having been repeated even by Waller himself, of there being no allusion to it in the

narratives of his wife and stepson, of the alleged maltreatment forming no part of Waller's formal specification of his injuries and claims for damages as communicated to Mr. Eustis, and of the proven unreliability and malice of Waller's assertions in other connections, it is impossible not to regard Waller's complaint of cruelty practiced upon him on shipboard as either wholly unfounded or at the best grossly exaggerated.

It is further discredited by the fact that the treatment of Waller since his arrival in France has been exceptionally considerate and humane. Reaching Marseilles in delicate health, he was at once provided with competent medical advice and attention, and soon after, upon the suggestion of the physician in charge, was removed to a different locality better adapted to his physical condition, and where he has since greatly improved. Nevertheless, that no possible injustice might be done to him, Waller's complaint of ill-treatment on his journey to France was specially called to the attention of the French Government. That Government at once disavowed the cruelties charged and insisted that they could never have been inflicted, but undertook, at the request of this Government, to investigate and to punish any persons found guilty of them.

It at the same time declared, however, that even if the complaint should prove to be well founded, it could not entertain any claim of damages for Waller preferred by the United States, because the French tribunals were open to him and he could pursue his remedies there either against the Government or private individuals in the same manner and with the same effect as could any French citizen under the like circumstances. This position of the French Government—that claims of aliens cognizable by the courts of a foreign country can not be made the subject of diplomatic intervention unless there has been a palpable failure of justice after all local judicial remedies have been exhausted—is one upon which this Government has often insisted and of which it has often availed itself.

Its applicability to the case of Waller was confirmed by the opinion of the eminent French lawyer already referred to, by whom it was pointed out that in respect of remedies in the French tribunals an alien was in all respects on the same footing as a Frenchman except that the alien must furnish security for costs. As our ambassador at Paris, under instructions from this Department, could easily arrange to furnish such security should Waller desire to resort to the French courts, there seemed to be nothing in Waller's charges of ill-treatment while on his way to France which ought to stand in the way of an acceptance of the offer of the French Government for his immediate release.

Accordingly, upon the request of Waller, our ambassador at Paris will be instructed to arrange for furnishing security for the costs of any suit before the French tribunals which Waller may be advised the facts of his case will warrant. Mr. Eustis has already been instructed to supply him with the means of transportation to the United States, should he desire to come here. It may be added as part of the history of the case, that the family of Waller being left in destitute circumstances, the Department instructed its representatives to provide for their present necessities and to furnish them the means of getting to the United States. That relief was accordingly extended to them, the charges to which this Government has thus far been put amounting to $1,317.14.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, February 5, 1896.

I.—CORRESPONDENCE WITH THE EMBASSY OF THE UNITED STATES AT PARIS.

Mr. Gresham to Mr. Eustis.

No. 396.] DEPARTMENT OF STATE,
Washington, April 10, 1895.

SIR: Press telegrams printed in this country and in Europe last month announced that Mr. John L. Waller, late United States consul at Tamatave, had been tried by the French authorities in the Island of Madagascar and sentenced to twenty years' imprisonment. The nature of the charge against him is not fully understood, but it is believed that the proceedings were before a military tribunal, and it is asserted that the charge grew out of valuable concessions of rubber lands made by the Malagasy Government to Mr. Waller in March, 1894, a year before his arrest and trial.

The Department at once endeavored to learn the facts, and instructions were telegraphed, March 27, to the United States consulate at Port Louis, Mauritius, the nearest post accessible by cable, directing a full and prompt report. Mr. Campbell replied, March 28, that late reports from Madagascar were to the effect that the French authorities had found compromising papers in Mr. Waller's possession and that he had been condemned to twenty years' imprisonment as a Hova spy.

Mr. Campbell was thereupon directed by telegram to communicate with Consul Wetter at Tamatave and report further. To this a reply has just been received stating that Mr. Waller has been sent to France (presumably as a prisoner), and that his son had been expelled from Madagascar, and also sent to France.

The United States have a treaty of amity and commerce with the government of Madagascar, guaranteeing to American citizens rights of residence and trade in the island.

The circumstances warrant the President in directing you to request of the Government of the French Republic a copy of the charges against Mr. Waller and the evidence upon which his reported conviction was based; also a copy of the sentence of the court.

Of native birth and parentage, Mr. Waller went to Madagascar as consul of the United States, and on the appointment of his successor, less than two years ago, he remained temporarily there with a view to establishing relations of trade between that country and the United States. Abundant evidence of his intention to return to and dwell in the United States has been filed with this Department.

You will at once represent this case to the French Government and briefly report the result by telegraph.

I am, etc., W. Q. GRESHAM.

Mr. Eustis to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Paris, April 25, 1895.

Minister for foreign affairs promises to furnish all information at hand and to telegraph for all other. Permission for Waller to communicate with representative of embassy will be referred to legal authorities.

EUSTIS.

Mr. Eustis to Mr. Gresham.

No. 297.] EMBASSY OF THE UNITED STATES,
Paris, May 1, 1895. (Received May 13.)

SIR: Referring to your No. 396 of April 10, and to my telegram of the 25th, concerning the case of Mr. John L. Waller, I inclose herewith copy and translation of Mr. Hanotaux's reply to my request, under your instruction, for a copy of the charges against Mr. Waller and of the evidence upon which he was condemned, with a copy also of the sentence of the court.

In his reply Mr. Hanotaux simply confirms the information he had obtained by telegraph and already given to me, viz, that Waller was condemned for having been in correspondence with the enemy, and that the papers relating to the case were on their way to Paris, adding that as soon as they should reach him he would furnish me with all the information applied for.

As yet he is unable to say whether permission can be granted to communicate with the prisoner; the question has been submitted to the legal advisers of the department.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 297.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *April 30, 1895.*

Mr. AMBASSADOR: By a letter of the 23d instant, your excellency expressed the desire of being informed of the facts which have caused the prosecution of Mr. Waller, late consul of the United States at Tamatave, before the military courts of that city.

The minister of marine, to whom I had hastened to make known the desire of your excellency, has just informed me that the indications furnished by the commander of the naval division of the Indian Ocean show that Mr. Waller was convicted of having entertained correspondence with the Hova authorities. The council of war condemned him to twenty years' confinement, and expelled Mr. Bray, his son-in-law, as an accomplice.

My colleague adds that the papers of the case have been sent by the chief of the naval division to the commander in chief of the corps operating in Madagascar, who will forward them shortly to the minister of war. As soon as they shall have been communicated to me, I shall hasten to furnish your excellency with the information you have expressed the desire of obtaining, and will give you the text of the sentence rendered against Mr. Waller.

I add that Mr. Waller is temporarily held at the Fort of St. Nicholas, at Marseilles, where he will remain until the Government designates the place where he is to serve out his time.

Please accept, etc., G. HANOTAUX.

Mr. Eustis to Mr. Gresham.

[Telegram.]

PARIS, *May 3, 1895.*

Waller's stepson expelled from Madagascar is here, destitute. He has Waller's draft for $50 on the Secretary of Treasury for balance of salary. Can it be cashed here? He knows all the facts. If you want to see him, instruct me as to his passage. If not, how am I to provide for him?

EUSTIS.

Mr. Uhl to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 3, 1895.

Waller's accounts at present suspended. If stepson wishes to come to America, pay his passage upon condition that he reports to the Department upon arrival. If he declines, take his affidavit of facts, providing him temporary maintenance. Caution him to talk with no one.

UHL, *Acting.*

Mr. Eustis to Mr. Gresham.

[Telegram.]

PARIS, *May 8, 1895.*

Mr. Bray, Waller's stepson, sails for New York to-morrow, Netherlands steamer *Veendam*. He will report at once to you.

EUSTIS.

Mr. Eustis to Mr. Gresham.

No. 300.] EMBASSY OF THE UNITED STATES,
Paris, May 9, 1895. (Received May 23.)

SIR: Referring to my telegram of the 3d instant, informing you that Mr. Bray, stepson of ex-Consul Waller, expelled from Madagascar by the French, had arrived in Paris devoid of means, I have to report that, in compliance with your instructions by cable of May 3, I have paid Mr. Bray's passage to the United States, and that he sailed yesterday from Boulogne-sur-Mer on the steamer *Veendam*, of the Netherlands line.

I have reimbursed our vice consul at Marseilles, who paid his fare to Paris and sent his trunk to Boulogne. I also bought an overcoat for [him], the one he had having been stolen from him on board the steamer which brought him to Marseilles. I also settled his hotel bill and paid his fare to Boulogne. As he needed money to purchase sundry articles and defray his expenses to reach Washington after his arrival at New York, I gave him 125 francs.

I inclose herewith an account of my outlays in the matter, amounting to 668.50 francs, and trust the Department will give the necessary instructions for the reimbursement of this.

I have, etc., J. B. EUSTIS.

Mr. Uhl to Mr. Eustis.

No. 428.] DEPARTMENT OF STATE,
Washington, May 24, 1895.

SIR: I have to inform you that your dispatch No. 300, of the 9th instant, reporting the measures you took for the relief of Mr. Bray, a stepson of ex-Consul Waller, who, having been expelled from Madagascar by the French, had arrived in Paris devoid of means, has been received.

Your course in regard to Mr. Bray is fully approved by the Department, and you are hereby instructed to draw on the Secretary of State for the equivalent of the sum of 668.50 francs, the amount of the expenses incurred by you in the premises. You will support your draft by an account with vouchers in the usual manner.

I am, etc., EDWIN F. UHL,
Acting Secretary.

Mr. Eustis to Mr. Uhl.

No. 308.] EMBASSY OF THE UNITED STATES,
Paris, May 31, 1895. (Received June 10.)

SIR: On the day before yesterday I again conferred with Mr. Hanotaux about the Waller case. The papers in the case telegraphed for have not yet arrived. As soon as received by the war department they will be transmitted to Mr. Hanotaux, who has promised to notify me without delay.

I was glad that Bray consented to visit the Department at Washington. He knows all the facts of the Waller case and his own.

If his statement about his case is reliable, and I have no reason to question it, it occurred to me that his treatment by the military authorities at Tamatave was unnecessarily severe.

I have, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Uhl.

No. 315.] EMBASSY OF THE UNITED STATES,
Paris, June 12, 1895. (Received June 24).

SIR: I have the honor to acknowledge the receipt of your dispatch No. 428, of May 24, with reference to expenses incurred on account of Mr. Bray. In compliance with your instruction, I have this day drawn upon the Secretary of State for the sum of $129.02, amount expended by me, and also for the sum of $1.72, amount lost by exchange. I inclose herewith my accounts for the same.

I have, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Uhl.

No. 316.] EMBASSY OF THE UNITED STATES,
Paris, June 14, 1895. (Received June 24.)

SIR: I have the honor to transmit to the Department a copy of my last communication to Mr. Hanotaux about the Waller case and a copy and translation of his reply.

The letters referred to are one from Bray, his stepson, and one from Mr. Sims, inclosed to me by Senator Voorhees. The papers in the case have been received from Tamatave by the minister of war, and at my last interview with Mr. Hanotaux, on the 12th instant, I again urged upon him the importance of furnishing, without delay, the information which he had promised at the request of my Government.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 316.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, May 31, 1895.

SIR: On the 23d of April last, acting under instructions of my Government, I applied to your excellency for certain information concerning the case of our late consul at Madagascar, Mr. Waller, and asked particularly whether this embassy would be allowed to communicate with him. In a conversation with your excellency in regard to the same case I again mentioned the subject and understood that a reply would be given me after consultation with the legal advisers of your department.

Under date of April 30 your excellency kindly wrote that the papers relating to Mr. Waller's case were on their way to Paris and that as soon as they should be received the information applied for would be furnished, but no reference was made to my inquiry as to the privilege of this embassy to communicate with Mr. Waller.

I venture to recall this matter to your excellency's attention. The case of Mr. Waller has been much commented upon in the United States, and as it was specially recommended to me by my Government, I shall feel obliged if a reply to this last question could reach me at an early date. I shall thank you also to let me know at the same time whether the two letters addressed to Mr. Waller, which I sent to your excellency under dates of May 6 and 7, were or will be delivered.

I avail, etc.,

J. B. EUSTIS.

[Inclosure 2 in No. 316—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *June 6, 1895.*

Mr. AMBASSADOR: On the 21st of May last your excellency was good enough, in referring to your previous communications, once more to mention to me the interest you attached to be able to communicate either personally or by a member of the embassy with Mr. Waller, formerly consul of the United States at Madagascar, condemned to twenty years' detention by the military tribunal of Tamatave, who is at present at the Maison Centrale de Clairvaux.

I called the most special attention of the minister of the interior to the request of your excellency, and I will hasten to make known to you the response of Mr. Leygues as soon as it reaches me.

I should inform your excellency, moreover, that Mr. Waller, upon his arrival at Clairvaux, was placed in a cell so he might escape all contact with the other prisoners, and that he will enjoy all the benefits of lenity compatible with the rules.

I add that the necessary dispositions have been taken, upon the request of my department, to insure the delivery to Mr. Waller of the letters annexed to your communications of the 6th and 17th of May last.

Accept, etc.,

G. HANOTAUX.

Mr. Eustis to Mr. Olney.

No. 323.] EMBASSY OF THE UNITED STATES,
Paris, June 21, 1895. (Received July 1.)

SIR: At my last interview with Mr. Hanotaux, on the 19th instant, he informed me that the day before he had received the proceedings in the Waller case. I requested that he should at once send me a copy of

the accusation, evidence, and sentence. He said that he did not think that he had a right to send me a copy of the evidence. I replied that it had been requested, through me, by my Government; that if he would refer to our correspondence and recall our conversations on the subject there could be no doubt that he had promised to furnish the information requested by my Government He replied that he certainly would comply with any promise that he had made.

I received to-day from Mr. Hanotaux a copy of the charges and the sentence. I regret that it was received too late to be transmitted by to-day's bag.

The transcript contains no copy of any of the evidence upon which the sentence was based. I will at once call Mr. Hanotaux's attention to this serious omission. During our conversation he made the important declaration that all such concessions as those made to Waller by the Hovas Government the French Government treated as invalid. I replied that the matter had not reached that point when such questions could be discussed, as my Government at present wanted to know the facts, which could only be ascertained by having a copy of the charges, the evidence, and the sentence of Mr. Waller.

I have, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

No. 327.] EMBASSY OF THE UNITED STATES,
Paris, June 27, 1895.

SIR: As stated in my dispatch No. 323, of the 21st instant, I received from the foreign office a copy of the charges and of the sentence in the Waller case. The length of the document made it impossible to forward a copy and translation thereof the same day. I now have the honor to inclose herewith a copy and a translation of the charges and sentence, together with Mr. Hanotaux's note of transmittal and a copy of my reply to Mr. Hanotaux.

I have, etc., J. B. EUSTIS.

[Inclosure 1 in No. 327.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *June 18, 1895.*

Mr. AMBASSADOR: By a letter dated April 23d last your excellency was kind enough to inform me of the importance attached by you to the text of the sentence rendered by the court-martial at Tamatave against Mr. Waller, formerly consul of the United States at Madagascar.

The minister of marine has just transmitted to me the document in question and I hasten to address herewith a copy to your excellency.

Accept, etc., G. HANOTAUX.

[Inclosure 2 in No. 327.—Translation.]

Copy of sentence rendered against Waller.

Marine. First permanent court-martial, sitting at Tamatave. The French Republic.

In the name of the French people, the first permanent court-martial, has rendered the sentence the text of which follows:

On this 8th day of March, 1895, the first permanent court-martial, composed, in accordance with articles 3 and 10 of the Code of Maritime Justice, of Messrs. Dar-

daigne, lieutenant of marine infantry; Boquet, lieutenant of marine infantry; Gagnepain, second lieutenant of marine infantry; Nicaise, adjutant of marine infantry, judges, all appointed by the lieutenant-colonel, commander in chief of the troops and of the town of Tamatave, now in a state of siege; Mr. Maroix, second lieutenant, substitute of the commissioner of the Government; Mr. Marenger, sergeant-major, clerk of the aforesaid court-martial, all of whom not being ineligible by reason of the provisions of articles 22, 23, and 29 of the code aforesaid.

The court-martial called together by order of the lieutenant-colonel, commander in chief of the troops and of the town of Tamatave, now in a state of siege, in accordance with article 141 of the Code of Maritime Justice, assembled in the usual place where its public sittings are held for the purpose of trying Waller, John, born on the 13th of January, 1850, at New Madrid, State of Missouri, United States of America, journalist, actually residing at Tamatave, age 45. Accused of having been guilty, first, of violation of the laws of article 3 of the decree of the 18th of January, 1895, by the delegate of the chief of the naval division, said violation coming under article 471 of the penal code, paragraph 15, and being applicable by virtue of article 364 of the Naval Code of Justice; second, of correspondence with the enemy, said crime coming under and being punishable by articles 2 and 78 of the ordinary penal code and viséed by article 364 of the Naval Code of Justice.

The court having been opened, the president had brought and deposited before him on his desk a copy of the military and naval codes, of the code of criminal instruction, and of the penal code, and ordered the guard to bring in the prisoner, who was presented to the court, free and without irons, accompanied by his counsel.

Interrogated through Mr. Duponsel, 38 years of age, merchant living at Avenue No. 1, in Tamatave, who was sworn according to the forms prescribed by law as to his name, surname, place of birth, trade, profession, and place of residence, he replied that his name was John Waller, born the 12th of January, 1850, at New Madrid, State of Missouri, United States of America; that he was a journalist actually residing at Tamatave.

The president, after having had read by the clerk the order convening the court-martial, the report prescribed by article 138 of the Code of Naval Justice, and the papers the reading of which he deemed necessary, made known to the accused the facts upon which the prosecution was based, and gave him, as well as his counsel, the notice indicated in article 151 of said code.

After which he proceeded to interrogate the accused and to hear the testimony of the witnesses separately and publicly, said witnesses having previously been sworn to testify, without hatred or fear, to tell the truth and nothing but the truth. One of them, Paul Bray, having been heard through Mr. Duponsel, the sworn interpreter.

Then the president of the court having besides, as regards them, observed the formalities prescribed by articles 317 and 319 of the Code of Criminal Instruction.

Mr. Molyneux was heard, to give information, by virtue of the discretionary power of the president, without being sworn and through Mr. Duponsel, the sworn interpreter. The documentary evidence was shown to the accused, which he recognized.

The prosecuting officer of the Government having been heard in his requisitions tending to establish that the aforenamed John Waller, journalist, actually domiciled at Tamatave, should be found guilty (1) of violation of the provisions of article 3 of the order (arrete) of the 18th of January, 1895, of the delegate of the chief of the naval division; (2) attempt to correspond with the subjects of a power which is an enemy, an attempt which could have as a result the furnishing to the enemy information injurious to the military and political situation of France; (3) tending besides to convince the military court to confiscate for the profit of the State the documentary evidence which served for the commission of the crime conformably to article 11 viséd by article 74 of the Code of Maritime Justice, and the accused within his own means of defense, as well as those of his defender, both having declared to have nothing to add to their means of defense, and having last spoken, the president did declare the arguments closed and ordered his counsel and the accused to retire.

The tribunal withdrew to a room for deliberation. The court having deliberated with closed doors, the president propounded the questions conformably to article 162 of the Code of Maritime Justice, as follows:

(1) Is the accused guilty of having violated article 3 of the order (arrete) of the 18th of January, 1895, of the delegate of the chief of the naval division?

(2) Is the accused guilty of correspondence with the enemy which could have caused injury to the military or political situation of France?

(3) Was the offense committed under aggravating circumstances?

(4) Was the offense committed under a circumstance which rendered it excusable?

The votes taken conformably with articles 161 and 163 of the Code of Maritime Justice, beginning by the lowest rank, the president being the last to give an opinion, the court declares on the first question, by unanimity, "Yes, the accused is guilty."

On the second question, by unanimity, "Yes, the accused is guilty."

On the third question, by a majority of three votes, "Yes, the accused is guilty under aggravating circumstances."

On the fourth question, by unanimity, "No."

Thereupon, and considering the conclusions drawn by the prosecuting officer of the Government in his requisitions, the president read the text of the law and again took a vote in the form prescribed by articles 161 and 164 of the Code of Maritime Justice for the application of the penalty, the court resumed public session, and the president read the reasons and conclusions as follows:

In consequence, the court condemns by a majority of three votes the aforenamed John Waller to twenty years of confinement, conformably to the articles hereafter named, and pronounces the confiscation, for the benefit of the State, of the papers produced during the trial as convicting evidence.

Penal Code.

ARTICLE 11. The committal of one to the special surveillance of the higher police, the fining, and the special confiscation either of the corpus delicti, when the property belongs to the condemned, or of the things produced by the crime, whether they be those which were used or which were destined for the commission of the crime, are common penalties relating to matters criminal and correctional.

ARTICLE 2. Every attempt to commit a crime which shall have been manifested by a commencement of it if it has not been suspended, or if it has failed of its effect only by circumstances independent of the will of the one who has made the attempt, is considered as the crime itself.

ARTICLE 78. If the correspondence with the subjects of the enemy, without having for its object one of the crimes denounced in the preceding article, has nevertheless had for result the furnishing of the enemy information injurious to the military or political situation of France or of her allies, those who shall have carried on that correspondence shall be punished by confinement, without prejudice to severer penalties in the case that this information was the result of an understanding (concert) constituting the fact of spying.

ARTICLE 471, sec. 15. Shall be punished by a fine from 1 fr. to 5 fr., inclusively, those who violate the regulations made by the administrative authority and those who shall not have conformed to the regulations or orders published by the municipal authority by virtue of articles 3 and 4, title 11, of the law of 16th and 24th August, 1790, and of the article 46, title 1st, of the law of 19th and 22nd July, 1791.

Code of Military Justice for the marine army.

ARTICLE 74. The tribunals of the marine only pass upon public action. They can, nevertheless, order for the benefit of the owners the restitution of objects seized or of papers used for conviction when their confiscation has not been decreed.

ARTICLE 104. All accused, without distinction, are amenable to a court-martial or a council of justice.

(1) When they are all marines or soldiers in the marine army, or assimilated to them, although one or several of them should not be triable by those courts by reason of their position at the time of the commission of the crime or the offence.

(2) If it relates to crimes and offences committed by those triable by courts-martial or of justice, and by strangers, whether on French territory or whether on foreign territory occupied by military forces.

(3) If it relates to crimes and offences in a foreign country in the department of an expeditionary corps.

ARTICLE 364. The tribunals of the marine apply the penalties imposed by the ordinary penal laws to all crimes and offences which are not provided for by the present code, and in the case when the law authorizes the admission of attenuating circumstances they can apply articles 463 of the Penal Code.

Order of the delegate of the chief of the naval division.

ARTICLE 3. The lieutenant of the port has the surveillance of correspondence on its arrival and departure. No correspondence can be distributed except by means of the post-office, and all despatches must be sent there. No one can send letters except by the mail. Exceptions to this rule must be specially authorized each time by the delegate of the chief of division, and in his absence by the municipal authority.

Article 135 of the Code of Military Justice: In case of conviction of several crimes or offences, the highest penalty is alone imposed.

Penal Code, article 20: Whoever shall have been condemned to confinement shall be confined in one of the fortresses situated on the continental territory of the Republic, which shall have been designated by a decree rendered conformably to the regulations of the public administration.

The confinement can not be imposed for less than five years, nor for more than twenty years, except in the case provided for by article 33.

The Code of Military Justice for the marine army.

ARTICLE 169. The judgment which imposes a penalty against the accused condemns him at the cost of the State. It orders, in the case provided by law, the confiscation of the objects seized, and the restitution for the benefit of the State or of the owners of all objects seized or produced at the trial as convicting evidence.

The commissioner of the Government is instructed to have read immediately in his presence the present judgment to the condemned before the assembled guard under arms, and to notify him that the law accords him a delay of twenty-four hours to make an appeal for revision.

Done and adjudged without interruption in public session at Tamatave the day, month, and year before stated, and the members of the court-martial have signed with the clerk the minutes of the present judgment.

Signed: Lacarriere, Bardonne, Bouquet, Gagnepain, Nicoise, Marenger.

In the year 1895, on the 18th of March, the present judgment was read by me, the clerk, the undersigned, to the condemned, who was advised by the prosecuting officer of the Government that the articles 171 and 173 of the Code of Maritime Justice grant twenty-four hours to take an appeal for revision, which commenced from the expiration of the present day, this reading being made in the presence of the guard under arms.

The prosecuting officer of the Government:

MAROIX.

The clerk:

MARENGER.

In consequence, the President of the Republic orders all process servers to execute the aforesaid judgment, all prosecuting officers at the tribunals of the first instance and all commanders and officers of the public force to aid in the execution thereof when legally required.

The appeal for revision having been rejected on the 23d day of March, 1895, the present judgment was executed on the 24th of March, 1895.

The sum of the expenses of justice amounts to 12.25 francs.

The clerk:

MARENGER.

[Inclosure 3 in No. 327.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, June 22, 1895.

SIR: I had the honor yesterday to receive your excellency's communication dated the 18th instant, transmitting a copy of the text of the sentence in the Waller case, which includes a copy of the charges. I notice that not only is a copy of the evidence not communicated to me, but that no reference whatever is made to it, nor is any reason stated explaining this omission. If your excellency will refer to any of my communications or recall any of our several conversations in regard to the Waller case, your excellency will not fail to understand that my Government requested not only a copy of the charges and sentence, but also a copy of the evidence, and that this important part of my Government's request could not have been formulated in more direct and explicit terms.

In view of the fact that a copy of the charges and sentence has been communicated to me, and that a copy of the evidence has not been communicated to me, I would respectfully request your excellency to inform me as soon as possible whether the French Government does or does not intend to comply with the request of my Government for a copy of the evidence in the Waller case, and, in case of refusal to comply with this request, to inform me of the reason upon which such refusal is based, so that I may at once advise my Government what it may expect from the French Government with reference to this important matter. The reason that I reiterate the earnest desire of my Government to obtain from the French Government a copy of the evidence in the Waller case is that a copy of the charges and sentence, in the absence of a copy of the evidence, does not enable my Government to determine for itself the question whether an American citizen, who has been condemned by a French military court in Madagascar to twenty years' imprisonment, has been justly dealt with by the French authorities.

I avail, etc.,

J. B. EUSTIS.

Mr. Uhl to Mr. Eustis.

No. 460.] DEPARTMENT OF STATE,
Washington, July 1, 1895.

SIR: I have to inform you that your dispatch No. 516, of the 14th ultimo, inclosing a copy of your correspondence with the French foreign office in relation to the case of ex-Consul Waller, has been received.

In view of the long period of time during which this important matter has been pending, you are instructed to impress upon Mr. Hanotaux the earnest desire of this Government to receive at the earliest practicable moment the copies of the papers in the case which have been promised.

You will urge an immediate response to your request for an opportunity to communicate with Mr. Waller, in order that this Government may be satisfied that his rights as an American citizen are duly respected.

I am, etc.,

EDWIN P. UHL,
Acting Secretary.

Mr. Uhl to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 3, 1895.

It is confidently expected that copy of evidence upon which Waller was convicted will be furnished and you permitted to see him. Validity of his concession not involved in this inquiry.

UHL, *Acting.*

Mr. Adee to Mr. Eustis.

No. 464.] DEPARTMENT OF STATE,
Washington, July 5, 1895.

SIR: I append on the overleaf a copy of Mr. Uhl's telegram of the 3d instant, in relation to the case of John L. Waller.

Subsequently, John M. Langston and Paul Bray called at the Department and reported that they had been advised that Mr. Waller was ill in prison. If this information is correct, it furnishes, in the Department's judgment, an additional and cogent reason why you should be permitted to visit and converse with hi

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Eustis.

No. 465.] DEPARTMENT OF STATE,
Washington, July 6, 1895.

SIR: I have received your No. 323, of the 21st ultimo, in relation to the case of John L. Waller, and the papers sent to you by Mr. Hanotaux bearing thereon.

In this relation your attention is drawn to the Department's instruction No. 464, of the 5th instant, confirming its telegram of the 3d and giving the substance of a subsequent interview with Professor Langston and Paul Bray.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 8, 1895.

No. 327 received. Your note June 22 to minister foreign affairs entirely approved. Urge also right to see prisoner.

ADEE, *Acting.*

Mr. Adee to Mr. Eustis.

No. 468.] DEPARTMENT OF STATE,
Washington, July 10, 1895.

SIR: I have to inform you that your dispatch No. 327, of the 27th ultimo, inclosing a copy and translation of the charges and the sentence in the Waller case, and also a copy of your note of the 22d ultimo to Mr. Hanotaux, the minister of foreign affairs of France, in regard to the subject, have been received.

In view of the silence with which the French Government has met the repeated applications of your embassy for a copy of the evidence upon which a French military court condemned Mr. Waller, an American citizen, to twenty years' imprisonment, the Department most emphatically approves of the tone of your note of the 22d ultimo to Mr. Hanotaux. The time for a tender treatment of the matter seems to have gone by.

You will continue to earnestly press not only for a copy of the evidence in the case, but also for your right in person, or for some one deputed by you, to see the prisoner.

The copy of the charge against Mr. Waller and of his sentence, which Mr. Hanotaux recently sent to you, had already, on the 24th of March last, been furnished to our consul at Tamatave by Captain Kiesel, of the French Navy, and forwarded to this Department by Mr. Wetter in his dispatch No. 88, of April 20, 1895.

Upon the receipt of the copy of Mr. Waller's sentence, Mr. Wetter asked to be furnished with a copy of the evidence in the case, but under date of April 17, 1895, he was advised by Captain Campion (also an officer of the French Navy) that "it was impossible for him to furnish him (the consul) with this document, as the whole record of the case had been sent to France."

I append on the overleaf a copy of a telegram which was sent to you on the 8th instant, on receipt of your dispatch No. 327, of the 27th ultimo.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Eustis to Mr. Olney.

No. 337.] EMBASSY OF THE UNITED STATES,
Paris, July 18, 1895. (Received July 29.)

SIR: I have the honor to transmit a copy and translation of Mr. Hanotaux's letter of the 10th of July, in answer to mine of the 22d of June, also a copy of my reply.

I considered his letter of the 10th of July so inconclusive and so unsatisfactory, as compared with his declarations made in previous communications upon the question of furnishing a copy of the evidence in the Waller case, that I came to the conclusion that no result could be accomplished by a continuation of our correspondence upon this question without further instructions from my Government.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 337—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *July 10, 1895.*

Mr. AMBASSADOR: In answer to the letter by which I had addressed to your excellency on the 18th of June last, the text of the judgment rendered by the court-martial of Tamatave against Mr. Waller, ex-consul of the United States at Madagascar, you were kind enough, on the 22d of the same month, to note the interest you would attach to take cognizance of the papers of the trial.

I hastened to make known to the minister of war the desire expressed by your excellency. According to the indications which have been furnished to me, the documents in question have been kept at Madagascar, and their sending to Paris will require a certain delay.

Under these conditions I have the regret of not being in a position to answer, at present, the communication of your excellency.

Accept, etc.,

G. HANOTAUX.

[Inclosure 2 in No. 337.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, July 15, 1895.

SIR: I have had the honor to receive on the 12th instant your excellency's communication in answer to mine of the 22d of June last, in which you advise me that you hastened to inform the minister of war of the desire expressed by me, and that you have been informed that the documents in question have been preserved in Madagascar, and that their transmission to Paris will necessitate a certain delay. Your excellency adds that under these circumstances you regret that you are not able to reply for the present to my communication, referring to that of the 22d of June above mentioned.

It is unnecessary for me to repeat to your excellency what has been the request made by my Government, or to state that, in view of our previous correspondence, my Government was justified in believing that its request would be complied with.

It will now hear with surprise that what it considered the most important documents in the Waller case, namely, the evidence, have not reached Paris, and that your excellency's letter of the 10th of July gives no assurance that a copy of them will be communicated to my Government.

The French Government could not mistake the object of my Government when its request was first made, and it is with regret that I have to inform my Government that its confident expectation as regards this important matter has not yet been realized, and that its earnest efforts in behalf of an American citizen have so far been unavailing.

Under these circumstances it only remains for me to transmit to my Government a copy of your excellency's letter and of my reply, and to await further instructions.

I avail, etc.,

J. B. EUSTIS.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 31, 1895.

Your dispatch No. 337 has been received. You will immediately and urgently represent to the Government of France that delay in furnishing official evidence and denial of access by you to Waller appears not only unjust and oppressive to the latter, but discourteous to this Government. You will therefore again call for the official evidence, and if not furnished ask for specific statement of reasons why not furnished, and if steps taken toward furnishing it you will ask that a time be fixed when it will be furnished. You will also again request access to Waller, and if the same is denied will ask for specific statement of grounds upon which such denial is based.

ADEE, *Acting.*

Mr. Adee to Mr. Eustis.

No. 487.] DEPARTMENT OF STATE,
Washington, August 3, 1895.

SIR: I have to acknowledge the receipt of your No. 337, of the 18th ultimo, inclosing copy of your later correspondence with Mr. Hanotaux, concerning the noncompliance of the French Government with the request heretofore made and repeated for the evidence in the military proceedings against Mr. Waller in Madagascar.

On the 10th ultimo you were furnished with certain papers in the case transmitted hither by Mr. Wetter, the consul at Tamative, under date of April 20, last. Among those papers you will have noticed a communication addressed to Mr. Wetter by Captain Campion, commanding the cruiser *Le Dupetit*, dated 17th April, in which the following passage occurs:

> In your letter No. 223, you acknowledge the receipt of the copy of the sentence of the aforesaid Waller and you ask of me a certified copy of the depositions, charges, and proceedings. I have the honor to inform you that all the papers in the case (le dossier complet de cette affaire) having been sent to France, it is impossible for me to satisfy your request.

In view of this statement, the Department does not understand that part of Mr. Hanotaux's note of July 10 in which he says: "According to the indications which have been furnished to me, the documents in question have been kept at Madagascar, and their sending to Paris will require a certain delay."

My telegram of the 31st ultimo, confirmed in my No. 486, of the 1st instant, will have instructed you touching the further treatment of the case.

I am, etc.. ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 6, 1895.

Waller's wife and children, having left Madagascar, are reported destitute in Mauritius. Consul at Port Louis has been telegraphed to draw on you for reasonable expense of sending them to Paris, whence you will send them home.

ADEE, *Acting.*

Mr. Adee to Mr. Eustis.

No. 488.] DEPARTMENT OF STATE,
Washington, August 6, 1895.

SIR: I append on the overleaf copy of my telegram of to-day's date apprising you of the reported destitute condition of Mrs. Waller and children, the family of John L. Waller, and saying that the consul of the United States at Port Louis, Mauritius, had been directed to draw upon you for the reasonable expenses in sending them to Paris. Out of abundant caution, I append also copy of my telegram to Mr. John P. Campbell on that subject.

I doubt not that upon the arrival of Mrs. Waller and children at Paris it will be your pleasure to secure them a prepaid passage, as in the case of Paul Bray, to the United States by one of the steamships sailing direct from Havre.

It is sincerely hoped also that by the time the wife reaches Paris you will have seen Mr. Waller and have been able to apprise her from personal observation of the condition of her husband, as well as inform him that you intend sending his wife and four children to the United States, agreeably to the instructions of your Government.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Eustis.

No. 489.] DEPARTMENT OF STATE,
Washington, August 6, 1895.

SIR: I have to inform you that your dispatch No. 345, of the 26th ultimo, inclosing copy of a letter from Mrs. Waller to her husband, dated the 20th of June last, has been received.

I have to say for your information, that no telegram was received from Mrs. Waller or the consul at Mauritius, but a dispatch from the latter reports her arrival there with her children in a destitute condition and the generous assistance rendered to her by Mr. Woodford.

The Department would be pleased to learn that Mrs. Waller's letter duly reached her husband.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Eustis to Mr. Adee.

No. 349.] EMBASSY OF THE UNITED STATES,
Paris, August 7, 1895. (Received August 19.)

SIR: With the view of completing the records of the Department in the case of Mr. Waller, I have the honor to send herewith copies and translations of correspondence exchanged between this embassy and the foreign office, viz: Note to Mr. Hanotaux of date July 18, 1895, with reference to access to Waller; note to Mr. Hanotaux of August 2, again asking for evidence and access to Waller; note from Mr. Hanotaux, August 5, granting access; note from Mr. Hanotaux, August 6, stating that evidence has been telegraphed for and would likely be received at the end of the month.

I have, etc., J. B. EUSTIS.

[Inclosure 1 in No. 349.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, July 18, 1895.

SIR: In answer to my renewed request to be informed whether a representative of this embassy would be permitted to communicate personally with Mr. Waller, your excellency wrote, on the 6th of June last, that my request had been called particularly to the attention of the minister of the interior, and that you would at once communicate his answer when received by you.

I venture to remind your excellency that I am still uninformed as to the matter, and to again urge your excellency to give it your immediate attention.

My Government has been advised that Mr. Waller is ill in prison. If the information be correct, it considers it an additional and cogent reason why a representative of this embassy should be permitted to visit and converse with him. I should be pleased if you would ascertain the fact and inform me, that in that event he is receiving medical treatment.

I avail, etc., J. B. EUSTIS.

[Inclosure 2 in No. 349.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, August 2, 1895.

SIR: I am instructed by a cable from the State Department to immediately and urgently represent to the French Government that the delay in furnishing official evidence in the case of John Waller and denial to me of access to him are not only unjust and oppressive to him, but discourteous to the Government of the United States.

I am instructed to again call for the official evidence in the case, and if not furnished to ask for a specific statement of reasons why it is not furnished; and if steps have been taken to furnish it, that a time be fixed when it will be furnished.

I am further instructed to again request access to Mr. Waller, and if the same be denied, to ask for a specific statement of grounds upon which such denial is based.

Hoping that this urgent communication will receive your excellency's immediate attention,

I avail, etc., J. B. EUSTIS.

[Inclosure 3 in No. 349—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *August 5, 1895.*

MR. AMBASSADOR: As I had the honor to inform your excellency, I made known to the minister of the interior the importance you attached to obtaining that one of the members of your embassy should be authorized to communicate freely with Mr. Waller, ex-consul of the United States at Madagascar, condemned to twenty years'

imprisonment by the court-martial at Tamatave, actually imprisoned in the Maison Centrale at Clairvanse.

My colleague has just made known to me that he was quite disposed to give satisfaction to the desire expressed by your excellency. Still, the authorization in question having to be nominative, it will be necessary that the penitentiary administration be first informed of the name and standing of the person who will be designated by your excellency to visit Mr. Waller. As soon as this information shall have reached the minister of the interior orders will be issued so that your envoy will be allowed to converse with the above named.

I will be grateful to your excellency to kindly put me in the way to answer M Leygues.

Accept, etc., G. HANOTAUX.

[Inclosure 4 in No. 349—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *August 6, 1895.*

Mr. AMBASSADOR: You have kindly made known to me again the importance you attach to having made known to you the evidence in the case brought against Mr. Waller, ex-consul of the United States at Madagascar, condemned by the court-martial at Tamatave to twenty years' detention for correspondence with the enemy. You expressed to me, at the same time, the desire to know on what date these documents could be communicated to you.

As I had the honor to inform your excellency on the 10th of July last, I had, at the beginning of the same month, asked the minister of war to request by cable the general commander in chief of the expeditionary corps of Madagascar to give orders that the dossier of the affair should be sent to Paris with the briefest delay possible.

In reply to the last communication which I have addressed him on this subject, General Zurlinden has just made known to me that he has asked of General Duchesne by a telegram of the 14th of July the dossier in question and that he will not fail to transmit it to me as soon as it reaches his department.

There is reason to believe that the papers mentioned above will reach Paris at the end of the present month. I hope, in consequence, to be able in a measure at that time to give an answer to the demand of your excellency, and I am confident that you will recognize that the Government of the Republic has done everyting which was possible, by reason of the difficulty of communication with Madagascar, to give satisfaction to the desire expressed by your excellency.

Accept, etc., G. HANOTAUX.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 17, 1895.

What action on urgent demands in Waller case telegraphed July 31? If evidence still withheld or access to the prisoner denied, it is due to this Government that the reasons be plainly stated.

ADEE, *Acting Secretary.*

Mr. Eustis to Mr. Adee.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, August 19, 1895.

The evidence has never been received in Paris. Expected at the end of this month. In the absence of minister for foreign affairs, I have received confidential assurance from the foreign office by the official in charge of the matter that when received the evidence will be communicated to me. Access Waller accorded.

EUSTIS.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 21, 1895.

If not already done, send as soon as possible a competent deputy and the legal counsel of embassy to Waller and obtain from him full sworn statement of case, trial, and the witnesses and evidence produced in court against him.

ADEE, *Acting.*

Mr. Adee to Mr. Eustis.

No. 502.] DEPARTMENT OF STATE,
Washington, August 21, 1895.

SIR: Referring to your dispatch, No. 350, of the 8th instant, relative to the case of Mr. Waller, I have to inform you that on the 9th instant a telegram was received by the Department from the United States consul at Port Louis, Mauritius, stating that Mr. Waller's family were to sail for France on the 20th instant.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Eustis to Mr. Adee.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, August 23, 1895.

Minister for foreign affairs had requested me to await his return to Paris to conclude arrangements about visit to Waller. He arrived on 21st, and we then agreed that the legal adviser and a member of the embassy should be delegated by me. To day I was notified that the necessary orders were given. To-morrow the second secretary and Alexander will leave for place [of] confinement to carry out your instructions by cable 22d instant.

EUSTIS.

Mr. Adee to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1895.

Do what you legally and properly can to secure the effects of Waller's wife from search on her arrival France. She is believed to carry important documents in his case.

ADEE, *Acting.*

Mr. Eustis to Mr. Adee.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, August 26, 1895.

Second secretary and Alexander, legal adviser, returned from visit Waller. Instructions in your cable 22d [21st] fully carried out by them. I will forward deposition of Waller.

EUSTIS.

Mr. Eustis to Mr. Adee.

No. 362.] EMBASSY OF THE UNITED STATES,
Paris, August 28, 1895. (Received Sept. 29.)

SIR: My telegrams of August 23 and 26 informed you that, in compliance with the Department's telegraphic instructions of August 22, the second secretary of the embassy, Mr. N. B. Eustis, and our legal adviser, Mr. Alexander, had proceeded to Clairvaux, where Mr. Waller is confined, and had obtained from him a sworn statement of all the circumstances relating to his trial. This statement is herewith inclosed, and I trust you will find it covers all the points of the case you had in view.

The representatives of the embassy were given all desirable facilities to communicate with the prisoner, whose state of health was satisfactory. He is no longer subject to the Malagasy fever, but his constitution is feeble and the director of the prison has recommended his removal before next winter to a milder place than Clairvaux. In answer to a question addressed to him he stated that he had no complaint to make as to his treatment in his present place of confinement. He is placed on the invalid list, which enables him to get the best food furnished to prisoners. He has received all the letters addressed to him through this embassy, and is allowed to communicate with whom he likes through the same channel. The secretary informed him of the action of the Department with regard to the return of his family to the United States, and assured him that this embassy would take care of them.

In view of your telegraphic instructions received August 25, concerning the possible search of Mrs. Waller's effects upon her arrival in France, I have asked, as a favor, that all facilities be granted her by the custom-house officers at Marseilles, and have also requested our consul at that port to use every effort to carry out your intention.

With copies of the telegrams above referred to, I inclose herewith copy and translation of a note from Mr. Hanotaux, dated August 26, stating that he has asked the minister of war to ascertain by telegraph from Madagascar when the Waller papers would reach Paris, and that General Zurlinden had sent a cable to that effect.

In my telegram of the 19th I stated that these papers were expected here at the end of the present month, and I find that such is still the opinion and hope entertained at the foreign office. But I have serious doubts in this respect. From all the information I have been able to gather it is impossible for me to determine exactly where these papers are.

Captain Campion, whose statement you mention in your Nos. 468 and 487, did send them to the admiral commanding, for transmission to the

navy department at Paris, but it appears the admiral only forwarded the charges and sentence of the court, with certain correspondence with our consul and other parties. It is supposed that when, later on, he got the request to send these papers, he remained under the impression that the sentence and correspondence, which he had already forwarded and which had not yet reached Paris, were all that was required. I am assured that the long delays of which I have been complaining are caused by the difficulties attending the postal and telegraphic communications with Madagascar and by the above-mentioned misunderstanding.

I send a letter addressed to me by Mr. E. G. Woodford. I wrote to him that the State Department expressed its appreciation of his generous assistance to Waller's family, and he authorized me to make whatever use of his letter I thought proper.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 362—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *August 26, 1895.*

Mr. AMBASSADOR: As I had the honor of telling your excellency in the course of our last conversation, I had pointed out to the minister of war the interest I had in being informed as promptly as possible as to the date when the papers in the Waller case would reach Paris, and I had requested my colleague to ask for this information by telegraph of the commander of the expeditionary corps at Madagascar in case he should not be able to furnish it himself.

General Zurlinden has just made known to me that the documents in question had been kept in the archives of the naval division of the Indian Ocean, and that he had requested by cable the superior commanding officer at Majunga to ascertain from Rear-Admiral Bienaime at what date these papers had been sent.

Please accept, etc., G. HANOTAUX.

[Inclosure 2 in No. 362.]

Mr. Waller's deposition.

PRISON OF CLAIRVAUX, VILLAGE OF CLAIRVAUX,
Department of Aube, Republic of France.

John L. Waller, being duly and publicly sworn, doth depose and say:

I was born in New Madrid, Missouri, on the 12th of January, 1850. I am a citizen of the United States.

In the month of February, 1891, I was appointed consul of the United States at Tamatave, in Madagascar, and I continued in said office until the 26th of January, 1894. From that date I continued to reside in Madagascar, at Antananarivo, until 20th September, 1894. I then started to go home to America and went to Tamatave. I arrived in Tamatave about the 1st of October, 1894, and remained there until I was arrested, which was on March the 5th, 1895. I remained there until I had settled up my business.

I was arrested on March the 5th, 1895, by the French naval authorities, who had proclaimed martial law at Tamatave. I was charged with having communicated with the enemy to the detriment of the military and political situation of France.

The history of the whole matter is as follows:

On the 20th of January, 1895, the English mail steamer arrived at Tamatave, bringing me a letter from my wife. The ship arrived very early in the morning. I went to the post-office and received the letter from the post-office clerk. I understood that an order had been issued that all letters arriving should be given to the naval authorities of France. I had only heard this as a rumor. On opening the letter I found enclosed in it [one] from a young Hova friend of mine named Ratzimannia, whom I had engaged to work for me on my concession in Madagascar, as he spoke both his native tongue and French and English, and who was assisting my wife to collect some money owed to me. He stated, among other things, that I had promised before leaving

Antananarivo, which was before hostilities had been declared by the French, that I had agreed that on my arrival in London or in America to send to him and his father and brother each one Colt's revolver. He said he would be glad to send those revolvers at once; that as Paul Bray, my stepson, was in Mauritius he perhaps could secure them there. This part of the letter I cut out and destroyed it because I feared if the letter fell into the hands of the French or of others who did not understand the arrangement they might infer that I was acting in a hostile way to the French.

On the 20th of January, 1895, I wrote to my wife and the young Hova, but I dated the letter the 23rd, as the steamer was billed to sail on that day. The ship, however, sailed on the 20th, and I did not change the date. This letter was sent via Mauritius, inclosed in a letter to George E. Tessier, a merchant there. A few days after the departure of the steamer a friend of mine on the street—I don't know his real name, but he is always called Koko and he speaks English and French—asked me how I liked the new order issued by the naval authorities in regard to the mailing of letters. I told him I knew of no order. He showed me a printed circular, printed in French and issued by the naval authorities of France. He translated this to me, and it was an order forbidding any mail to be sent to Antananarivo except through the French post at Tamatave. This was the first information I had of this order. I am unable to read French. The order was issued on the 18th instant. After hearing this I thought of the letter I had sent out on the 20th. I went to John Dublin's, where I lived, and wrote two letters to John Tieber, in Mauritius, calling his attention to the fact that I had written those letters and requested him to call at the post-office and claim them and hold them for me. I wrote two letters because the first one was not satisfactory to me. I did not send these letters, as I had no opportunity, and they were seized by the authorities.

In the letter to my wife I stated that it was a Godsend that these had not fallen into the hands of the French, as I feared if they had the French would have shot Paul on account of the statement made about the revolvers. On the 7th and 8th of February I went down on the beach where the people were landing from a French ship that had just arrived. I was standing quietly among a large crowd, when Captain Levesot, of the military authorities, came to me and ordered me to leave the beach, although there were many police there. I heard nothing more until I was arrested on March 5th. On that day the police came and arrested me and seized my papers and correspondence. I was taken to the office of Captain Levesot, who stated to me by an interpreter that he had a very bad case against me, and that the best thing I could do was to confess the whole thing. He, having mistaken the name of Ratzmannia for Ramannia, the latter a former merchant of Tamatave, asked me where Ramannia's letter was. I told him I had received no letter from Ramannia. He said it was false, and that I had received a letter from him. I found, on examination, the mistake the Captain was making as to the names. I was then turned over to the police at the military jail. About three days afterwards the prosecuting attorney came with his interpreter. He said he had come to make a preliminary examination. I then asked for counsel to assist me, which to that time had been denied.

My request was refused, and they commanded that I should tell all I knew about the case and my connection with it. The statements made to them are in French and signed by me. I was suffering from fever, and don't remember what I said. I was torn to pieces on account of not having counsel. The prosecuting attorney told me that I could only have counsel after he had finished with me, and that then I could have whom I pleased, except my stepson Bray. This examination continued three hours that afternoon, and two days afterwards they came again and continued the examination for three hours more. During all this time I was under guard and without counsel. Three or four days after, they came to me and told me that they had taken Bray's testimony and Mr. Poupard's, which they then proceeded to read to me. Also, they read the testimony of Captain Levesot. I objected to this testimony having been taken without my having an opportunity to cross-examine the witnesses. This ended the matter until I appeared in court on March 20th. The court consisted of French naval officers. The following witnesses appeared and testified as follows:

John A. Poupard testified that he had reason to believe that I would have had him expelled from the country during the time I was consul. He knew nothing of these letters.

Bray said he knew me; was my step-son, and that he did not have the handling of my mail; that I attended to that myself. That he did not know Draper and Purdy.

Captain Levesot testified as to the circumstances under which he got the letters inclosed to Tessier. He had made up his mind that they were criminal and that then he ordered my arrest.

There was another witness, whose name I don't remember, who testified that he did not know Purdy and Draper, although he had lived in the country for several months, and that he did not know me except by reputation.

The two letters were not read in open court. In one of my letters to my wife

before my arrest I mentioned that I had entered into an arrangement with Purdy and Draper by which they were to use their best efforts with the French authorities at Antananarivo to have them register at least 40 square miles of my concession, and that I handed them $25, with an arrangement to give them $75 more when the work was done, if they succeeded. Later on there were several miners at Tamatave, one of whom told me that these men were not my friends; that they hated and had already robbed me of $25, and had the papers for $75 more; that the French would give them a damned sight more to assist them than I could afford to give them. This letter was not in evidence against me.

In my letter to my wife of the 23rd, which was produced against me, I again warned her of these men, speaking of them as P. and D. These men were not present at my trial, and the only mention of them there was whether or not the witnesses knew them.

And though I asked for counsel and time to arrange my defense, trying to get these men and Tessier as witnesses, I was refused.

I was refused a revision of my case, and was sentenced to twenty years' imprisonment.

JOHN L. WALLER.

Sworn to before me this 25th day of August, 1895.

[SEAL.]

NEWTON B. EUSTIS,
Secretary U. S. Embassy, Paris, France.

[Inclosure 3 in No. 362.]

Mr. Woodford to Mr. Eustis.

No. 143 CANNON STREET, E. C.,
August 21, 1895.

SIR: I have the honor to inform you that as I shall only be in London about a month I thought it might be of service to you to place at your disposal what I know about the Waller case, as there may be some facts which I overlooked during our hurried interview of the 15th instant.

I arrived at Tamatave on March 11 by the French mail boat, and was at once notified that Mr. Waller had been placed under arrest by the French authorities under a charge of having communicated with the Hovas. Among the correspondence of Waller's upon which the charge had been made, it appeared that an article, or rather interview of my own, reported by the New York Sun of October 7, 1894, had been also captured. The French authorities made every possible effort to prevent my landing, but upon application to the American consul I proceeded on shore, and for purposes of personal safety and a desire to avoid any entanglement, I resided at the consulate during my enforced stay until April 4.

It being my intention to proceed to the capital of Madagascar on my private business, the high-handed action of the French authorities in their treatment of Waller had for me a keen personal interest, more especially as rumors were about that he was to be shot, and during the first week of my arrival I gave considerable thought to the legal position assumed by the French and to Waller's position as an American citizen. Mr. Wetter, the acting consul, gave me access to the intercepted correspondence upon which the charge was based, and I gave them a number of days' careful consideration. The letters consisted of communications to his wife, who, at the time, was at the capital, and consisting in a great measure of private matters, such as would be expected from the circumstances that he was in financial embarrassments. Considerable portion of the letters contained a most graphic description of the terrible outrages and excesses committed by the French troops at their occupation.

I formed the opinion at the time that there was absolutely nothing in any of these letters, either written by himself or his Hova friends, that gave the slightest shadow of excuse for the action of the French military authorities. Waller was absolutely defenseless, neither was there any possibility of communicating with the capital, and the impression that I formed at the time was that it would have been absolutely useless on my part to advance the funds for legal assistance, as I was firmly of the opinion that he was condemned in advance. I had known Waller during my former visit to Madagascar in 1891, and was aware that his action at that time in applying for his exequatur direct to the Queen had given considerable umbrage to the French, and I was also well aware that a grant by the Hovas to him of a valuable land concession in the south had done more to bring about the present French invasion than any other circumstances. His color acted also to his disadvantage.

His trial took place on Monday, March 18, and on the documentary evidence solely he was convicted and sentenced to twenty years' imprisonment. I visited Waller in jail on the 19th, and was very favorably impressed by his conversation and his

general demeanor. About this time his stepson, Paul Bray, received notification that he was to be exiled to Zanzibar. I gave him all the advice and assistance I could, having due regard to my own dangerous and peculiar position, and he and his father left on the French steamer *Djemnah* on Monday, March 25. I managed to leave Tamatave for a port 70 miles to the south on April 4, and arrived at Antananarivo on the 16th of April. The following day I met Mrs. Waller, whom I found to be in destitute circumstances and in ignorance of her husband and son's fate. She at the time was the guest of a Hova gentleman, and was naturally in a great state of anxiety. She had four children dependent upon her; three daughters of 23, 16, and 8 years, respectively, and one son of 11, and I made provision for their temporary relief during my stay. Mrs. Waller gave me access to all her letters and documents, and I also met and examined the Hovas who had written to Waller, and obtained from them sworn statements of their connection with Waller. It was quite apparent to me from the first examinations and interviews that I made that Waller had been outrageously treated. In no way had he acted otherwise than in accordance with his rights as a man and his treaty rights as an American citizen.

About the time that I concluded my business with the Hova Government and was preparing to return to Europe, I considered that it was nothing less than my duty, as the only American in the capital, to remove them from a place where it was impossible for them to earn a subsistence and where there was a possibility of their being subjected to outrage or death in the possible event of the French filibustering expedition sacking the capital, and I therefore provided that Mrs. Waller should be taken to the coast, and from there sent to the nearest port where she could obtain cable communication and an opportunity to obtain redress, together with the release of her husband, she being practically the only person able to give the necessary details.

Escape from Madagascar at this time was most uncertain, as it was not known what the movements of steamers or vessels were, or that the French might not at any moment blockade the Madagascar coast, thus entailing months of delay and the terrible risks attendant upon a residence in the deadly swamps that lie near the coast. I succeeded on Tuesday, June 11, in placing them on board the steamer *Pembroke Castle* at a port called Vatomandry, and must here bear tribute to her courage and her children's in crossing the bar with me during a terrible surf, which discouraged a great number of intending passengers.

On the 12th instant I arrived in the port of Tamatave, where we lay at anchor for seven hours. Owing to the formalities of the French authorities and a strong wind which was blowing, I found it impossible to communicate with the shore, but found much to my satisfaction that the gunboat *Castine* was at anchor. I was somewhat apprehensive that the French authorities might endeavor to remove me forcibly from the vessel or otherwise delay or inconvenience me, as they had acted in a very high-handed manner in the previous war with a missionary, Shaw. At a late period in the day the captain of the *Castine*, accompanied by the consul, came on board and informed me that if I went on shore I would either be killed or arrested. As I had not the faintest intention of subjecting myself to any such possibilities, the advice was needless.

I laid the facts of the matter before the captain of the *Castine* and the consul at a special interview on board, and requested their advice and assistance as to what I had best do with Mrs. Waller and her family, pointing out to them that the call upon my ready cash had been unexpected, and that in a measure I had thought that under the circumstances Mrs. Waller and family might have been transferred to the *Castine*, and that although their passages were paid to Mauritius, and I had still funds on hand, it was rather a difficult job for me to drag five helpless people about with me. The captain of the *Castine* informed me that he had no instructions; that he would be a short time on the Madagascar coast, and would then cruise to South America. He kindly gave me $10 for Mrs. Waller, and I shortly afterwards sailed and arrived at Port Louis on Friday, June 14, with about sufficient funds to land them and take them to a hotel. I was very ill after my arrival with continuous attacks of fever, but, however, I arranged for them at the time and during the four weeks I remained in the island waiting for a steamer.

As it was impossible for me to sail direct by any of the French boats, I was compelled to return to Europe via Colombo and Marseilles. I left Mrs. Waller all I could, and was very glad, on my arrival in Paris, to learn that the Government had sent for her, and that she was now on her way to the United States.

I may mention that during the time I was in Tamatave, prior to Waller's conviction, Mr. Wetter did everything that a man could to assist Waller, and, as far as he and I could judge, the case was unique, and under the circumstances could only be referred to Washington for consideration by the State Department. Mr. Wetter was at considerable private expense over matters not provided for in the consular regulations—I mean cash disbursements—and prepared a complete report with copies of all the documents in connection with the matter. He read me portions of this report, and

I accompanied him when they were mailed in time to catch the same steamer upon which Waller and Bray sailed. Of course, during the whole time that I was in the interior of Madagascar I was cut off from all news of the outer world, and neither at Port Louis nor Colombo could I obtain any American papers, and even up to the present I have had no time to make myself acquainted with what has transpired during the past five months. I wish you, therefore, to understand that I am endeavoring to give you a recital of the facts that occurred to my knowledge, uninfluenced by anything but a sincere desire to see justice done to an American citizen, and in the hope and confidence that the arrogant acts of the French in Madagascar will receive the consideration of the State Department.

I have personally invested a considerable amount of money in Madagascar enterprises, to find myself harassed and subject to heavy loss by this nation.

Apart from any business considerations which I may have in the island of Madagascar, I shall be pleased at any time to do all that lays within my power to obtain redress for this unfortunate man and his family, and to obtain for American citizens trading abroad security from the aggressions to which they are at present being subjected.

I have, etc., E. G. WOODFORD.

Mr. Eustis to Mr. Adee.

[Confidential.]

EMBASSY OF THE UNITED STATES,
Paris, August 30, 1895.

SIR: During his interview with the second secretary and Mr. Alexander, Waller stated that he had been subjected to cruel treatment on board of the French steamer which brought him to France. He said that he was chained to the floor by his arms and legs and was kept on his back in that condition for seven days, and was exposed to gross indignities. As by the text of your cable of the 22d instant instructions were to investigate all matters connected with his trial, this statement was not included in Waller's sworn statement, but I communicate it for the information of the Department.

I have, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, September 2, 1895.

Minister for foreign affairs sends this morning an official to say that the Waller papers had left Madagascar on cruiser *Papin*, which is expected toward middle of the month at Aden, from which place they will be sent at once to Paris.

EUSTIS.

Mr. Adee to Mr. Eustis.

No. 516.] DEPARTMENT OF STATE,
Washington, September 4, 1895.

SIR: I have to acknowledge the receipt of your dispatch No. 358,[1] of the 23d ultimo, inclosing a copy of a letter from Mrs. Waller to her

[1] Not printed.

husband, the original of which was forwarded to Mr. Waller by you through the foreign office.

The Department would be glad to be informed as to whether Mr. Waller's letters have been promptly delivered to him.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *September 20, 1895.*

Waller family arrived Marseilles without means. Consul directed to send them here; according to instructions 488, I propose to pay their passage home and provide for their wants.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 20, 1895.

Your instructions cover supply of Mrs. Waller's reasonable wants as well as passage home. If she desires to see her husband, arrange for visit to prison and access to him in conformity with usual regulations.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *September 23, 1895.*

Mrs. Waller's family arrived at Paris. She has decided not to visit her husband. Impossible to engage passage before October 2, on which day they will sail on *Amsterdam*.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 381.] EMBASSY OF THE UNITED STATES,
Paris, September 27, 1895. (Received October 7.)

SIR: My telegrams of September 20 and 23 informed you of the arrival of Mrs. Waller with her family, and of my engaging their passage for New York on the steamer *Amsterdam*, sailing from Boulogne on the 2d of October next. The family is composed of Mrs. Waller and four children: Minnie (Bray), Jennie, John, and Helen, aged respectively 23, 16, 13, and 8 years. They have been provided with tickets for the second-class cabins, for which I have paid 1,125 francs. I have also provided for their hotel accommodations, at a cost of 32

francs per day. As they arrived on the morning of the 21st instant and will leave on the 2d of October, the bill on this account, including the unavoidable extras and perquisites, will run up to about 400 francs. In accordance with instructions he received from the Department, our consul at Port Louis, Mauritius, has drawn on me for the sums of $481.22 for expenses incurred in sending the family from Port Louis to Marseilles, and $65.25, amount he sent to our consul at Marseilles to defray the railway expenses from that port to Paris, which draft has been presented and its equivalent in francs (337.95) paid.

I have also sent the consul at Marseilles the sum of 58.10 francs, which he laid out on their account. The railway tickets to Boulogne will cost nearly a hundred francs. There will be other expenses. The party will need for the ocean trip wraps to guard them against the rigors of a climate to which they have become unused.

In connection with the Waller case I shall also have to pay the traveling expenses and hotel bills of Messrs. Alexander and N. B. Eustis on the occasion of their journey to Clairvaux.

I inclose copies of telegrams exchanged between the Department and this office with regard to this matter. In my telegram of the 23d I stated that Mrs. Waller had decided not to visit her husband, fearing that, glad as they would be to see each other, after the meeting her husband would feel far more miserable than he could be at present.

I have, etc.,

J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *October 5, 1895.*

At my conference with minister for foreign affairs he informed me that he had received that morning the record in Waller's case, including the evidence. He said that it would take several days for translation of documents and his examination; that he would then communicate to me his decision in the matter. I urged upon him prompt action. Waller family left early this morning, steamer *Amsterdam.*

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 386.] EMBASSY OF THE UNITED STATES,
Paris, October 7, 1895. (Received October 19.)

SIR: Referring to my dispatch, No. 381, of September 27 last, informing you of the arrival of Mrs. Waller and family in Paris, and the steps taken to provide for their wants and passage to the United States, I now inclose the amount of expenses incurred with vouchers. The amount, 5,383.40 francs, is above what I estimated it would be, on account of items for washing, purchase of a trunk, clothing, hotel extras, and ready cash. Mrs. Waller and family left Paris on the 2d for Boulogne, but on account of the great storm raging the *Amsterdam* could not sail before the 5th, as I cabled to you. The clerk of the embassy accompanied them to Boulogne. Hotel expenses there were defrayed by the Netherlands Steamship Company.

I have, etc.,

J. B. EUSTIS.

Mr. Olney to Mr. Eustis.

No. 539.] DEPARTMENT OF STATE,
Washington, October 8, 1895.

SIR: I have the honor to inform you that your dispatch, No. 381, of the 27th ultimo, relative to the arrival of Mrs. John L. Waller and her family in France and the expenses incurred by you on account of sending them to the United States, has been received.

Your course in regard to the matter is fully approved by the Department, and you are hereby authorized to draw on the Secretary of State for the aggregate amount of the expenses incurred by you in the premises, supporting your draft by an itemized account with vouchers in the usual manner.

I am, etc., RICHARD OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *October 10, 1895.*

Minister for foreign affairs did not receive Wednesday, his usual reception day. I was therefore unable to get further information about Waller case.

EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *October 17, 1895.*

Yesterday had an interview with the minister for foreign affairs. He had before him the Waller papers and the draft of a note he was writing me on the subject. He said that he was now well informed on all the circumstances of the case and that there could be no doubt of the guilt of Waller and as to his having been regularly tried with due regard to law and to the rights of the defense. He invited me to look over the papers and to satisfy myself that such was the fact, but declined to submit them to the examination of my Government, on the ground that such submission involved the abandonment of a principle which the French Government could not yield. I did not personally examine the papers. I had previously told him that such an offer was inadmissible, because a communication of the record to me and not to my Government was not a compliance with the request which I had made under instruction.

After earnestly arguing the case with him without being able to change his position, I stated that my Government would not accept his decision. He said that [he] regretted it very much, but could not do otherwise. This ended our official conversation. He then said that he had no objection to let me know as an individual that he was very anxious to settle this affair, and that it occurred to him this might be done on the following basis: Release of Waller on his part and acceptance of this on our part as a final settlement of the case. He added that he was not yet in position to make such a proposition, but that his desire to bring the matter to a satisfactory conclusion was such that he would spare no effort to bring the President and his colleagues to his

views. I did not feel authorized to entertain this suggestion, but deem it proper to communicate it to you. This morning I am in receipt of his written reply confirming substantially what he stated to me yesterday.

EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *October 18, 1895.*

At my request, Waller, whose constitution is weak, is being transferred to Nimes, in the south of France. His wife's letters have been delivered to him.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 391.] EMBASSY OF THE UNITED STATES,
Paris, October 18, 1895. (Received October 28.)

SIR: I have the honor of sending herewith copy of my telegram of yesterday concerning the Waller case, and also a copy and translation of Mr. Hanotaux's note of October 16, mentioned in said telegram.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 391.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *October 16, 1895.*

Mr. AMBASSADOR: As I had the honor of informing your excellency on the 26th of August last, the commander of our naval division in the Indian Ocean had been invited to forward at once to Paris the record of the case concerning Mr. Waller, ex-consul of the United States at Madagascar, condemned by the court-martial of Tamatave to twenty years imprisonment for having corresponded with the enemy.

This record has just arrived in Paris. After examination of the papers composing it, no doubt can exist as to the gravity of the charges brought against Waller which caused his condemnation.

Besides the forwarding of letters without previous authorization, contrary to the orders issued by the military authorities in consequence of the proclamation of martial law, it has been established that in the letters addressed to his wife, residing at Tamatave, and intended to be communicated to the agents of the prime minister, Waller gave information on the sanitary condition and on the supplies of the post of Tamatave. Mention was also made in these letters of ignominious acts supposed to have been committed by French soldiers, the false character of which was demonstrated by the inquest made by order of the military authorities.

The letters seized allow one to come to the conclusion that Waller had already previously sent to the Hovas information on our military situation, and that his stepson, Paul Bray, also carried on with Mrs. Waller correspondence which might have had for him the gravest consequences had it fallen into the hands of the French authorities.

At that period Tamatave was occupied by our troops, and had been placed under martial law; military operations against the Hovas had been commenced. The acts of Waller therefore constituted doings admitted to be punishable by the military laws of all nations.

Finally, in that same correspondence, Waller, under transparent initials, denounced to the prime minister, as French spies, two American merchants who were about to proceed to Tananarivo, thus designating two of his fellow-citizens to the vengeance of the Hovas.

On the other hand, the examination of the record above mentioned shows that the case was presented, discussed, and tried before the council of war, as well as before the council of revision (military court of appeal), in conformity with the regular forms of military justice, and that the guilt of Waller was established on documentary evidence (pièces à conviction) shown to him during the trial and acknowledged by him.

With reference to the desire your excellency was kind enough to express on August 2 last, that the record in question be communicated, I have the honor of informing you that the general principles of our criminal law do not allow that a legal procedure which ended in a definitive decision can be the object of any communication whatsoever. These principles should be the more strictly applied in the case of a prosecution conducted in conformity with military laws, according to which the procedure is secret until the accused appears before the council of war.

Under these conditions I can only express to your excellency my regrets that I am not in position to comply with the desire you made known to me.

Accept, etc.,

G. HANOTAUX.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *October 21, 1895.*

Met yesterday minister for foreign affairs, who said he had spoken to the President of the unofficial intimation made to me concerning the release of Waller. He seemed to be positive that he would be able shortly to give to his suggestion the shape of a definite proposition. In view of the fact that he had himself examined the record and was convinced that the evidence substantiated the charge, and would not have offered said record for my examination if he did not believe that I also would be convinced, he seems confident in the face of what he considered as these concessions that the release of Waller could be secured on the basis of his proposed compromise. Shall I negotiate with him on that line? The refusal to communicate officially to my Government the Waller papers I consider as final. It is impossible to say how long Waller's increasing feebleness of health will resist close confinement.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 4, 1895.

Waller case; renew application for record and evidence with new French minister for foreign affairs. Urge prompt action in view of Waller's health. Ascertain if compromise release suggested by his predecessor can be effected.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 5, 1895.

You understand, of course, that, if practicable, Waller's release as matter of right, or matter of grace on account of his health, without prejudice to indemnity claims, is to be requested and urged. That fail-

ing, cable of yesterday meant to inquire whether compromise suggestion of Hanotaux was available. Please act and report with all practicable expedition.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 6, 1895.*

Your two telegrams re Waller received. The compromise suggested by former minister for foreign affairs is that the release of Waller would end the matter. It was based upon the assumption of Waller's guilt, and was intended as an act of grace. I have ascertained, unofficially, yesterday, that the minister meant by ending the matter that no indemnity of any sort is to be asked for the arrest, trial, and treatment of Waller. New minister for foreign affairs notifies this morning the diplomatic corps that he will receive us on the 13th. I propose to renew, in writing, application for record. If reply is negative, as probable, I shall then ascertain if the compromise suggested can be effected.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1895.

Have yours of 6th. Reported state of Waller's health seems to require his immediate release. His death in confinement would greatly embarrass relations of countries. Trust you will be able to get immediate attention to case.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 7, 1895.

French ambassador here cables his Government to-day in favor of Waller's release because of his ill health and on grounds of humanity.

OLNEY.

Mr. Eustis to Mr. Olney.

No. 401.] EMBASSY OF UNITED STATES,
Paris, November 7, 1895. (Received November 19.)

SIR: In compliance with your telegraphic instructions received November 5 and 6, I have renewed to Mr. Berthelot, the new minister for foreign affairs, our application for a copy of the record and of the evidence in the Waller case, and a copy of the note written to that

effect is herewith inclosed. I also inclose copies of your two telegrams above mentioned and of my cablegram of the 6th instant.

I have, etc.,

J. B. EUSTIS.

P. S.—I have just received from you two telegrams (copies of which I inclose), which will be acted upon with the least possible delay.

November 8, 1895.

[Inclosure in No. 401.]

Mr. Eustis to Mr. Berthelot.

EMBASSY OF THE UNITED STATES,
Paris, November 7, 1895.

SIR: Your excellency has assuredly been informed of the circumstances of the case of Mr. John Waller, an American citizen, formerly consul of the United States in Madagascar, sentenced by a court-martial at Tamatave to twenty years' imprisonment under the charge of having corresponded with the enemy.

Although the trial was public the evidence produced is unknown, or imperfectly known, through vague and unreliable reports, which gave the impression in the United States that this American citizen had been unjustly condemned. The trial had taken place in a far-distant country and in a locality under martial law. The judges were military officers, not ordinarily trained in law, and there are reasons to believe that strong prejudice existed against the accused.

Under such circumstances, my Government felt that it had the right to call on a friendly Government for information on the subject, and to ask for a copy of such record of the case which would enable it to satisfy itself and public opinion that there had been no miscarriage of justice in the trial and punishment of Mr. Waller.

This request, I am glad to say, was received by your honorable predecessor in the friendly spirit in which it was made and, at first, I had reasons to believe that it would be granted. Mr. Hanotaux said that the papers applied for were still in the possession of the military authorities in Madagascar; that he did not know their contents, and that as soon as they should have reached him he would examine them and let me know his answer. During the long time which elapsed before these papers could be obtained from Madagascar, the question remained on that ground. Mr. Hanotaux writing or telling me every time it was brought up that, with every disposition to give us full satisfaction, he could not say whether it would be possible for him to make the desired communication before he had examined the papers. They arrived at last, and I was then told that the general principles of the French criminal law did not allow the communication of a legal procedure which had ended in a definite judgment, he failing to note what I had repeatedly tried to impress upon him, that the request of my Government was reasonable because of the exceptional circumstances attending the trial of Mr. Waller.

I must say that in informing me of this decision, Mr. Hanotaux endeavored to present it in the most friendly manner. He said that although he had to oppose a refusal to my request he was, nevertheless, extremely desirous of settling this matter, and suggested that perhaps a compromise could be effected on the ground of Mr. Waller's pardon, a proposition I was not in a position to entertain, and to which he earnestly returned on other occasions.

Although I felt that Mr. Hanotaux's language was dictated by a sincere desire of reaching an honorable understanding, I could not help thinking that coming after the repeated statement that no reply could be made to my Government's request until the papers were examined, their refusal after they had been inspected, on grounds of general principles which were applicable to the case from the very beginning, if applicable at all, would certainly create the impression, however erroneous, that the true motive of the refusal was to be sought for, not in the principle resorted to at the last moment, but in the fear that the evidence, if made public, might not justify the sentence of the court.

I do not say that such is the case, and I have such a high opinion of the ordinary administration of justice in France that, without positive evidence to the contrary, I would not for a moment entertain such an opinion; but I must point out to your excellency the inference which is likely to be drawn from the decision communicated to me if my Government is denied the opportunity of examining the record of the trial.

With these remarks, and acting under the telegraphic instructions from my Government, I submit again this case to your excellency's Government; and, appealing

once more to the sense of justice of the French Republic, I renew my application for a copy of the record of the Waller trial.

In bringing up this matter for the second time I do not desire to be understood as casting any reflection on its treatment by your honorable predecessor. While we entirely disagreed upon the question in controversy, I am satisfied that he acted from a conscientious sense of duty in defending what he considered the interests of his Government.

I realize that his decision was the decision of the, at the time, existing cabinet, and if a reconsideration of the case is now asked, it is because new men, governed by other ideas, may without inconsistency take a diffenent view of the case. The question being a very serious one, I sincerely hope that after a renewed and careful examination of the matter the French Republic will find that it can properly comply with the reasonable request of my Government.

I venture to ask your excellency's immediate attention to this matter, and trust that it will be found possible to furnish me with a reply within a few days, to enable me to inform by telegraph my Government of the result.

I avail, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 14, 1895.*

Saw yesterday the minister for foreign affairs. He was not yet well informed in regard to the Waller case and referred me to the official having charge, whose advice, he said, he would follow. I saw that official, who asked me to change certain parts of my note of November 7, renewing application for the Waller papers. The minister, he said, would then reply at once, expressing his regret that he can not comply with the request, but stating his willingness to submit to the President a decree pardoning Waller, provided it is agreed that this pardon will end the matter as explained in my telegram of November 6. I consented to the changes desired in note of November 7, although, in my opinion, it is not open to the objection made, in order to avoid any delay and to secure the speedy release [of] Waller, if you accept conditions upon which it is to be proposed. These changes are made to-day and I am promised a reply in a few days. If it comes in the shape stated, I shall be authorized in due time to effect the compromise. Full report goes to-morrow.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 404.] EMBASSY OF THE UNITED STATES,
Paris, November 15, 1895. (Received November 25.)

SIR: The newly appointed minister for foreign affairs, Mr. Berthelot, received, day before yesterday, the diplomatic corps for the first time, and I was one of the first to call on him. I found him unprepared to discuss the Waller case, but friendly in all appearance. He said he had not had the time to give his personal attention to the matter, but that it was in the hands of competent officials of his department who had represented to him that my last communication—the one of November 7, renewing, under your instructions, our application for the Waller record—was in some respects of an objectionable character, and that I was going to be asked, informally, to modify it. He did not know exactly upon what ground, but thought it was simply a matter of form, and advised me to see Mr. Benoit, director of the protectorate depart-

ment, and to come to an understanding with him. Whatever course that official would suggest he would approve; the only thing he could say was that he was as desirous as his predecessor to settle the matter.

I tried to impress upon him the necessity of coming to such a settlement with as little delay as possible, and I proceeded to the office of Mr. Benoit, with whom I had already been in relation touching the very case under consideration.

Mr. Benoit confirmed and explained the statement of the minister. He said that my dispatch, although very polite in its language, was unacceptable, because it was based on the assumption that we, a foreign Government, had the right to question the judgment of a regular constituted French court of justice. The French Government could not admit such a contention and would not consent to discussion. Such a dispatch, if maintained in its present shape, would place the French foreign office in the painful necessity of replying to it in a manner which would change the tone of our correspondence and might render impossible or delay considerably the result we had in view, viz, the release of Waller. It had, therefore, occurred to him and to his colleague of the political department that if I consented to substitute for my dispatch another one containing nothing to which they could take exception the matter could be easily and promptly arranged.

Being asked which were the objectionable passages of the note, he mentioned particularly: First, the paragraph referring to the court-martial as composed of military officers not ordinarily trained in law, and stating that there existed prejudices against Mr. Waller; and second, the argument showing that the refusal of the papers, after they had been examined, on grounds of general principles not mentioned before, would lead to the inference that they did not justify the charge and trial.

It is unnecessary for me to say that I did not admit for a moment that these passages or any others in my note were in any degree objectionable. The contention that we had a right to the evidence upon which an American citizen was, in a foreign country, tried and sentenced by a military court to a penalty of an extreme severity, had been ours from the beginning of the controversy. I had advanced and maintained it over and over again in my intercourse and correspondence with Mr. Hanotaux, and it laid at the very foundation of our original application.

The mere fact that we requested a copy of the record necessarily implied every suggestion and consideration stated in my note, and, as its language was admitted to be courteous, the change asked for did not alter the fact that our request was made because we considered that the sentence might be disputed by us.

I tried to show Mr. Benoit the inconsistency of the positions taken now, after having delayed for months a reply to our request on the ground that the papers were to be examined before said reply could be made; but finding that my efforts were useless, and it being apparent that the new minister would have no policy of his own in the matter, I dismissed the point at once and said that as my main object now was to secure the release of an American citizen whose life was endangered by his long, close confinement, I would change or withdraw any paragraph, sentence, or word of my dispatch to which he would object if such concession could bring about the immediate discharge of Waller.

Upon this statement the arrangement explained in my telegram of yesterday was made. I withdrew my note of the 7th, substituting therefor another of same date from which all passages obnoxious to the

French foreign office were eliminated, and returned it yesterday accompanied by a French translation, made with the view of gaining time.

Although I am conscious that there is not a line or a word objectionable to any impartial mind in the note, I so consented to modify. I trust that in view of the result aimed at the Department will approve of the concession made to the susceptibilities of the French foreign office, which, I must confess, were most surprising, as my note contained only statements or arguments which I had verbally presented to Mr. Hanotaux and which he had discussed in a most courteous and friendly spirit. Under any other circumstances I would not have consented to the change. In this case, with the life of an American citizen perhaps at stake, I felt that my action was justified, particularly when it is noted that the modifications made do not in the least change our position.

I expect to receive the reply of the foreign office by Monday or Tuesday next. If it is what I am told it will be, it will contain an offer to pardon Waller on the conditions already stated, but to the acceptance of which I am not committed, that this pardon is to end the matter; that is to say, that the legality and justice of the trial is no longer to be questioned, and that no indemnity is to be asked for on account of the arrest and treatment of Mr. Waller.

Awaiting your instructions in the premises, I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 404.]

Mr. Eustis to Mr. Berthelot.

EMBASSY OF THE UNITED STATES,
Paris, November 7, 1895.

SIR: Your excellency has assuredly been informed of the circumstances of the case of Mr. John Waller, an American citizen, formerly consul of the United States in Madagascar, sentenced by a military court at Tamatave to twenty years' imprisonment under the charge of having corresponded with the enemy.

Although the trial was public, the evidence produced is unknown or imperfectly known through vague and unreliable reports which gave the impression in the United States that this American citizen had not been tried with all impartiality.

Under such circumstances, my Government felt that it was its duty to call on a friendly Government for information on the subject, and to ask for a copy of such record of the case as would enable it to satisfy itself and public opinion that there had been no miscarriage of justice in the trial and punishment of Waller.

This request, I am glad, was received by your honorable predecessor in the friendly spirit in which it was made and, at first, I had reason to believe that it would be granted. M. Hanotaux said that the papers applied for were still in possession of the military authorities at Madagascar; that he did not know their contents; and that as soon as they would have reached him he would examine them and let me know his answer. During the long period of time which elapsed before the papers could be obtained from Madagascar the question remained on that ground. They arrived at last, and I was then told that the general principles of the French criminal law did not allow the communication of a legal procedure which had ended in a definitive judgment.

I must say that in informing me of this decision Mr. Hanotaux endeavored to present it in the most friendly manner. He said that although he had to oppose a refusal to my request he was nevertheless extremely desirous of settling this matter, and suggested that perhaps a compromise could be effected on the ground of Mr. Waller's pardon, a proposition I was not in a position to entertain, and to which he earnestly returned on other occasions.

Although I felt that Mr. Hanotaux's language was dictated by a sincere desire of reaching an honorable understanding, I could not help thinking that the definitive refusal of the papers applied for would not be understood in the United States. My Government has taken the same view, and I am now directed by telegraphic instruc-

tions to submit again this case to your excellency's Government. Appealing once more to the sense of justice of the French Republic, I therefore renew my application for a copy of the record of the Waller trial.

In bringing up this matter for the second time I desire to say that I appreciate the spirit in which it was treated by your honorable predecessor. While we entirely disagreed upon the question in controversy, I am satisfied that he acted from a conscientious sense of duty in defending what he considered the interests of his Government.

I realize that his decision was the decision of the at the time existing cabinet, and if a reconsideration of the case is now asked, it is because new men, governed by other ideas, may take a different view of the case. The question being a very serious one, I sincerely hope that after a renewed and careful examination of the matter the French Republic will find that it can properly comply with the reasonable request of my Government.

I venture to ask your excellency's immediate attention to this matter, and trust that it will be found possible to give me an answer within a few days, so as to enable me to inform my Government by telegraph of the result.

I avail, etc., J. B. EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 16, 1895.

Presume change in your note relates to phraseology, not substance. Can you not ascertain whether pardon on terms specified will be acceptable to Waller? Shall confer with his counsel on that subject. Trust to hear from you definitely, and at once, that proposition of French Government has been made.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 18, 1895.

Have received, for Waller, $55. Put him in funds total amount.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 19, 1895.*

Change in my dispatch did not modify our contention or attitude in the case. I understood your cable, asking me to ascertain if compromise for Waller's release suggested by former minister could be effected by present minister, and your cable informing me that French ambassador had telegraphed to urge Waller's pardon on grounds of humanity and ill health as presenting the question of Waller's pardon as most urgent. My refusal to modify my note must have caused much delay and possible impediment regarding this question. As I considered the objections to note captious, I could not take the responsibility of postponing, as I thought, unnecessarily, the pardon of Waller, if it

could be effected by the change of my first dispatch. This I consented to do, when I was informed that the refusal of the papers would be adhered to, and that an immediate reply would be made to my substituted dispatch, proposing the pardon of Waller. I did not feel that I could do otherwise under the circumstances. In compliance with your instructions, I have consulted Waller with reference to his pardon, but had to send my letter through foreign office, as I found it impossible to telegraph him, and as permission to communicate again in person with him might not be easily obtained, and surely not without delay. I am expecting the promised reply to note of 7th at every moment.

EUSTIS.

Mr. Olney to Mr. Eustis.

DEPARTMENT OF STATE,
Washington, November 19, 1895.

SIR: I have the honor to acknowledge yours of November 7, with copies inclosed relating to the Waller case.

I have read with special interest and satisfaction your communication of the 7th instant to his excellency Mr. Berthelot, minister of foreign affairs. It is a very lucid and able presentation of the reasonable request of this Government that the record of the proceedings in the Waller case shall be produced for its inspection.

I have, etc.,

RICHARD OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 21, 1895.*

The reply of French Government received. Record refused with expression of regrets on grounds stated before. The minister has again examined the record and finds that the trial was regularly conducted before the court; states that no criticism can be made on that account. He concludes as follows:

I hasten to add that I fully share the views of my predecessor with regard to the advantage to be gained by terminating this affair, and that I will willingly take the initiative of a measure of clemency in favor of Waller as soon as your excellency shall have made known to me the adhesion of his Government to this solution.

I could not act upon your telegraphic instructions of the 6th so long as the request for the record was pending. Now that we are informed officially that it can not be communicated, I respectfully request more definite instructions. Those cabled the 6th were that I should ask the release of Waller as a matter of right, or as a matter of grace without conditions. Please indicate which of the two courses indicated I am to take. If the former, shall I base the demand exclusively on the refusal of the record? I see no difficulty in asking for the unconditional pardon, except that I do not think it can be obtained, as minister for foreign affairs' note shows that he adheres to Mr. Hanotaux's proposition to pardon on condition that this would end the matter.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 22, 1895.

Have yours of yesterday. It does not answer mine of 16th upon point whether pardon on terms specified by French Government will be acceptable to Waller. Please report on that point at earliest practicable moment.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 22, 1895.*

Just received Waller's reply. It is as follows: "Maintain my right of claim for indemnity. Have written." Signed, Waller.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram—Confidential.]

DEPARTMENT OF STATE,
Washington, November 22, 1895.

Do I understand that Waller refuses to assent to his release on condition of waiving indemnity absolutely, and with full knowledge of all the facts, and of the inevitable conclusion deducible from his intercepted letters? Does present foreign minister repeat offer of predecessor that you may see the record, and, if seen by you, what limitations are put upon the knowledge so derived? Is any general Madagascar amnesty proposed? If so, would it not be unconditional, and would not Waller be included? Cable answer.

OLNEY.

Mr. Eustis to Mr. Olney.

No. 409.] EMBASSY OF THE UNITED STATES,
Paris, November 22, 1895. (Received December 2.)

SIR: Referring to the Waller case, I send herewith copies of the following telegrams and letters:

1. Your telegram with reference to change made in note of the 7th November and asking me to ascertain if pardon is acceptable to Waller. (Received November 17, 1895.)
2. My letter to Mr. Waller making the above-mentioned inquiry November 18, 1895.
3. My telegram of the 18th to you, explaining change made in note of the 7th.
4. Note from Mr. Berthelot, in reply to my n[illegible]e of the 7th, refusing communication of the record and stating his willingness to pardon, (November —, 1895,) received on the 21st.

5. Translation of same.
6. My telegram of 21st, sending substance of the above note.
7. Telegram from Mr. Waller maintaining his right to claim indemnity, November 22.
8. My telegram conveying Waller's resolution to the Department.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 409.]

Mr. Eustis to Mr. Waller.

EMBASSY OF THE UNITED STATES,
Paris, November 18, 1895.

DEAR SIR: I believe your pardon can be obtained. Its acceptance involves the admission of the validity of your trial, and would bar your right to any claim on that account. Let me know whether pardon under such terms is acceptable to you. Release might be obtained within a very short delay. I make this inquiry by instruction of my Government.

Reply by telegraph if you can.

Respectfully, you[illegible],

J. B. EUSTIS.

[Inclosure 2 in No. 409—Translation.]

Mr. Berthelot to Mr. Eustis.

PARIS, *November, 1895.* (Received November 21.)

MR. AMBASSADOR: Your excellency was kind enough to make known to me on the 7th of this month that he was directed by his Government to renew to the French Government the request for the communication of the record of the proceedings against Mr. Waller, an American citizen, condemned to twenty years' detention by the military court of Tamatave for corresponding with the enemy.

Your excellency recalls that in response to the request he presented to my predecessor, Mr. Hanotaux had informed him that the general principles of our criminal law did not permit the communication of a legal procedure terminated in a definite judgment. While appreciating the amiable spirit in which this affair has been treated by Mr. Hanotaux, you express the fear that the refusal of communicating the record will give rise to unfavorable interpretations, and you point out the value the Government of the United States would attach to its request being acceded to.

In reply to your desire, I did not fail to submit the question to a fresh examination. I found, as did my predecessor, that the affair had been deliberated upon and judged, as well before the council of war as before the council of revision, in accordance with the regular forms of military justice, and that no criticism whatev[illegible] can be made under this head against the decision arrived at, which is to-day classed as a matter passed upon.

I find, also, that the communication of the record would be contrary to the rules of our criminal law as well as against all precedents in like matters.

Consequently, I can not but express my regrets at not being in a position to give satisfaction to the request in question.

I hasten to add that I fully share the views of my predecessor as concerns the advantage there would be to terminate this affair, and that I will willingly take the initiative in a measure of clemency in favor of Mr. Waller as soon as your excellency will have been good enough to make known to me the adhesion of his Government to this solution.

Accept, etc.,

M. BERTHELOT.

[Inclosure 3 in No. 409—Telegram.]

Mr. Waller to Mr. Eustis.

NIMES, *November 22.*

Maintain my right of claim for indemnity. Have written.

WALLER.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 25, 1895.

When shall I get answer to my cable of 22d instant?

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 26, 1895.*

Made no reply to telegram of 22d because awaiting Waller's letter announced in his telegram I sent you. It is not yet received. As my letters to him are opened I had to confine my inquiry to a statement that his pardon might be obtained at once, and that its acceptance would imply admission of validity of his trial and bar the right to claim on that account. He knows what he wrote in the letters intercepted by French Government, and must be aware of the conclusion deducible from them. Minister for foreign affairs has not repeated the offer of his predecessor that I may personally see the record, but is likely to allow me to do so if asked, and would not, I think, place any limitation upon knowledge thus acquired. No question of amnesty with reference to Madagascar. According to official and careful report of physician of prison Waller's health is good.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 27, 1895.

Have yours of yesterday. Do you mean that you will be allowed to inspect official record and thus be enabled and be at liberty to ascertain and report to your Government whether Waller court was legally constituted and the Waller trial, conviction, and sentence regular and valid according to French law? If so, denial of record would not seem to be absolute, but to have an exception in favor of yourself as ambassador. Please ascertain and report definitely on this point at earliest practicable moment.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 27, 1895.

Submit to French lawyer of first rank on whose impartiality you can rely Waller record inclosed in yours of June 27, and get full written opinion upon questions whether court was lawfully organized and had jurisdiction and whether trial and sentence and all the proceedings

were or were not according to law; in other words, whether judgment and sentence were valid upon their face without reference to the other. Supplement with written views upon same questions of law, and forward as soon as possible.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *November 29, 1895.*

Reply to your two cables received November 28. I meant to say that I am not likely to be refused inspection of the record in the manner mentioned in my cable of October 17. Our original application was for the charges, the evidence, and the sentence. We got the charges and the sentence, and were refused the evidence. Mr. Hanotaux's offer was that I could personally look into the evidence to satisfy myself that it supported the charges upon which Waller was condemned. It is plain that he expected I would convey to my Government the impression made upon me by the proposed inspection, otherwise the offer would have no object. At any rate no restrictions were made, and if the present minister makes none I would consider myself free to report to you. I am endeavoring to ascertain the views of present minister, who is ill, and shall report as soon as possible, but this inspection, if still allowed and availed of, will add nothing to our knowledge as to the legal validity of the proceedings of the court. Our only means of judging of this is the official copy of the sentence which is in our hands, and which states the charges, recites proceedings of the court, and quotes the law. I propose to consult on this point Mr. Clunet.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 29, 1895.

Yours of 29th received. If you are now offered inspection of evidence without restriction upon your communicating the knowledge thus gained and the conclusions thus formed to this Government, accept offer and report with as much particularity as possible, without prejudice, of course, to the right of the United States to inspect the evidence as originally asserted. Hope this inspection, if allowed, as well as opinion of Clunet, will be attended with little delay.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 30, 1895.

Does the evidence adduced before such a tribunal as tried Waller form part of the official record according to French law? Get Clunet's opinion.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 30, 1895.

In discussing with French Government as to evidence in Waller case, what view has been taken by you of use United States could make of the evidence? Have you contended that United States could impugn conclusions of French court although there was evidence supporting the charges, or only if there were entire absence of any such evidence? In either view, inspection of the evidence is needed, of course. But deeming it possible that objection to such inspection may have been made only in the view first named, I ask as to the fact for information and to avoid misapprehension.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 2, 1895.*

Received your two cables of yesterday and have submitted to Clunet your question. There can be no misapprehension as to the view taken by me or by the French Government. The purpose of the requests for the evidence was explicitly stated in my dispatch of June 22 to Mr. Hanoteaux, which was approved by the Department. The French Government has never mistaken the object of our requests. Its refusal was based on the principle of French criminal law it invoked, and had no reference whatever to any hypothetical use we might make of the evidence. If the evidence supported the charges, we could not, of course, impugn the conclusion of the court. If the evidence failed to establish Waller's guilt, I contended that in that case we had the right to inspect the sentence and demand redresses.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 413.] EMBASSY OF THE UNITED STATES,
Paris, December 3, 1895. (Received December 14.)

SIR: I send herewith copy of a letter received from Mr. Waller in reply to mine of November 18 last, asking whether pardon was acceptable to him under terms offered by the French Government. Dated November 22, it was received yesterday, unsealed, through the foreign office.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 413.]

Mr. Waller to Mr. Eustis.

MAISON CENTRALE DE NIMES, FRANCE,
November 22, 1895.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant. In reply thereto, I deem it proper to say that I maintain my right of a claim for indemnity against the French Government, and that I wired you accordingly this morning.

It is needless for me to state that I am ruined in all business and commercial circles by reason of my imprisonment, and that it is but fair and just that I should be reasonably indemnified for having been imprisoned by the French Government during the past nine months. Again, I have been put to great expense and suffered great loss by reason of said detention.

I am therefore willing to accept a release upon the following terms, in the absence of an opportunity to advise with my counsel:

First. I demand $10,000 as a reasonable and satisfactory indemnity for my imprisonment during the period stated.

Second. The French Government also to assume payment of my counsel.

Third. These terms stand for acceptance or rejection up to the end of December, 1895.

I have, etc., JOHN L. WALLER.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 3, 1895.

Have yours of 2d instant. Yours of June 22 states purpose of request for evidence to be that this Government may determine whether an American citizen has been justly dealt with. As a general proposition nothing can be more correct. But its particular application to the evidence requested must be borne in mind. This Government can not make itself a court of errors and appeals for the correction of mistakes of law or fact committed by the judicial tribunals of a foreign State. If the foreign court has jurisdiction under the foreign law, if all its proceedings are regular according to that law, if the accused has opportunity to defend in person and by counsel, and is in no way discriminated against, this Government can not challenge the conclusions of the court, because in its opinion those conclusions ought to have been different. Hence, as to the Waller evidence, the question is not whether this Government thinks that the court did not give proper weight and effect to such evidence, and that in that view Waller was done injustice by being convicted when he should have been acquitted. It is whether there was any evidence sustaining the charges; whether there was such a total absence of proof as to make it clear that justice was denied and that the trial was a farce. I am thus explicit in stating the view of the law here entertained, because it may prove to be important, and that there may be no misunderstanding between the Department and yourself. Is not your view of the law the same?

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 5, 1895.*

I concur fully in your statement of the law of the case. I have always had in view the danger of attempting to establish a precedent which might be used against us. My contention for a copy of the evidence has been based exclusively upon the exceptional circumstances under which Waller was tried, which I maintained was different from a case where there was a regular and orderly administration of justice. As to the use to have been made of the evidence, if communicated, I

agree with you. I informed Mr. Hanotaux that my Government could not enter into a controversy with the French Government as to the weight and the effect of evidence adduced before a legally constituted tribunal.

EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 5, 1895.*

Here is a synopsis of Clunet. Opinion furnished this morning. Permanent council of war like the one which tried Waller have jurisdiction over civilians only when martial law has been proclaimed in accordance with certain forms and conditions prescribed by law. If those forms were not complied with, the permanent council of war of Tamatave had no jurisdiction over Waller. The military order proclaiming martial law being not given in the sentence of Waller, as it should be, because it is the foundation of the authority of the court, there are no means of determining the question of jurisdiction. Assuming that the law was complied with, and that the permanent council of war had, therefore, jurisdiction over Waller, the reading of the sentence clearly shows that many irregularities were committed. First, the court should have been composed of seven judges instead of five, and it should have been presided by a captain of vessel or of frigate, French navy. The composition of the court is fixed by law and can be changed only by law. There is a law amending the military code of justice with reference to the composition of council of war in the field, but it has no reference to the naval code of justice and to the permanent council of war. Second, the name of the council for the defense and his qualifications are not stated, as they should have been. Third, to be valid, the sentence of the court must be given by a majority of five against two. As all legal delays have expired, there is no other mode of redress but an appeal to the clemency of the executive.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 6, 1895.

Your cable 5th received. Is not martial-law proclamation referred to now in Paris and accessible at war office or elsewhere? Are not defects in composition of court and other irregularities indicated jurisdictional, so that judgment and sentence were always void and can now be so treated by the United States in an issue between the United States and France? Whether Waller can now so treat them is a different question, though, if he has lost rights by delay, it is through the neglect or unskillfulness of counsel appointed by France, and therefore justly imputable to France and not to Waller. It would seem that demands for Waller's release should now be made for want of jurisdiction apparent on face of record. In view of Clunet conclusion, what are his views and yours as to next step to be taken?

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 6, 1895.*

Have permission to inspect Waller record. Will report conclusions as soon as possible. I send in bag to-day French text of Clunet opinion.

EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 7, 1895.*

It is proper to state that before examining the evidence I had been inclined to believe, from the information I could gather, that Waller was, perhaps, convicted on insufficient evidence, and that on account of the prejudice against him he might not have had a fair trial. After examining the original letters of Waller, I have no doubt whatever of his guilt.

It was not a case of inadvertent or imprudent writing, but was a deliberate attempt to give information to the enemy to the prejudice of the military situation of France. The evidence fully sustains the charge. The whole tenor of the correspondence discloses his guilty intention, and no court could have hesitated to condemn him. Will communicate more fully by mail.

Now, that by access to the record my Government has obtained the information desired as to the evidence, it seems to me that we ought to reach a speedy solution of this matter. Being satisfied of Waller's guilt, the proposition of the French Government as to his pardon, in my judgment, ought to be accepted. In the face of the evidence establishing his guilt, Waller's pretension to a claim for indemnity, on the ground of his innocence, could not for a moment be seriously considered. The proposition of the French Government could not be viewed as a compromise or as conditional, for we have nothing to compromise. We waive no rights, because we have no such rights. The French Government desires only an assurance from us that his pardon will terminate the matter. I can see no other possible solution.

Our Government has done everything in its power. It has obtained the needed information, and secures the pardon of a guilty man.

As to Mr. C.'s opinion, I do not see that it changes the aspect of the case. The French Government, in my opinion, will not admit that the court was illegally constituted. Any prolonged controversy on the question will accomplish no result. I do not believe that it will even discuss the question. It will, in my judgment, maintain that the decision of the council of revision, whose particular jurisdiction it is to decide such questions, is final. Even if it were to admit that the tribunal was illegally constituted, the only effect would be the liberation of Waller by a pardon, which is now offered. The fact of his guilt would be an argument with the French Government against a claim of indemnity. I therefore can see no other solution except the pardon.

This is Mr. C.'s opinion, that that is the only remedy to be resorted to, and I concur with him, and therefore recommend that I be instructed to accept the pardon offered by the French Government as a solution of the case. This answers to the questions raised in your cable received this morning.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 421.] EMBASSY OF THE UNITED STATES,
Paris, December 12, 1895. (Received December 23.)

SIR: Your telegraphic instructions, received November 30, to inspect the Waller record, if the present cabinet maintained the offer made by the preceding one, was acted upon at once, but owing to the illness of Mr. Berthelot I could not ascertain immediately what his intentions were. Mr. Ricard, who during three or four days acted in his stead, had at first declined to take any action in the matter, but after an interview I had with him on the 4th instant he consented to submit the whole record to my inspection, and gave instructions to that effect. On the 5th I was informed that the papers were at my disposal, and on the next day I examined them at the foreign office.

The Waller record consists mainly of the following papers: The sentence of the court, embracing part of the proceedings already communicated; reports of various officials charged with collecting the evidence; interrogatories of the accused and witnesses in the secret preliminary proceedings, called in French l'instruction; two letters of Waller, written at Tamatave under date of January 23, 1895, and addressed, one to Mr. Tessier, an agent of the Hovas, the other to his wife, both of whom were then at Antananarivo.

In order to understand the significance of the information communicated, it must be borne in mind that the French had a garrison at Tamatave and the Hovas had one at Farafate. These two points were distant from each other a few miles. In the letter to Tessier he describes the condition at Tamatave—that smallpox is raging; that many are dying; that there are more than 100 French soldiers in the hospitals; that they have dysentery and fever, and unless there should be a change in the weather very soon the fatality of both soldiers and citizens will be very great. Then he speaks of the scarcity of provisions; of the arrest of several Hovas who were reported to have been shot.

To have communicated the enfeebled and straightened condition of the garrison at Tamatave might certainly have provoked an attack by the Hovas from Farafate, the information being given to an agent of the Hovas.

He described the rapes and outrages committed by French soldiers upon Malagasy women, and says that it seems strange that civilized men should commit such crimes upon poor Malagasy women, and speaks of much Malagasy property having been destroyed by the French troops. Whether these statements were true or false, they were certainly calculated to increase the horrors of war by provoking retaliation on the part of the Hovas.

He writes that all mail leaving Tamatave for Antananarivo is read by the colonel of the French army before it can pass; that he has a chance to send this letter by the English steamer via Natal, because it will escape the eyes of the officials.

In his letter to his wife he denounced D. and P., who were identified as Draper and Purdy, as French spies, and asks her to inform Tessier and friends of the fact. It is true that he advises that they may be sent away from the capital, but he doubtless knew that spies in time of war are not banished, but are usually shot; and when asked by the presiding officer why he exposed these two men to be executed, he replied that he did it from motives of revenge. I am credibly informed that these two men were American citizens.

He says that he will slip this letter out by English steamer via Natal. Then it will not be seen or read by the French. That if she acknowledges receipt of this letter not to mention anything in it, but simply say "your 44 received," and after she and Tessier have read it to destroy it, and not to mention its contents except to Tessier and secretaries; the latter are interpreted as meaning secretaries of the Hovas government.

He details outrages committed by French soldiers upon Malagasy women, giving a terrible account of it. He adds that no one will know what he is suffering for the Malagasy, and that he is liable to be shot at any moment.

These letters are in the handwriting of Waller, and at the trial he acknowledged having written them.

I inclose herewith copies of your telegram of the 7th and of mine of same date with reference to inspection.

I have, etc., J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

No. 422.] EMBASSY OF THE UNITED STATES,
Paris, December 12, 1895. (Received December 23.)

SIR: Referring to my No. 416, of December 6, inclosing a copy of the original French text of Mr. Clunet's opinion in re John Waller, I now send herewith an English translation of the same.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 422.]

TRANSLATION OF OPINION OF MR. EDOUARD CLUNET, ADVOCATE, IN RE JOHN WALLER.

The undersigned, Edouard Clunet, advocate of the court of Paris, consulted by the ambassador of the United States at Paris on the questions hereinafter enumerated, having seen the affidavit of John Waller, dated August 25, 1895, at the prison of Clairvaux (Auge); having seen the official copy of the judgment of the first permanent court-martial, sitting at Tamatave, dated March 18, 1895, has delivered the following opinion:

I. *Jurisdiction of the first permanent court-martial of Tamatave in respect of John Waller.*

The question of the jurisdiction of the court-martial in the question of John Waller is a delicate one, by reason of the somewhat vaguely defined political and international position of France at Tamatave before the occupation of Antananarivo by French forces on the 1st of October, 1895, the consequences of which will directly modify the antecedent territorial sovereignty.

France has occupied Tamatave for several years. She had even instituted a French tribunal there, composed of judges by profession, with civil, commercial, and correctional jurisdiction (see treaty of December 17, 1883, and the law of judicial organization of April 8, 1891, Clunet's Journal of 1891, p. 356). But herself restricting the powers of the delegates of her sovereignty by the decree of August 24, 1892, she limited the extent of that jurisdiction to Frenchmen solely, so that foreigners and Malagasy might avoid it (see Le Garrec, advocate at Tamatave, on the working of the French courts in Madagascar in dealings with French citizens, natives, and aliens, Clunet's Journal, 1895, p. 259).

John Waller, formerly vice-consul of the United States at Madagascar, had been relieved of his post. He was in March, 1895, no more than an ordinary citizen, a foreigner residing at Tamatave.

As such he was not subject to the jurisdiction of the French common-law tribunal at Tamatave, no new decree having as yet extended to the subjects of any power the effect of the decree of August 24, 1892 (see text in Clunet's Journal, 1892, p. 1084), as was nevertheless provided in the second paragraph of the said decree.

Nor was he subjected to any native or foreign jurisdiction, since as far back as January, 1895, the military campaign against the Hova Government had already

begun, Majunga being occupied by a battalion of marines in January, 1895, and because, in fact, the French authorities alone ruled at Tamatave.

Supposing Waller, or any other foreigner not in the army or assimilated thereto, guilty of a crime against the external safety of the French state, would he have been subject to the exceptional jurisdiction of a court-martial?

If the court-martial at Tamatave had been constituted as a "court-martial in the expeditionary forces," its jurisdiction as regards a civilian would have been based upon texts of law. Article 84 of the code of maritime justice lays down the limits of jurisdiction of such courts-martial, placed in exceptional and perilous circumstances; it permits them to apply articles 62 to 69, 71, and 75 of the code of military justice, which code gives direct jurisdiction "to courts-martial in the armies and in the territorial conscriptions in a state of war" in respect of foreigners having committed crimes of the nature of that charged against Waller. But the judgment of the court-martial of Tamatave does not mention either that article 84 nor those quoted from the code of military justice to which the said article refers, because the court did not rely upon them.

In point of fact, the court-martial of Tamatave is, as it styles itself, a "permanent court-martial," as provided by the code of maritime justice for a state of peace, and in a normal condition of things. It existed prior to the armed conflict of France with the Hova Government; it was a normal court, the jurisdiction of which is prescribed by articles 76 to 83 of the code of maritime justice (title 1, jurisdiction of maritime courts sitting upon land; chap. 1, sec. 1, jurisdiction of permanent courts-martial in maritime districts). These courts have jurisdiction only over individuals belonging to the naval forces of those assimilated thereto. John Waller did not belong to that category.

In support of this jurisdiction the court-martial of Tamatave relies solely upon article 104 of the code of maritime justice.

This article does not apply to the case. It is taken from Title III of Book I, entitled "Jurisdiction in case of complicity," and it provides that all prisoners, without distinction, shall be brought before the court-martial when the crime has been committed in part by persons who are ordinarily subject to its jurisdiction, and in part by others who are not personally subject thereto. In the present case, Waller was not prosecuted as accessory or as joint author of the crime, but as sole author thereof. Article 104, which is peculiar to cases of complicity, does not cover his case. Waller does not fall into the category of individuals dealt with in article 104 of the code of maritime justice.

One circumstance alone would have given jurisdiction to the "permanent court-martial" of Tamatave in regard to even civilian delinquents—that is to say, the lawful proclamation, prior to the proceedings, of a state of siege.

The declaration of a state of siege and its effects are regulated by the law of August 3, 1849, by the law of April 3, 1878, and for places in a state of war by a decree of October 4, 1891, rendered in consequence of the two preceding laws.

Tamatave in March, 1895, might have been considered as a place in a state of war.

By virtue of articles 189 of the decree of October 4, 1891, the military commander may declare a state of siege in case of investment of the place, of attack, of internal sedition, and of armed gatherings within a radius of 10 kilometers.

In proclaiming a state of siege the military commander makes known that all offenses, which he does not consider it his duty to submit to the ordinary tribunals, shall be tried by the military tribunals, whatever be the status of the delinquents.

What did the military authorities do at Tamatave? Did they proclaim a state of siege? At what period did they proclaim it? Was such declaration made in the circumstances provided by the law and in the prescribed forms?

It may be doubted whether such was the case in view of the laconic tenor of the judgment of March 18, 1895.

This judgment, in fact, only mentions upon page 2, and in quite an incidental manner, that Tamatave is "in a state of siege."

Now, from the point of view of the jurisdiction of the "permanent court-martial" in respect of a civilian, this was a circumstance of capital importance, as it alone could give jurisdiction over him. Nevertheless, the judgment does not mention either the law of 1849, nor the law of 1878, nor the decree of 1891, while, in order to fulfill article 170 of the code of maritime justice, it reproduces all the articles of law upon which it rests its jurisdiction and justifies the sentence.

Even if no court of common law or an exceptional jurisdiction existed or was competent at Tamative to take cognizance of the crime charged against John Waller or any other civilian, it does not follow that they would remain unpunished. Accused of a criminal offense perpetrated within the territory where French sovereignty was de facto exercised, and finding no judges there to judge them, the delinquents should have been removed to the nearest portion of French territory (to the Island of Réunion, for example), where all the organs of French justice were performing their regular functions, and should have been brought before a court of

common law, having jurisdiction over them, in accordance with the rules of the code of criminal procedure. The crime charged against Waller (article 78 of the Penal Code) belonged to the jurisdiction of the criminal jury (court of assizes).

In order to understand the actual facts, it must be remembered that at Tamatave at that period the French army was in a condition of open war with the Hovas, and that in particular at Tamatave it was in presence of the enemy, for at a short distance the Malagasy troops occupied the Fort of Farafata.

In such a situation a military post, established even before hostilities were begun, easily assumes the characteristics of an army of occupation. Now, armies at such a junction are authorized by the law of nations and the practice of nations to secure their own protection by exceptional methods.

We may consult upon this point an authoritative article on the jurisdiction of armies of occupation in regard to offenses committed by aliens, etc. (Clunet's Journal, 1882, p. 511, and following). Among the quotations may be remarked that of the American Instructions of 1863, and prepared for the armies in the field by the eminent Professor Lieber, revised by a commission of officers, and ratified by President Lincoln:

"ART. 7. Martial law extends to property and persons, without distinction between the subjects of the enemy and other foreigners.

"ART. 16. The consuls of the American and European nations are not considered as diplomatic agents. Nevertheless, their chanceries and their persons shall not be subjected to martial law except in cases of necessity. Any offense which they shall commit against the military government shall be punished as if it had been committed by an ordinary citizen, and such offense can not give rise to any international claim."

Conclusion.—The first permanent court-martial sitting at Tamatave had jurisdiction over John Waller, who was neither a military man nor a person assimilated thereto, if Tamatave had been, prior to the proceedings, declared in a state of siege, under the conditions laid down by the laws of August 3, 1849, April 3, 1878, and the decree of October 4, 1891.

In any case, there is a serious omission in the judgment of March 18, 1895, consisting in its not having stated the grounds of the exceptional jurisdiction, in its not having cited the laws and decrees which justify such jurisdiction, and in its not having reproduced in fine the text of the declaration of the state of siege, the basis of its exceptional common-law jurisdiction in regard to a civilian, as it reproduces the text (without date, however) of the warrant of the delegate of the chief of the naval division relating to the transmission of correspondence.

II. *Regularity of the judgment of the court-martial at Tamatave.*

Formal criticisms may be directed against it:

1. Dates.—This judgment is dated March 8, 1895, at the beginning in the official copy; this date is indicated as being that of the meeting of the court. Now, the judgment would not have been read to the prisoner before March 18, 1895, as the judgment states in fine, and yet it must have been rendered at one sitting uninterruptedly.

2. Composition of the court.—The judgment mentions the composition of the court, and cites articles 3 and 10 of the code of maritime justice. Now, the composition of the court appears irregular from the point of view of the rank of the president and the number of the judges.

(*a*) Rank of the president: Article 10 of the code of maritime justice (and the decree of February 23, 1867) prescribes for the culprit of the lowest grade (a cabin boy) that the president shall be either a captain of a vessel or a frigate, or a colonel or lieutenant-colonel. Here the court was only presided over by a captain of marines. The equivalence of this rank with that prescribed by law is doubtful.

(*b*) Number of the judges: The judges must be seven in number, including the president. Now, here there were only five, including the president: M. Lacarriere, captain of marines, president; MM. Dardaine, Bouquet, Gagnepain, Niçaise.

No act of military authority has modified the rules of its composition; this act would be relied upon and reproduced in the sentence. However, a commander of troops, even in the enemy's country, could have no right to modify the code of maritime justice. This code is a law which can only be modified by the intervention of the legislature.

It may be objected that the law of May 18, 1875, has modified the code of military justice, and that the new article 33 has permitted that when a corps d'armée is called upon to operate outside France that the court-martial may be composed of five judges in place of seven (the president being always a colonel or lieutenant-colonel).

The objection would not be founded upon law, upon the following grounds:

(*a*) The law of May 18, 1875, has modified the code of military justice of 1857, but not the code of maritime justice of 1858 applied to the present case.

(*b*) The court-martial at Tamatave was not a "court-martial in the army," for

which alone the number of judges has been reduced; it was a "permanent court-martial," as is stated in the preamble to the sentence.

(*c*) The judgment, moreover, does not cite the new article 33 of the code of military justice, but only articles 3 and 10 of the code of maritime justice. Now, these articles, not modified by the law of 1875, prescribe the rank of the president and the number of seven judges, as has been previously pointed out.

We may add that articles 3 and 10 of the code of military justice, which correspond to the same numbers of the code of maritime justice and which concern "permanent courts-martial," have not been modified by the law of May 18, 1875. They still require the presence of seven judges under the presidency of a colonel or lieutenant-colonel.

3. Advocate.—The name and profession of the advocate are not mentioned anywhere in the recitals ("qualites") of the judgment, which merely mention in a formal phrase his presence. It is impossible to ascertain from what category this advocate was taken (article 140 of the code of maritime justice) nor whether this advocate was chosen by the prisoner or appointed by the court proprio motu.

4. Evidence.—All the proceedings antecedent to the investigation of the case upon trial and of the judgment form part of the official record and should be found there. As this record is not produced, it is not possible to state whether the guaranties afforded by law to the prisoner were secured to him.

This preparatory procedure comprises two phases:

(*a*) The investigation properly so called (arts. 113 to 137 of the code of maritime justice). The order to investigate is given by the superior authority and addressed to the commissary of the Government, and the latter forwards all the documents to the judge-delegate (rapporteur). The judge-delegate (there was one such in the Waller case, for the reading of his report is mentioned on page 5 of the judgment) must interrogate the prisoner, exhibit to him the documents upon which he is charged, ask him if his answers have been faithfully transcribed (art. 131 of the code of maritime justice). He also cites and hears witnesses (arts. 132–134).

(*b*) The order for trial (arts. 138–142 of the code of maritime justice). When the investigation is concluded the judge-delegate transmits his record, with his opinion to the commissary of the Government, who forwards it to the superior authority with his opinion.

Certain formalities are of particular importance. When the order for trial has been given, this order must be notified to the prisoner three days before the meeting of the court; the commissary of the Government must also make known to the prisoner the crime upon which he is tried, the texts of law applicable thereto, and the names of the witnesses whom he intends to examine. He must direct him to choose an advocate, and from that moment the prisoner may communicate with his advocate (art. 139), who is authorized to inspect, and even to copy, the documents of the record (art. 142).

The communication of this procedure prior to the trial could alone afford the information as to whether John Waller enjoyed the guaranties afforded him by law.

Evidence during the trial (arts. 143–160 of the code of military justice).—This is the phase called by the code "of the investigation and judgment." It is public as a general rule, whereas the former procedure is secret. It is designed to complete and verify the proof made against the delinquent during the secret investigation.

Concerning the witnesses, the prosecutor examines those whose names he has notified three days before the trial. The president examines them. But, upon the trial, contrary to what has happened at the secret investigation, the depositions of the witnesses are not taken down by the clerk. In conformity with the provisions of the code of criminal procedure of common law (art. 372), article 170 (code of maritime justice) decides that the judgment (which takes the place at the court-martial of the report which the clerks must draw up of the sittings of the court of assizes in accordance with article 372 of the code of criminal procedure) must not reproduce even the answers of the prisoner or the depositions of the witnesses.

The depositions of the witnesses, examined upon public trial, against John Waller, and the answers of the latter do not therefore form a part of the record.

Extenuating circumstances.—Article 152 of the code of maritime justice prescribes the three questions which the president must submit to the judges before deliberating upon the question of the guilt of the prisoner. These three questions appear in the recitals of the judgment of March 18, 1895.

They bear the numbers 2, 3, 4. The number 1 is an additional question relating to the slight breach of the rules of correspondence.

Answers were given to these four questions, and consequently to the three questions being the minimum prescribed for every case brought before a court-martial—in this case the numbers 2, 3, and 4.

When these questions are decided by a majority of five votes against two, against the prisoner (art. 163), the prisoner is declared guilty, and the court deliberates upon the application of the penalty (art. 164).

At this moment the question of extenuating circumstances presents itself.[1]

The ministerial instructions of June 25, 1858, interpreting the code of maritime justice of 1858, are thus expressed:

"It is at the time when it deliberates upon the application of the penalty after the prisoner is found guilty, that the court is called upon, in case of need, to pronounce upon the question of extenuating circumstances, the determination of which is only mentioned in the judgment if it has been favorable to the accused; a mention of this must be made in the following terms: By a majority, extenuating circumstances are found in favor of" * * * .

In the case of John Waller "the law authorized the admission of extenuating circumstances."

(1) Because numerous articles of the ordinary penal code were applied to Waller's case (art. 364 of the code of maritime justice).

(2) Because Waller belonged neither to the land forces nor to the naval forces (art. 256 of the code of maritime justice).

It is the duty of the president of the court to call the attention of the judges to the question of "extenuating circumstances," and to give them at least that "warning" which article 341 of the code of criminal procedure directs the president of the criminal jury to give: "He warns the jury, under penalty of nullity in default of such warning, that if a majority of the jury consider that there exists in favor of one or more of the accused, while adjudged guilty, extenuating circumstances, a declaration to that effect shall be entered."

This obligation was all the more peremptory upon the president of the court-martial of Tamatave, from the fact that the court-martial of Tamatave exceptionally occupied the place of the court of common law, and that a prisoner according to the common law ought to have found before such court the same guaranties as before a court of the latter nature.

No doubt the judgment was not bound to mention the opinion of the judges upon extenuating circumstances, as such opinion is only announced and consequently inscribed upon the recitals of the judgment in case such circumstances were found in favor of the accused by a majority of votes.

But in my opinion there ought to have been found a legal record of the fact that after the prisoner had been found guilty, the president reminded the judges that in view of the status of the prisoner, and articles 256 and 364 of the code of maritime justice, it was their duty to consider whether extenuating circumstances existed in favor of the prisoner.

Such a warning constitutes a valuable guaranty for a civilian prisoner, brought thus by way of exception before a court-martial; for the admission of extenuating circumstances being a very rare circumstance in matters of military jurisdiction, a judge-office is usually inclined to forget that the law has permitted him a power of indulgence of this nature toward a civilian prisoner.

Now, in no part of the judgment are we informed that the judges had received this salutary warning or, in accordance with the very terms of the ministerial circular, "that the court had been called upon in case of need (and there was need by reason of articles 256 and 364 of the code of maritime justice) to determine upon the question of extenuating circumstances."[2]

Verdict of guilty.—Article 163 of the code of military justice decides that the three questions of guilt enumerated on page 8 of the judgment can only be determined against the prisoner by a majority of five votes against two.

This majority against John Waller did not exist upon any of these questions, inasmuch as it has been said above (in regard to the composition of the court), the permanent court-martial of Tamatave was formed only of five judges in place of seven, which was in conflict with article 10 of the code of maritime justice, cited by the judgment itself.

It makes no difference that questions 1, 2, and 4 obtained a unanimous vote of five judges. The law requires that they should be considered by seven judges, and that if they are decided against the prisoner they must be so decided by five votes against two. In case among the judges there are two who differ from the others, the possibility is evident that the majority in favor of the prisoner may, during the discus-

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[1] See in the postscript hereto note on the legal nature of "excuses" and "extenuating circumstances."

[2] "Although it results from many decisions of the court of cassation that there is no nullity involved in deciding by a special count upon extenuating circumstances, or in admitting them implicitly and attenuating or modifying the penalty, it is proper before courts-martial, and in conformity with the prescription of article 134 of the military code, to put the question to the judges. Of course, if extenuating circumstances are rejected the judgment must not make mention of the fact." (Circular of the minister of war, October 5, 1858; Champoudry, formulæ of questions to be submitted to the judges court-martial. Paris, 1891, p. 403.)

sion, be modified. Hence the requirement for the concurrence of seven judges in the judicial office.

Sentence.—Article 164 decides that the penalty shall be pronounced by a majority of five votes against two. For the reasons above stated, this majority could not have existed when the penalty was pronounced against John Waller. In fact, there were only three votes in favor of his sentence of twenty years' imprisonment.

Legal recourse (council of revision).—The recourse afforded by law to John Waller was first an appeal to a council of revision (article 171 of the code of maritime justice). For this recourse a period of only twenty-four hours after the reading of the judgment is allowed (article 173 of the code of maritime justice).

The official copy of the judgment, in its closing lines (p. 15), mentions that recourse was had for a revision of the sentence, and that that appeal was rejected on March 23, 1895. No official copy of this second judgment, which, nevertheless, must be pronounced publicly, has been produced, so that it is impossible to ascertain whether the rules laid down by articles 183 to 196 of the same code as to the procedure before the said councils have been observed.

Court of cassation.—John Waller being neither a military man nor one of those persons assimilated thereto, and not falling within any of the cases provided by articles 84 and 120 of the code of maritime justice (which, moreover, is not relied upon by the judgment of March 18, 1895), might have appealed against the judgment of the court of revision to the court of cassation, sitting at Paris, but only by reason of lack of jurisdiction (article 111 of the code of maritime justice).

It does not appear from the official copy of the judgment examined that John Waller received a notification of the rejection of his appeal for revision, or that he entered an appeal to the court of cassation.

Revision of criminal actions.—A quite recent law, of June 8, 1895, has modified article 443 of the code of criminal procedure, and decided that revision may be demanded in criminal or correctional matters, whatever be the jurisdiction which has pronounced thereupon and the penalty which has been applied. But these cases of revision are very restricted—a sentence for homicide, if the alleged victim is still alive; a sentence of a witness for perjury; bringing to light of facts or documents unknown upon trial, and of a nature to establish the innocence of the accused—procedure in this kind of revision has been rendered complex with deliberate purpose; the management thereof does not belong to the prisoner, but to the court of cassation.

Conclusion.—The irregularities alleged against the judgment of the first permanent court-martial of Tamatave, by reason of the periods expired and of the limitative restriction of the law, no longer appear to be subject to legal recourse before legal military tribunals or the metropolitan tribunals.

There remains a recourse for pardon to the French Government, which, by virtue of the high prerogatives of sovereignty, may grant the immediate pardon of John Waller.

Delivered at Paris on the 4th of December, 1895.

ED. CLUNET,
Advocate at the Court of Paris.

Postscript.—In criminal law, the question of the "excusability" of the prisoner asked in question 4 of the judgment of the court-martial, and the declaration of the existence of "extenuating circumstances" are absolutely distinct.

The first can not take the place of the second. "Excuses" are determined by law and modify the "legal guilt." "Extenuating circumstances" are left to the determination of the judge, and only bear upon "individual guilt."

The same prisoner in the same matter may benefit by both these means of reduction of the penalty. ED. CLUNET.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 23, 1895.

Your No. 421 received. Is not sentence stating D. and P. to have been identified as Draper and Purdy a mistake? American citizens supposed to have been referred to were Dupuy and Poupard. Bray, Mrs. Waller, Consul Wetter, all declare their ignorance of any such persons as Draper and Purdy. See Consul Wetter's letter, copy of which has been sent you, of April 20.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *December 26, 1895.*

Waller having written the letter, I assumed that he certainly knew whom he meant by D. and P. He states in his own deposition, sent with my No. 362, D. and P. were Purdy and Draper. The record shows that French officials believe that D. and P. were Dudert and Poupard. In his answer to interrogatories Waller denies this and says that he meant the two English miners who had cheated him. In his deposition he says the two men who had cheated him and to whom he had referred were Draper and Purdy. If I made a mistake in my inference I was misled by Waller's sworn statement. Dupuy is not mentioned in the proceedings in the record. Dudert and Poupard are described as two honorable American merchants. The copy of the letter of Consul Wetter to which you refer has never been received by me, but in one he addressed to Waller, which is part of the record, he tells him that his bad action in regard to D. and P. can not but excite the Americans against him.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 6, 1896.

Waller. If cruel treatment specified in your confidential August 30 was inflicted, how can French offer be accepted unreservedly? Waller's affidavit as to exact facts should be taken. If his statements are accepted there, should be reasonable indemnity for the cruel treatment. If disputed, would it not be satisfactory if offer of immediate release were accepted with right on our part to prove and claim damages for the cruel treatment above specified?

OLNEY.

Mr. Eustis to Mr. Olney.

No. 439.] EMBASSY OF THE UNITED STATES,
Paris, January 10, 1896.

SIR: I have to acknowledge the receipt of your telegram of the 6th instant, calling my attention to the difficulty of accepting unreservedly the offer of the French Government to settle the Waller case by immediately releasing the prisoner, if it is true, as Waller states, that he has been subjected to cruel treatment.

No time was lost in presenting the question under that light to both the minister, whom I saw day before yesterday, and to the official having charge of the matter at the foreign office, and I regret to say that the result of these conferences is that the French Government is determined not to pardon Waller unless it is well understood that this pardon ends definitely the matter between the two Governments.

The French Government contends that Waller was tried by impartial and competent judges with due regard for the rights of the defense;

that he was treated with indulgence, for he might have been tried as a spy, which would have brought upon him a sentence of death; that he is actually the recipient of exceptional favors extended to no other convict, and that the offer of Mr. Hanotaux to pardon him was made, not because it was felt that he had been impartially treated or because he was entitled to any sympathy, but simply to be agreeable to the United States Government.

With regard to the statement that Waller was subjected to cruel treatment after his conviction—a statement not heard of before at the foreign office—Mr. Berthelot would not admit the possibility of its being true, and said that even if such was the case the only way Waller could obtain an indemnity would be to bring a civil action against the officers culpable of such an offense. As for the Government, the only thing it could do would be to investigate the matter, if we made a request to that effect, and to punish the officers responsible for the bad treatment complained of by Waller if it was found that such bad treatment had been inflicted.

Mr. Berthelot's declaration was so positive that the French Government would not modify its proposed pardon that even if I had presented the affidavit of Waller I am convinced that it would not have influenced in the slightest degree his determination.

Mr. Hanotaux had expressed to me, when permission was granted to take Waller's deposition, that it was contrary to all precedent, and he realized that he assumed a serious responsibility. We must take into consideration that a request to allow us to take the affidavit of a man condemned to solitary confinement, to be used against the Government, is such a relaxation of prison discipline that the ministry may well hesitate to grant such a request.

Inasmuch as Waller's affidavit would be utterly useless for the purpose intended, I have delayed making the request until further instructed.

In conclusion I may say that in my opinion the French Government would not consider our unreserved acceptance of the pardon of Waller under the terms offered as a bar to any action Waller would take, after his release, to obtain from the courts of justice damages for the treatment of which he complains. I am satisfied that Mr. Berthelot would consent to investigate, officially, the matter, and that the French Government would not hesitate to apologize if the facts sustained Waller's charge, and to punish the offenders.

I have, etc., J. B. EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 15, 1896.

When shall I get reply to my cable of 6th instant?

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *January 16, 1896.*

Reply was too long to be cabled. It left in last Friday's bag.

EUSTIS.

Mr. Eustis to Mr. Olney.

No. 445.] EMBASSY OF THE UNITED STATES,
Paris, January 18, 1896.

SIR: Referring to my No. 413, of December 3, 1895, sending you a copy of Mr. Waller's letter of November 22, stating the terms upon which he is willing to accept his release from the French Government, I inclose herewith copy of another letter from the same, dated January 4, 1896, received only this morning, in which he maintains his right to claim an indemnity from the French Government for unlawful deportation and detention.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 445.]

Mr. Waller to Mr. Eustis.

No. 1693.] MAISON CENTRALE DE NIMES, FRANCE,
January 4, 1896.

SIR: I have the honor to acknowledge the receipt of my baggage, which arrived on the 3d instant. I am very thankful to you for having secured it for me.

I deem it necessary to direct your attention to the fact that the prison authorities here found a letter among my effects which they confiscated without permitting me to see it; therefore I do not know the contents of said letter. The letter appeared to be sealed and addressed to me. I can not be held responsible for any letter that may have been found in my baggage, which has been forcibly detained and held from me in an open condition during nine months. The letter may be one of no importance.

Referring to the nonacceptance by the French Government of the terms proposed by me in a letter dated November 22, 1895, and addressed to you officially, relative to my release, etc., I desire to say that by reason of said terms not having been accepted as per said letter the case stands thus: The legality of my trial and conviction is hereby denied. I maintain the right to claim indemnity against the French Government for unlawful deportation and detention, the measure of damages to be based on established precedents—in such cases as that of the expulsion of the British proconsul from Bluefields, and the case of the two months' detention of a British missionary at Tamatave in 1883. For the two months' detention of the latter, France paid $5,000. I have been detained ten months. Please send the dictionary.

Your obedient servant,

JOHN L. WALLER.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 22, 1896.

Would not French citizen maltreated on voyage, as Waller alleges himself to have been, have right to sue French Government for damages as well as private individuals? If there is doubt on the point take Clunet's opinion. In this connection, was or was not Waller during voyage in custody of ship or of French military authorities? Cable answer.

OLNEY.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 23, 1896.

Take Clunet's opinion on point whether alien maltreated as charged by Waller could not by the French law sue French Government as well as individuals for damages.

OLNEY.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *January 24, 1896.*

Reply to your two telegrams, Clunet's opinion is that a Frenchman can sue the State, but not before ordinary judicial tribunals. Such suits can only be brought before what are known here as "administrative" tribunals. No difference in this respect between an alien and a Frenchman.

EUSTIS.

Mr. Olney to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1896.

Is the French proposition that Waller be released; that such release close the incident as between the two Governments, leaving Waller the same rights and remedies before French tribunals as would, under the like circumstances, be available to a Frenchman?

OLNEY.

Mr. Eustis to Mr. Olney

[Telegram.]

PARIS, *January 28, 1896.*

If the proposed release is accepted, it leaves Waller the same rights and remedies before French tribunals as would under like circumstances be available to a foreigner.[1] The foreign office will then require an exchange of letters with this embassy that the incident is closed between the two Governments.

EUSTIS.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *January 30, 1896.*

Foreigner in mine of 28th is a mistake in ciphering. It should be Frenchman. Mr. Clunet repeats that there is no difference between foreigner and Frenchman, except with regard to securities for costs. Referring to your cable of the 22d, the consul at Marseilles has been unable to find out positively under whose charge Waller was during voyage. He believes, however, he was in charge of the captain of the boat.

EUSTIS.

Mr. Olney to Mr. Eustis.[2]

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 4, 1896.

You are authorized to effect release of Waller on terms proposed by French Government, making necessary exchange of notes. Cable when Waller is actually released. If necessary, you can furnish him with transportation to the United States.

OLNEY.

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[1] Frenchman.

[2] Not included in House Document No. 225.

Mr. Olney to Mr. Eustis.[1]

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 5, 1896.

Cable me best idea you can form of time when Waller will be actually released.

OLNEY.

Mr. Olney to Mr. Eustis.[1]

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 6, 1896.

Should Waller upon his release desire to bring suit in French courts, based upon personal illtreatment suffered during voyage, you are authorized to arrange such security for costs as will enable him to sue.

OLNEY.

Mr. Eustis to Mr. Olney.[1]

[Telegram.]

PARIS, *February 6, 1896.*

Your telegrams of 4th and 5th received. I called upon minister for foreign affairs, to whom I stated that am authorized to accept Waller's release on terms offered, and handed him a formal note to that effect. He promised to see his colleagues and President at once. He anticipates no difficulty and assures me that Waller will be released within a week; the formalities of release require action of several departments. Will telegraph you when advised.

EUSTIS.

Mr. Eustis to Mr. Olney.[1]

[Telegram.]

PARIS, *February 14, 1896.*

Have been disappointed at the delay of Waller release. The ministers could not agree at first which one should prepare a decree for President's signature. They finally decided that it should be ministry of marine. The Minister for Foreign Affairs on Wednesday informed me that it will be done at once. I have personally visited several departments to accelerate action. It is now a mere question of formality. I send this dispatch to inform you that I have used every means to secure prompt release.

EUSTIS.

Mr. Eustis to Mr. Olney.[1]

[Telegram.]

PARIS, *February 20, 1896.*

The President signed this morning Waller's pardon. Orders are being issued for his release.

EUSTIS.

Mr. Eustis to Mr. Olney.[1]

[Telegram.]

PARIS, *February 21, 1896.*

Released.

EUSTIS.

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[1] Not included in House Document No. 225.

II.—DISPATCHES FROM THE CONSUL OF THE UNITED STATES AT TAMATAVE.

Mr. Wetter to Mr. Uhl.

No. 81.] CONSULATE OF THE UNITED STATES,
Tamatave, March 11, 1895. (Received April 13.)

SIR: I have the honor to call your attention to the arrest on March 5 at 2 p. m. of John L. Waller on the charge of having violated a certain Article III in the order of January 18, 1895, by dispatching a letter on board the steamship *Umlazi* addressed "Antananarivo via Natal and Vatomandry" without same having been viséed by the military authorities.

I heard of Waller's having been arrested and immediately wrote demanding the reason for same, and expressing the hope that the evidence on hand was of such a character as to fully warrant such high-handed measures; later on, letters came to hand from both the naval and land force commandants explaining Mr. Waller's arrest.

I also at once engaged an attorney to represent Mr. Waller, but all his examinations and of the witnesses have been held privately, and so far he has not been granted legal advice, nor has the attorney or anyone else been permitted to see him.

It is claimed that Waller wrote a letter in January to one Tessier inclosing another to Mrs. Waller, and that this letter or letters now in the hands of the French authorities prove that he was furthermore giving the Hovas advice and information.

I have, etc.,

EDWARD TELFAIR WETTER.

Mr. Wetter to Mr. Uhl.

No. 82.] CONSULATE OF THE UNITED STATES,
Tamatave, March 25, 1895. (Received April 30.)

SIR: I have the honor to state that the Waller affair culminated in his trial by a military court and a sentence of twenty years' imprisonment. Furthermore, his stepson, Paul Bray, has been expelled from Madagascar, and leaves per steamer *Djeunah* to-day for Zanzibar.

I have been busy trying to get such papers as I have received from the French authorities translated and ready for transmission by this mail, but finding I will not be able to do so and that they are very incomplete, I will merely send you herein the information of the position I have assumed and my reasons therefor, and will send all documents and copies of letters, etc., by next mail.

As soon as I heard that Waller had been arrested, I immediately wrote as stated in my No. 81 of March 11. This letter was taken to the residency by Paul Bray, Waller's stepson, and delivered. Immediately he was handed a letter from Commandant Campion, deputy in Mr. Kiésel's absence, by the commandant himself for me. This was the formal notice of Waller's arrest. Bray had scarcely delivered same here when Lieutenant-Colonel Colonna's messenger arrived with a letter written per

orders of Mr. Campion re Waller's arrest, and somewhat more specifically stating the reasons therefor. As these letters were not written in reply to my No. 212, and as I was unable after diligent search in the few international authorities here to find a precedent for action here, I sent for Bray, and told him he had better secure counsel to defend his father. This he did, representing to Mr. Girandeau that I had requested Girandeau to act, and leaving him under the impression I would pay the cost, and this without my authorization.

The question involved in Waller's arrest seemed to me to be one of jurisdiction, if the French military authorities were possessed of the right to arrest and try him, under paragraphs 349 and 432, I did not feel warranted in interfering unless the man was ill-treated or denied justice.

The authorities had notified me, in the letters before mentioned, that he was to be tried for a violation of Article III[1] of the printed order contained in my dispatch, No. 79, of February 7, as inclosure No. 1. The punishment for this offense was, I was informed by Mr. Girandeau, a fine of 5 to 15 francs; hence was so petty a matter as to preclude the assumption that there would be any injustice.

On the other hand, if the military occupation of Tamatave, without war having been formally declared, could not change (without the consent of the treaty powers, who had extraterritorial rights here and consuls commissioned to duly protect and secure them) any preexisting jurisdictional rights or tribunals the French authorities would have no jurisdiction over Mr. Waller. To raise that issue here now would mean so much to the French and would cause such bitter animosity toward every American, that I felt it would be unwise to assume the position unless fully warranted therein by the law of nations. I regret that among the few works of reference at my disposal here, or procurable, on international law, I was utterly unable, after a search covering many days, to discover any cases quoted in point.

It seems to me that the French can only obtain such rights to military occupation here as appertained to the Malagasy, and if the jurisdiction was limited so must be that of the French until by formal treaty this place had been ceded to them and its sovereignty passed over, our extraterritorial rights continued in force, and an American could only be tried by a mixed court, the United States consul presiding, at the most.

I regret to say that Girandeau, after examining the case and making copies of the entire record (for which, by the way, I have paid $15 out of my pocket, only to have the military authorities demand these same copies from him), refused to go on with Waller's defense unless he were paid a fee of $150. Waller's friends refusing to contribute anything, the other Americans here assuming the same position, and I being officially prohibited by paragraphs 349 and 432, before quoted, this heavy charge would have to fall on me if I paid; hence I refused to pay it, with the result that Girandeau withdrew from the case. The military authorities secured all the copies I had made and later appointed a French lawyer to defend Waller, with the result above given.

Waller leaves to-day for Marseilles, en route for a French military prison (I suppose Corsica).

I am, etc., EDW. TELFAIR WETTER.

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[1] For Article III, see inclosure 10 to dispatch No. 88, page 78.

Mr. Wetter to Mr. Uhl.

No. 87.] CONSULATE OF THE UNITED STATES,
Tamatave, April 20, 1895. (Received May 31.)

SIR: I had the honor in my dispatch, No. 82, of March 25 to state that as a sequel to the Waller trial and case his stepson, Paul H. Bray, had been expelled from Madagascar.

In further explanation of this statement and to enable you to have a complete understanding of the case, I have inclosed herein copies of all correspondence that has passed between myself and the French authorities regarding this affair, as also of the letters that passed between Mr. Bray and myself (the perusal whereof may be interesting).

For nearly a week prior to his actual departure, with the exception of one night, and that only because of John Dublin's illness, Bray sought shelter and food at my house. I offered Bray, when I received Lieutenant-Colonel Colonna's and Commandant Kiésel's letters, an asylum in the consular premises until such time as I should receive instructions from you, or until the French authorities had satisfied mē that they were acting entirely within their right, not might, and that his conduct warranted such action toward him.

Bray, however, wouldn't hear of it, and besides he was anxious to get on toward London to try and float the Waller concession, near Fort Dauphin. Therefore I gave him such slight monetary assistance as I could afford to spare, and confined my exertions in his behalf to the protest against landing him at Zanzibar contained in my letter to Lieutenant-Colonel Colonna.

I think the main reason for Bray's expulsion was that he refused to sign the evidence they tried to extract from him at a preliminary hearing of the Waller affair, because same was not in English, but in French, and Bray claimed not to know French.

I am, etc., EDW. TELFAIR WETTER.

[Inclosure 1 in No. 87—Translation.]

Lieutenant-Colonel Colonna to Mr. Wetter.

No. 671A.] TAMATAVE, *March 22, 1895.*

Mr. CONSUL: I have the honor to inform you that by a measure of high police on the part of the military authority, Mr. Paul Bray, your countryman and stepson to Mr. Waller, is expelled from Tamatave and will embark on board of the *Djeunah*, expected here on the 25th instant, for Zanzibar, where he will be handed by the French consul to your colleague.

From the instructions I have received from the captain of frigate, deputy of the chief of the naval squadron, you have not in the least to care about the costs of this voyage, which will be borne by the budget of the "occupation corps."

Will you accept, etc.,

COLONNA.

[Inclosure 2 in No. 87.]

Mr. Wetter to Lieutenant-Colonel Colonna.

No. 215.] CONSULATE OF THE UNITED STATES,
Tamatave, March 24, 1895.

SIR: I have the honor to inform you that your communication, No. 671, of March 22, 1895, was duly received on the afternoon of the 22d instant.

The reason of this action against Mr. Paul Bray does not appear in your communication, therefore I can only suggest that it seems a very harsh measure to transport this young man to Zanzibar, where he has no friends or acquaintances, and leave him there without means of subsistence.

I would also suggest that my colleagues there will in all probability refuse to accept this man under such circumstances.

Thanking you for your letter above mentioned, I am, etc.,

EDW. TELFAIR WETTER.

[Inclosure 3 in No. 87.]

Mr. Bray to Mr. Wetter.

TAMATAVE, MADAGASCAR, *March 24, 1895.*

SIR: I have the honor to inform you formally that an order was served upon me about 4 p. m. on the 21st instant by a French gendarme, from which it appears that I am to be expelled from Tamatave by the French military authorities, per Messageries maritime steamer *Djeunah* destined for Zanzibar.

As the steamer is expected in a few hours whereon I am to leave, I wish to make the formal statement to you that I have done nothing that can in any way interfere with the French military occupation of this place; but owing to the unfortunate position of my stepfather, and the fact of my color and resemblance to the Hovas, and of my having been previously arrested as a Hova by the military authorities here, I consider that my life would be seriously endangered by my remaining here after the receipt of this order.

Under such circumstances I feel bound, for my own safety, to submit and leave to-morrow as per the order aforementioned; but, sir, I certainly feel that it is an outrage upon the rights of an American citizen in this country for me to be thus driven out of the country and forced to abandon my father's family and rights here.

As American consul I know that you would do your utmost to protect me in all my rights, and I thank you gratefully for the kind interest you have shown in your advice to me upon this matter, but feel compelled by force of circumstances to request that your efforts be confined to an impartial representation of this case to the Department of State, as I honestly believe and fear that any suspension of this order of expulsion demanded and secured by you would only lead to my private assassination.

Although what I am to do in such a place as Zanzibar and how I can in any way assist my poor father's family I can not see, yet any condition there will be preferable to my remaining here and bearing the insults and the chances of being murdered by French partisans.

However, on my arrival at Zanzibar I shall protest against being landed there without means of subsistence.

I have, etc.,

PAUL H. BRAY.

[Inclosure 4 in No. 87.]

Mr. Wetter to Mr. Bray.

No. 217.] CONSULATE OF THE UNITED STATES,
Tamatave, March 24, 1895.

SIR: Your letter of even date to hand and contents noted. Agreeable to your request I will confine my efforts in your case to a representation thereof to the Department of State and to a representation to the military authorities here of the injustice to you of landing you at Zanzibar where you claim to have neither friends nor acquaintances and will be without means of subsistence.

Remember you are welcome to an asylum here, and will meet with every protection at my hands or in my power.

I am, etc.,

EDW. TELFAIR WETTER.

I certify this and the foregoing two pages to contain an accurate copy of the originals on file and record in this consulate.

EDW. TELFAIR WETTER,
United States Consul.

TAMATAVE, *April 20, 1895.*

[Inclosure 5 in No. 87—Translation.]

Commandant Kiesel to Mr. Wetter.

Mr. CONSUL: I have the honor to acknowledge receipt of your letter, No. 216, of March 24, received this morning, as also of a letter intended for Lieutenant-Colonel Colonna.

The letters written by the lieutenant-colonel are but notices which may concern the inhabitants, and have, in my correspondence, only an administrative and officious character toward foreign consuls. I beg you to go back to my No. 85 of March 22, in which I gave you notice that I must needs issue a decree expelling Mr. Paul Bray. I therefore retain for myself your letter addressed to Lieutenant-Colonel Colonna.

I regret that the first opportunity by sea presenting itself should go northward, and also that the first foreign shore should be Zanzibar. But it is absolutely necessary to defend ourselves from hatred of too public a nature, the consequences of which might be in all respects deplorable.

Assuming all the moderations compatible with the situation, I am nevertheless resolved to rigidly enforce my right, which I hold my strictest duty, against the abettors of hatred against us, who, were they by a culpable weakness allowed to work secretly in our midst, would to-morrow become our declared enemies. I have requested from the administrative service an authenticated copy of the decision of March 22 relative to P. Bray. I trust I shall be able to forward it to you before the departure of the *Djeunah*.

Will you accept, etc.,

KIESEL.

[Inclosure 6 in No. 87—Translation.]

Decree expelling Paul Bray.

FRENCH REPUBLIC.

In virtue of the full military and civil powers which I have received over Tamatave and the East Coast from the post captain chief of the naval squadron by special decree dated December 28, 1894, I, the undersigned, Kiesel, frigate captain commanding the *Papin*, on the report of Lieutenant-Colonel Colonna, commanding the city of Tamatave in the state of siege, and after acquainting myself with the letters seized and produced before me relating to the John Waller case, seeing that Mr. Paul Bray deceived the watchfulness of the authority and dispatched letters, that he violated not only article 3 of the regulations on correspondences, but also the decree of January 26 relative to the postal service, and that it results (from the letters seized) that he had previously dispatched compromising information to Antananarivo, in view of the necessity of defense, decide that Mr. Paul Bray shall be expelled from Tamatave, and it is forbidden him to sojourn anywhere in Madagascar.

This decree shall be immediately enforced by first opportunity. He will therefore be placed on board of the *Djeunah*, of the Messageries maritimes, and landed at Zanzibar, where he will be handed over to the United States consul.

The lieutenant-colonel commanding of the place of Tamatave and the chief of the administrative service are both charged, each in his own jurisdiction, with the execution of the present decree.

Issued at Tamatave, March 22, 1895.

KIESEL.

Mr. Wetter to Mr. Uhl.

No. 88.] CONSULATE OF THE UNITED STATES,
Tamatave, April 20, 1895. (Received May 31.)

SIR: I have the honor, in continuation of my No. 82, of March 25, 1895, to transmit you herein such documents, copies of letters, etc., as I have in hand re this affair, as also to state that, contrary to my expectations, neither copies of the evidence, minutes of proceedings, or of the letters, etc., introduced in this affair have been sent me.

The night before Bray's departure he brought me down a packet of papers and requested that I keep same until he could safely send for them. A little questioning brought out the fact that they were the notes made by Waller's lawyer, the Frenchman, Le Garrac, from the evidence against Waller. He then offered them to me if I would dispatch them to the Department. On examination I find same very incomplete, so much so as not to be worth transmitting. Should the Department, however, desire them I will translate and transmit them at once.

Now, as to such details as I have not given in my two former dispatches or as are not contained in inclosures.

Waller, about January 20, sent a letter addressed to a Mr. Tessier, an English-Mauritian at Antananarivo, a friend of his. Therein was a letter addressed to Waller's wife. Both these letters were dated January 23, 1895, but were mailed January 20, by Waller himself, on board the *Umlazi*, of the Donald Currie Line, and were addressed "Antananarivo, via Natal and Vatomandry."

The letter to Tessier was full of gossip from Tamatave of a character very uncomplimentary to the French soldiers, but not containing any contraband information. It furthermore called Tessier's attention in a very pointed manner to certain news contained in the inclosed letter to Mrs. Waller, and insisted strenuously that same must be acted on at once, etc.

The letter to Mrs. Waller started out with a most malignant tirade against myself of the Geldart-Lyons cases; asserted that myself and Geldart had conspired to ruin Lyons; that Lyons stood no better chance to get justice than Waller did before me, etc. Was also very bitter against Duder, Poupard, and Geldart, using about these words: "Geldart, Duder, and Poupard are as thick now as three in a bed, and Wetter is their god. I will inform you that D. and P. are on their way to Antananarivo, and they will likely reach there long before this letter leaves Tamatave. Please inform Mr. Tessier and our friends that both of these men have been sent up there by the French to find out secretly all the movements of the Hova Government, which they will send to the French authorities from time to time. Therefore the Government had better keep a strict watch on these men and order them from the capital as soon as possible. Both of them are for the French. * * * And please destroy it (the letter) as soon as you and Mr. Tessier have read it, and do not mention to anyone but Mr. Tessier and the secretaries about the information which I send you." The letter then gives a two or three page dissertation on the difficulties of living in Tamatave, some very bitter anecdotes about the French ravaging Malagassy women, and winds up with instructions that if Waller should die of smallpox from being here Mrs. Waller was to have his solicitors in Washington sue the Administration and myself for $20,000 damages, with interest, for forcing him to remain here exposed to such dangers, etc.

Among Waller's papers seized at his house they found some letters from a Malagassy named Ratsimanana, which related mainly to a recital of the many endeavors he had made to borrow money for Waller so as to pay off the Crockett claim, and to some commissions Waller was to execute for him in London. Another, I believe, spoke of some revolvers Waller had promised him; and another had a passage cut out. Of this letter Waller said in an unmailed letter to his wife, found among his papers, I believe, "It was a godsend that they didn't get to open Ratsimanana's letter. If they had Paul would have been shot on suspicion. Let me warn you to be careful."

Personally, I have no doubt, nor has anyone else here, white or black, that had Waller's letters of January 23 reached Antananarivo, Duder and Poupard would have been murdered. Whether Waller really meant them by "D. and P.," I can not say. He says it was Draper and Purdy, but no one ever heard of such parties at the capital, while Duder and Poupard were supposed to be in Antananarivo at the same time he wrote these letters.

But, in my opinion, none of this business concerned the French. If Waller were scoundrel enough to attempt to have these men's lives taken by the Hovas, as they were Americans it would concern this consular court and not the French.

Waller was not here of his own volition. He was here because he dared not attempt to leave until he had satisfied the Crockett judgment.

Waller's wife and a person under British protection, a British subject like Tessier, could not be considered enemies to France.

Again, these French laws of siege, etc., are for European wars. Where there is now no extraterritorial jurisdiction accorded consuls they can't apply, without grave modifications, in such countries as Madagascar.

I sent for Le Garrac before the Waller trial and suggested these and many other points for Waller's defense, but he was either unwilling to make use of them or afraid to. I offered him any assistance I could render him, even as I had done to Girandeau, before he threw up the case, and sent him the office copies of Wheaton and Wharton, with salient and pertinent passages marked. He requested me to do nothing until after the first trial, then if he lost he could use my influence, etc., on the appeal or revision.

Le Garrac was present when I saw Waller on the 20th, and he, at my request, had some complaint Waller made about his food attended to. The very harshness of the sentence—the extreme penalty of the law—gave Le Garrac great hopes for his appeal. And now he and the majority here say Waller will be free as soon as the war is over. Yes, he may be; but the war has not begun yet. It may last a very, very long time. If the French are not doing any more at Majonga than they are doing here it certainly will.

I am, etc., EDWARD TELFAIR WETTER.

[Inclosure 1 in No. 88—Translation.]

Notice of arrest.

No. 31.] DIVISION NAVALE DE L'OCÉAN INDIEN,
Tamatave, le 5 Mars, 1895.

Mr. CONSUL: I have the honor, Mr. Commandant Kiesel being absent, of informing you that I have to-day issued an order handing over John Waller, who is accused of having infringed article 3 of the decree of January 18, 1895, relative to the sending of letters, to the military justice.

Will you accept, etc., CAMPION.

[Inclosure 2 in No. 88—Translation.]

Lieutenant-Colonel Colonna to Mr. Wetter.

No. 627A.] TAMATAVE, *March 5, 1895.*

Mr. CONSUL: I have the honor to inform you that in virtue of an order issued by the deputy of the chief of the naval squadron, I have had John L. Waller, one of your countrymen, arrested to be impeached at the military tribunals.

John Waller took the liberty toward the end of January last to start on its way to Antananarivo a letter, which he took on board of the English mail directly. The boat was to carry it to Natal, whence, according to his calculations, the letter would be sent direct to Vatomandry, thus escaping the examination of the military authorities.

By so doing Waller infringed the prescriptions contained in article 3 of the decree of the deputy of the chief of the naval squadron dated January 18, 1895.

Besides this infringement the inquest, which I am about to order, will perhaps reveal graver deeds which the reading of this clandestine correspondence may make jurisdictionable.

Will you accept, etc., COLONNA,
Commandant Superior of the Troops and of the Place in state of Siege.

[Inclosure 3 in No. 88.]

Mr. Wetter to Captain Kiesel.

No. 212.] CONSULATE OF THE UNITED STATES,
Tamatave, March 5, 1895.

SIR: I have just been informed that at or about 2 p. m. to-day the gendarmes, acting, it is stated, under military orders, went to the present residence of Mr. John L. Waller, an American citizen and ex-consul of the United States at this place, and seized all his papers, documents, etc., and arrested his person.

Furthermore, that the said gendarmes also searched and took with them all papers, documents, etc., in said residence belonging to another American citizen, one Paul H. Bray.

I furthermore understand that when Mr. Waller demanded their authority for such high-handed measures he was shown a paper purporting to be a requisition from the military authorities, but the parties refused to state what charge was made against him or give any further information.

I must therefore request that I be immediately informed why Mr. Waller has been arrested, and on what charges; also where he has been incarcerated, etc.

As to my knowledge this person has been leading a most peaceable and quiet existence since his arrival here in September last. I must express my surprise at this action against him, which can only be warranted by a most grave breach of the laws, and sincerely hope for the sake of the good relations and friendship between France and the United States that the evidence in hand will warrant such extreme measures.

Requesting your earliest attention, I am, etc.,

EDWARD TELFAIR WETTER.

[Inclosure 4 in No. 88.]

Mr. Waller's appeal to Mr. Wetter.

MILITARY PRISON, *Tamatave, March 18, 1895.*

DEAR SIR: Mr. Woodford called to see me this evening and says that you are doing all you can to get me released from this trouble, which I am surprised and pleased to hear, since Mr. Girandeau told me that you positively informed him that you would not aid me in any manner. I think if I had had the benefit of your official influence to-day the judgment might have been different. But be that as it may I wish to ask your assistance and aid as an American citizen, as I have taken an appeal from judgment of to-day. I wish also to ask your pardon for the manner in which I mention your name in a letter to my wife, dated, I think, January 23, 1895. It was done in the heat of passion and under great mental pressure; therefore I here and now recall and expunge every reference to you from said letter. This I offered to do to Mr. Girandeau, but it seems that you refused it. Please aid me as an American, as you are the only official representative we have here.

Trusting to receive an affirmative reply, and that Mr. Woodford was not mistaken when he assured me that you will help me, and that you will pardon me for the adverse words used about you in the letter mentioned.

I have the honor to be, your obedient servant,

JOHN L. WALLER.

UNITED STATES CONSULATE,
Tamatave, April 17, 1895.

I certify that the foregoing is an exact and verbatim copy of the original on file in this office.

EDWARD TELFAIR WETTER,
United States Consul, Acting.

[Inclosure 5 in No. 88.]

Mr. Wetter to Mr. Waller.

No. 213.] CONSULATE OF THE UNITED STATES,
Tamatave, March 20, 1895.

SIR: Your note dated March 18 was received on the afternoon of the 19th. It would have been replied to the same day but for certain assertions therein contained, which I deemed it advisable to first inquire into.

In view of your knowledge of paragraph 432, Consular Regulations, which states, "But their efforts should not be extended to those who have been willfully guilty of an infraction of the local laws," I can understand your surprise at my using my consular position for the purpose of in any way protecting or attempting to secure you any amelioration of the penalty you have thus willfully laid yourself open to.

Such assistance as I can lawfully render you I have and will willingly accord you at all times, but you must distinctly understand that I can not take any steps for your benefit that do not come within the rights of every American, nor can I raise on your behalf any issue that may result in jeopardizing American interests or rights here unless such action be fully warranted in my opinion by the law of nations or be directly ordered by the Department of State.

As to the language made use of by you in the letter you mention, I do not desire to discuss that matter with you. There is no apology or excuse that you can possibly offer for same that will at all excuse it. Personally I am not a man to bear malice against anyone, nor have I ever indulged in the cowardly habits of "backbiting" and of kicking a man when he is down; therefore whatever I can lawfully do for you in my official capacity, I repeat, I have done and will continue to do.

There were two passages in your note which seemed to me inexplicable (I allude to the paragraphs wherein you state, respectively, "Since Mr. Girandeau told that you positively informed him that you would not aid me in any manner." * * * "I here and now recall and expunge every reference to you from said letter; this I offered to do to Mr. Girandeau, but it seems that you refused it" * * *); therefore I called upon Mr. Girandeau and showed them to him this last evening, only to receive the assurance that they were false and untrue and base perversions on your part, Mr. Girandeau having never given you any such information nor held any conversation with me concerning such desire on your part to excuse the language you mention.

I shall lay before the Department of State the full details of your case and request their consideration thereof. I do not feel, however, that I am warranted in holding out any great hope to you of immediate action, as I greatly fear your dastardly attempt on the lives of D. and P. will be apt to prejudice the mass of your fellow-countrymen against you. Absolute justice and protection against oppression will undoubtedly be accorded you, but you ought scarcely to expect clemency.

I will call about 4.30 p. m. this afternoon at the jail to see you if there be any matter whereof you specially desire the Department to be informed or wherein I can officially assist you.

I am, etc.,

EDW. TELFAIR WETTER.

[Inclosure 6 in No. 88.]

Mr. Wetter's protest to French commandant.

No. 214.] CONSULATE OF THE UNITED STATES,
Tamatave, March 21, 1895.

SIR: I have the honor to call your attention to the fact that my letter, No. 212, of March 5, 1895, has up to date received no acknowledgment at your hands. It is true your Deputy Commandant Campion's letter, No. 31, of March 5, was received just after the dispatching of my said communication, but as it did not reply to nor was it evidently intended as a reply to my said No. 212, no action was taken by this consulate in relation thereto over and beyond the nomination and temporary appointment of Mr. G. Girandeau, an attorney, to examine into Mr. Waller's case, and to report to this consulate the status, etc., thereof, with the ultimate intention, if necessary, of his defending Mr. Waller, which intention was not carried out, for reasons not here necessary to mention, and was an entirely unofficial act on my part, and therefore was and is an absolutely immaterial matter in the past and present status of Mr. Waller's case.

Permit me to add, however, that I have daily expected some notification in reply to my No. 212 from yourself or your subordinates as to the charge whereunder Mr. Waller was being or was about to be tried, the character of the evidence whereon said charge was based, and, lastly, the time and place of trial. I regret to say that officially none of these essential facts have ever been communicated to me. As far as I understand Commandant Campion's letter of March 5, and that of M. Colonna, colonel superior, etc., of the same date and received about the same time, and unanswered pending receipt of further information from yourself, or deputy, in reply to my said No. 212, it was merely the statement that Mr. Waller had been arrested and was to be tried for an infraction of article 111 of a printed military order dated January 18, 1895, but not received at this consulate until after the departure of the mail of January 28, 1895, by the mailing of letter or packet of letters on board the English steamship *Umlazi* on or about January 20, without the

same having been first visaed by the military authorities. It is true that the letter of M. Colonna, colonel superior, etc., suggested the probability that a perusal of said letter of Mr. Waller's might show cause for a more grave charge being made against him than the one whereunder he was arrested.

I would further state that under such circumstances this consulate felt scarcely warranted in interfering in the matter, it being nominally so petty a misdemeanor as to be punishable by a very petty fine only; feeling, furthermore, confident that an American—never mind what his color or status—would always meet with every leniency and with absolute justice at the hands of yourself and subordinates.

To my surprise, the arraignment of Mr. Waller was made on an entirely different ground and for an entirely different offense than the one nominally stated to this consulate in M. Campion's and M. Colonna's letters above referred to, and this without any official notice to this consulate of any kind whatsoever.

Furthermore, the trial was held and judgment given under the same circumstances of absolute official silence and noncommunication.

Without at present going into the question as to what tribunal under the law of nations has and had actual jurisdiction over Mr. Waller in this instance, I must add that the sentence imposed upon Mr. Waller seems to me so heavy, the circumstances above alluded to so unusual, and the question of jurisdiction so grave that I feel compelled to refer this case to the Secretary of State of the United States for the consideration of my Government; I would, therefore, request that you will kindly favor me with properly authenticated copies of the entire evidence, charge, proceedings, and judgment in the case for transmission to the United States.

Should it be possible to furnish me these documents prior to the departure of the next French mail steamer, your courtesy will be all the more augmented and appreciated.

In conclusion, permit me to state that I have indirectly heard that a revision of this judgment may be shortly held; if so, I would further request a copy of such revisions, etc., for like transmission to my Government.

And, finally, I would request information as to where the sentence found against Mr. Waller is to be carried into effect.

Thanking you in advance for the expected courtesy of your earliest attention, I am, etc.,

EDWARD TELFAIR WETTER.

[Inclosure 7 in No. 88—Translation.]

French commandant's reply.

No. 85.]

FROM ON BOARD, *March 22, 1895.*

Mr. CONSUL: I have the honor to acknowledge the receipt of your letter, No. 214, of March 21, 1895, received to-day.

I regret not to agree with you on the subject of yours, No. 212, of March 5. Letter 31, of March 5, which Commandant Campion, who replaced me during my absence, wrote you, answered your question. Moreover, it results from the declaration of the Government commissary near the council of war that M. Girandeau, who had introduced himself as the barrister of J. Waller and had taken copies of the papers of the case, imparted to you the whole or part of those documents. I will not here qualify the irregularity of this proceeding, which is absolutely opposed to all the rules admitted by French justice, and of which, for the time being, M. Girandeau is alone to bear the responsibility. Lastly, your letter of March 20, which the military authority handed to J. Waller, proves that you had daily kept yourself posted on the affair, although you never officially interfered in it. I am led to conclude that it was intentionally you kept aloof of the suit begun by the military authority. It is no business of mine to seek the reasons for your so doing. I have only to note that you have purposely done so from the beginning, and have knowingly allowed the Waller case to follow its regular course without even asking to be allowed to correspond with the accused man. As on all former occasions, you may rest assured that I should have held it a point of honor to confirm our friendly intercourse by enabling you to follow the Waller case. I should have done so the more willingly, as to the sincere regret that I experienced on finding an American citizen full of hatred for France was added the sentiment of an act of justice to be rendered by the French army to two American citizens, Messrs. Duder and Poupard, whose lives should have been greatly imperiled had the accusations, as cowardly as false, of J. Waller reached the Hova officers they were to have been imparted to.

Justice has had its course, and now escapes my action. Until the case is closed, i. e., three days after the execution of the judgment, I can not give you a copy of the papers relating to it. The appeal is public, like the trial by the council was. I will order that you be officially notified of the date and hour of the judging.

As sequel to the Waller case, on report of the military authority and after acquainting myself with the writings seized, I have to-day, March 22, decreed the expulsion of P. Bray, son-in-law of J. Waller, who is guilty of having infringed the regulation concerning letters and of having transmitted to the Hovas compromising documents. This decision will be carried out immediately by the *Djeunah*, of the Messageries Maritimes.

KIESEL.

[Inclosure 8 in No. 88.]

Mr. Wetter to Captain Kiesel.

No. 216.] CONSULATE OF THE UNITED STATES,
Tamatave, March 24, 1895.

SIR: I have the honor to acknowledge the receipt of your letter No. 85, of March 22, about 6.30 p. m. of that date.

I regret to note, from the tenor of your letter, that you are under a misapprehension and that "M. le Commissaire du Gouvernement, pres le Conseil de Guerre" has materially contributed thereto. I will state that Mr. Girandeau, while acting as attorney for Mr. Waller (under the impression that I would personally guarantee his attorney's fee), did make copies of the record in some preliminary hearing held in the Waller matter, the date of this hearing, the evidence, even the charge found against Mr. Waller are unknown to me, except by public rumor of the most fragmentary description. Mr. Girandeau did show me at my request a copy or what purported to be a copy of letters written by Mr. Waller, one to Tessier and one to Mrs. Waller, but as to any records, evidence, or other such documents, none such, nor any copies thereof, have I, or anyone representing me, seen; nor has any copy of the letters above mentioned been made by this consulate, or anyone else on my behalf.

That Mr. Girandeau, after examining the case, refused to defend Mr. Waller unless he were paid a fee of $150; that Mr. Waller's friends refused to contribute anything toward the payment or security of said fee; that the other Americans in Tamatave also refused to so contribute, thus leaving the onus thereof, if paid, on my private and personal funds (a burden which I was not disposed to bear), is sufficiently well known not to need further comment; therefore I would suggest that the strictures contained in your letter are neither just to Mr. Girandeau nor toward myself.

I regret to note that you are not in accord with myself as to my letter No. 212, not having been replied to, nor as to the position this consulate has assumed in this Waller affair, and can only confirm my No. 214 of March 21.

In view of the fact that whatever my personal feelings were, or are, toward Mr. Waller, after the perusal of the letters first before mentioned, my duty as an official positively prohibits my permitting same to influence my official relations toward him. You will kindly permit me to pass over that portion of your letter referring directly to these letters in silence.

I shall take the liberty of expecting to receive, as soon as you can legally transmit them, the various copies asked for in my No. 214, and will notify my Government that they will go forward by next mail.

Meanwhile I would thank you for your courtesy in the matter of the appeal, as also for the order to the registrar of the court of appeals, whose notice, unfortunately, reached me so late in the day as to preclude my attendance thereat, owing to previous engagements until near the close of the case.

Your note as to the intended expulsion of Paul Bray, stepson (beau-fils) of J. Waller, was read with considerable surprise.

In view of the fact that I was informed by the adjutant of M. Colonna, in the Bussell case, that matters between consuls and M. Colonna must come through your hands, I have the honor to hand you herewith a letter for M. le Lieutenant-Colonel, commandant supérieur, etc., in reply to his letter on the subject of Bray's expulsion and, inviting your attention thereto, would request a copy of the order of expulsion.

With assurances, etc.,

EDWARD TELFAIR WETTER.

[Inclosure 9 in No. 88—Translation.]

Captain Kiesel to Mr. Wetter.

DIVISION NAVALE DE L'OCÉAN INDIEN,
AVISO DE 1re CLASSE LE PAPNI, COMMANDANT,
Bord, le 24 mars 1895.

I have been officially notified that the judgment returned against J. Waller, an American subject, by the council of war sitting at Tamatave has been carried out.

Referring to your letter No. 214, I have immediately requested an authentic copy of the judgment, and have the honor to inclose it herewith.

Will you accept, etc.,

G. N. KIESEL.

[Inclosure 10 in No. 88—Translation.]

Judgment rendered by French military tribunal.

Marine first permanent council of war, sitting at Tamatave, French Republic.

In the name of the French people, the first permanent council of war has rendered the judgment, the terms of which follow:

This day, March 18, 1895.

The first permanent council of war composed in accordance with articles 3 and 10 of the maritime code of Messrs. Lacarriere, captain of the marine infantry, president; Bardaine, lieutenant of the marine infantry; Bouquez, lieutenant of the marine infantry; Nicaise, adjutant of the marine infantry, judges; all appointed by the lieutenant-colonel, superior commander of the troops and place of Tamatave in state of seige. Mr. Maroix, sublieutenant, deputy government commissary; Mr. Marengar, sergeant-major, recorder of the said council, who are, none of them, in the state of incompatibility foreseen by articles 22, 23, and 24 of the above-mentioned code.

The council, assembled by order of the lieutenant-colonel superior commander of the troops and place of Tamatave in state of siege in conformity with article 141 of the code of maritime justice, met, in the ordinary place of its sessions, in public audience, to judge John Waller, born January 12, 1850, at New Madrid, in the province of Missouri, United States of America, a journalist residing at present at Tamatave, aged 45.

Accused of first, violating the prescriptions contained in article 3 of the decree of January 18, 1895, of the delegate of the chief of the naval squadron, an infraction foreseen by article 471, paragraph 15, of the penal code applicable in virtue of article 364 of the code of military laws for the navy; second, of corresponding with the enemy, a crime foreseen and punished by articles 2 and 78 of the ordinary penal code, aimed at by article 304 of the code of military laws for the navy (army of the sea).

The session being opened, the president had a copy of military laws for the armies of land and sea, one of the code of criminal information, and another of the penal code brought and placed on the desk in front of him, and ordered the accused man, who appeared free and with no fetters, to be introduced, together with his counsel.

Examined through the medium of Mr. Paul Dupousel, aged 38, a merchant, residing Avenue 1, Tamatave, sworn in the manner prescribed by law, on his name, Christian name, place of birth, profession, and place of residence, he answered that he was named John Waller, was born on January 12, 1850, at New Madrid, in the province of Missouri, United States of America, that he was a journalist, and resided for the present at Tamatave.

The president, after having had the order convoking the council, the report prescribed by article 138 of the code of maritime laws, and those documents the hearing of which he considered necessary read by the recorder, told the accused man the facts for which he was prosecuted and cautioned him and his counsel as directed to do in article 151 of the above code.

After which he examined the accused, heard the witnesses publicly and singly, the said witnesses having previously sworn to speak, without any hatred or fear, the truth and nothing but the truth. One of them, Paul Bray, was heard through the medium of Mr. Paul Dupousel, sworn interpreter. The president also fulfilled toward them the formalities prescribed by articles 317 and 319 of the criminal code.

Mr. Molyneux was then heard for the sake of information, without being sworn, in virtue of the discretionary power possessed by the president.

Through the medium of Mr. Dupousel, sworn interpreter, the prosecution proofs having again been presented to the culprit, who recognized them.

Mr. Commissary of the Government held out that John L. Waller, journalist, residing at Tamatave, be found guilty, first, of infringing the prescriptions of article 3 of the decree of January 18, 1895, issued by the delegate of the chief of the naval squadron; second, of attempting to correspond with subjects of a hostile nation, an attempt the end of which was to furnish the enemy with instructions prejudicial to the military and political situation of France; and that the council decree the confiscation to the profit of the State of all documents which had served in the perpetration of the crime, in conformity with article 11 of the penal code, aimed at by article 74 of the code of maritime laws.

The accused and his counsel, who were the last to speak, having declared that

they had nothing to add to their defense, the president then pronounced the debate closed and ordered the accused and his counsel to retire.

The tribunal withdrew to the chamber of deliberation.

The council deliberated privately, and the president, in conformity with article 162 of the maritime code, set to them the following questions:

1. Is the accused man guilty of having infringed article 3 of the decree issued January 18, 1895, by the delegate of the chief of the naval squadron?

2. Is he guilty of having carried on with the enemy a correspondence injurious to the military and political situation of France?

3. Was the act committed under aggravating circumstances?

4. Was the act committed under attenuating circumstances?

The votes were then collected, in conformity with articles 161 and 163 of the code of military laws, beginning with the lowest grade upward, the president being the last to remit his opinion, and the council returned.

To the first question: The verdict of "Yes; the accused is guilty, unanimously."

To the second question: The verdict of "Yes; the accused is guilty, unanimously."

To the third question: The verdict of "Yes; the accused is guilty, by a majority of three voices."

To the fourth question: "No; unanimously."

On which, and seeing the demands of the Government commissary in his requisitions, the president read the text of the law, and again, in the manner prescribed by articles 161 and 164 of the code of maritime laws, collected the votes for the appliance of the penalty. The council sat publicly again and the president read the foregoing motives and enacting clause.

The council in consequence condemned, by a majority of three, John Waller to twenty years' detention, conformably with the hereinafter-mentioned articles of law, and decreed the confiscation to the profit of the State, as proofs at conviction, of all papers produced during the course of the suit.

Penal code.

ART. 11. Expelling under the special superintendence of the high police, fines, and confiscation either of the instruments of the crime when they belong to the culprit or of the things produced by the crime, whether they were used or only designed to perpetrate it, are penalties commonly inflicted in criminal and correctional suits.

ART. 2. Every attempt at a crime evinced by a beginning of execution, if not delayed or if not succeeding through circumstances independent from the will of its perpetrator only, is considered as the crime itself.

ART. 78. If a correspondence with subjects of a hostile nation, not having for object one of the crimes stipulated in the preceding article, nevertheless furnished the enemy informations injurious to the military or political situation of France or her allies, those holding it will be punished by detention without any prejudice to a higher penalty in the case where those informations should afterwards be found to be the result of an arrangement constituting an act of espionage.

ART. 47 (paragraph 15). Those contravening to regulations lawfully enacted by the administrative authority and those not conforming with regulations or decrees issued by the municipal authority will be, in virtue of articles 3 and 4, title page 11, of the law of August 16 and 24, 1790, and of article 46, title page 1, of the law of July 19 and 22, 1791, punished with a fine of from 1 to 5 francs.

Code of military laws for the army of sea.

ART. 74. Tribunals of the navy (only statute on public suits at law): They can nevertheless order the restitution to their owners of the things seized or of the proofs at conviction when there is no need for their confiscation.

ART. 104. All accused persons, without distinction, are summoned before councils of war or of justice, first, when they are all sailors or soldiers of the army of sea or assimilated to sailors and soldiers, even when one or several of them are not, in reason of their position at the time of the crime or delinquency, amenable to those tribunals; second, when the crime or delinquency is committed by persons amenable to the councils of war or of justice and by foreigners, whether on French territory or on a foreign territory occupied by French troops; third, when the crime or delinquency is committed in a foreign country in the district about an expeditionary force.

ART. 384. Naval tribunals apply to all the crimes and delinquencies not foreseen by the present code the penalties ascribed to them in the ordinary penal laws, and in cases where the law permits the admission of attenuating circumstances article 463 of the penal code may be applied.

Decree of the delegate of the chief of the naval squadron.

ART. 3. The lieutenant of the port is given the superintendence over mails at their arrivals and departures. No mails can be distributed except by the post-office, and

all cables must be sent through it. No mails can be dispatched except through the post-office. Exceptions to this rule must each time be specially obtained from the delegate of the chief of the naval squadron or, in his absence, from the municipal administrator.

Article 135 of the military laws: In cases of conviction of several crimes only the highest penalty is applied.

Penal code, article 20: Whoever is condemned to detention will be kept in one of the forts situated on the continental territory of the Republic named in a decree issued in the form of the regulations of the public administration. Detention can not be passed for less than five nor for more than twenty years, except in the cases mentioned in article 33.

Code of military laws for the army of sea, article 169: The judgment passing a penalty on an accused person also condemns him to the costs toward the State. It ordains, in cases foreseen by the law, confiscation of the objects seized and restitution to the profit of the State or of their owners of all things seized and produced during the course of the suit as evidence. Enjoins the Government commissary to have the present judgment read immediately to the prisoner in his presence and that of the watch under arms, and to inform him that the law gives him twenty-four hours to appeal.

Done, closed, and judged, without leaving, in public session held at Tamatave the day, month, and year hereafter, and the members of the council and the registrar signed the minute of the present judgment.

LACARRIERE.
DARDANIE.
BOUQUET.
GAGUEPANI.
NICAISE.
MARENGER.

On the 8th day of March, 1895, the foregoing judgment was read by us, the undersigned clerk and registrar, to the prisoner, who was besides informed by the Government commissary, in presence of the watch assembled under arms, that articles 171 and 173 of the code of maritime laws gave him twenty-four hours after the expiration of the present day to appeal.

The Government commissary:

MAROIX.

The registrar:

MARENGER.

In consequence the President of the Republic commands and orders all bailiffs to execute this judgment, all attorneys-general and attorneys of the Republic near tribunals of first suits to see to it being enforced, and all commanders and officers of the public staff to lend their assistance when lawfully requested to do so.

The appeal having been rejected on March 23, the above judgment was executed on March 24, 1895.

The costs amounted to the sum of 12 francs and 50 centimes.

The registrar:

MARENGER.

Judicial antecedents, nil.

Seen.

The Government commissary:

MAROIX.

Certified to be a true copy.

The registrar:

AGARREL.

Seen and forwarded to Mr. United States Consul.

The captain, delegate of the chief of the naval squadron:

G. N. KIESEL.

I certify the above and foregoing 18 pages to contain an accurate copy of the judgment on file in this consulate, and received on the evening of March 24, 1895, from Commandant Kiesel; also to contain a fairly trustworthy translation of same into English.

EDW. TELFAIR WETTER.

TAMATAVE, *April 17, 1895.*

[Inclosure 11 in No. 88.]

Mr. Wetter to Captain Kiesel.

No. 223.] CONSULATE OF THE UNITED STATES,
Tamatave, April 16, 1895.

Mr. COMMANDANT: I would call your attention to the fact that, notwithstanding your promise, implied in paragraph 2 of your letter No. 85, of March 22, 1895, I have so far received none of the official copies of evidence, charge, and proceedings requested in my letter No. 214, of March 21, in the Waller trial, excepting the copy of the judgment of court, received in your letter of March 24.

Permit me to tender you my thanks for said copy of judgment and to say that same would have been tendered you ere this but for the constant expectation I have been under of receiving your promised remittance of the other documents in the case.

I would especially ask for certified copies of the various letters used in Mr. Waller's prosecution.

Regretting the necessity I am under of again troubling you in this matter, I would ask you, Mr. Commandant, to accept the assurances of my distinguished consideration, etc.,

EDW. TELFAIR WETTER.

[Inclosure 12 in No. 88—Translation.]

Commandant Campion to Mr. Wetter.

[Division Navale de l'Océan Indien, Le capitaine de Frégate Campion, Commandant le croiseur le *Dupetit*, Thouars de 'leque' du Chef de Division, à Monsieur le Consul des États-Unis.]

No. 43.] TAMATAVE, *April 17, 1895.*

The chief of the naval squadron having appointed me in the absence of Commander Kiesel to be until further orders his delegate on the east coast of Madagascar, I have the honor to acknowledge receipt of your two letters, Nos. 222 and 223, both dated on the 16th of April instant.

In your letter No. 222 you ask me to send you Mr. President Dubreuil's receipts of your cheque for 4,188.35 francs on the Comptovi d'Escompte. Those receipts, signed by Mr. Marmier, the registrar of the court, and legalized by Mr. President Dubreuil, were handed to Mr. Girandeau in person, your proxy in the case.

In your letter No. 223 you acknowledge receipt of a copy of the judgment rendered in the Waller case and ask for a certified copy of the depositions, accusation, and procedure in same. I have the honor to inform you that the complete records of that suit having been dispatched to France, it is impossible for me to satisfy your request.

In consequence, Mr. Consul, I have the honor to inform you that I consider that these two letters have received a definite answer.

Will you accept, etc., CAMPION.

Mr. Wetter to Mr. Uhl.

No. 113.] CONSULATE OF THE UNITED STATES,
Tamatave, September 23, 1895. (Received October 31.)

SIR: I have the honor to hand you herewith an open letter for Mr. Paul H. Bray, stepson of Mr. Waller. This letter contains the extracts mentioned in my dispatch, No. 88, of April 20, 1895, paragraph 3, and is thus forwarded to Mr. Bray to enable the Department to peruse same before they come into other hands.

I think these extracts were made with the connivance or consent of Mr. Le Garrec, then barrister at law, now municipal administrateur (lawyer), as on the 5th of April I received a letter from Mr. Le Garrec, which I inclose, with the request that it be returned for the files of this consulate.

I am, etc., EDWD. TELFAIR WETTER,
United States Consul.

[Inclosure 1 in No. 113.]

Mr. Garrec to Mr. Wetter.

TAMATAVE, *April 5, 1895.*

SIR: I beg to ask you to be kind enough to inform me whether you found, or not, in the late Mr. J. Dublin's papers, a document from Mr. Waller or Mr. Paul Bray giving him power of attorney in order to pay me a certain sum for reward of my assisting Mr. Waller before the military tribunal on the 18th and 23d March last.

Of course, as I was desired by the French authorities to defend Mr. Waller, I asked him nothing, especially as I knew that he was penniless. But Mr. Waller and Mr. Paul Bray told me that a power was given to J. Dublin in order that he might pay me at least $100 for my assistance. That sum was to be taken on the amount of a good deal of money which Mr. Waller or Mr. Bray was expecting by the next mail.

Should you have found such a document in J. Dublin's papers, I hope, sir, you would have no objection to comply with Mr. Waller's wishes toward me, as very likely the letters for Mr. Waller and Mr. Bray are to be sent in the future to your consulate.

I will feel very obliged to you if you could favor me with some information about that matter.

I have, etc.,

LE GARREC,
Barrister at Law.

[Inclosure 2 in No. 113.]

Mr. Wetter to Mr. Bray.

No. 277.] CONSULATE OF THE UNITED STATES,
Tamatave, September 23, 1895.

Mr. PAUL H. BRAY,
316 A Street NE., Washington, D. C.

SIR: Your letter of July 27 came to hand September 10. Your mail, it is claimed at the post-office, has been all duly forwarded, also that of your stepfather and his entire family.

I have not yet received word of "the allowance," or, more correctly speaking, auditing of the fees in the N. O. B. C. case; hence I do not at present feel warranted in transmitting to you, or your sister, the fees allowed for services in said case, and deposited with me as security, until the Department should have passed on same, but will at once do so, as soon as I find same "allowed."

I am, etc.,

ED. TELFAIR WETTER.

[Inclosure 3 in No. 113.]

REVIEW OF THE RECORD OF THE PRELIMINARY EXAMINATION.

First hearing—Waller.

He said: "The passage quoted from the letter of Ratsimanana (Rosmania) had a reference to ordering a revolver from me, the purchase thereof to be made by Bray, who was then at Mauritius." (Such is the apparent meaning of the original of the foregoing paragraph. It is in very bad shape, as are sundry other portions of these French papers.)

[Translation.]

He said that in his letter to his wife he alluded to certain persons named Draper and Prudy, who had deceived him and told him to ——— them to the chief of police, whom he calls his friends.

Pudy (?) and Draper—miners from South Africa, whom he had known at the capital.

Hearing of Poupard.

He left in order to go to Tananarivo on the 12th of January. He said that Waller bore him no good will, having threatened to have him expelled from Madagascar in 1893, when he was consul.

Hearing of P. Bray.

He declined to state when his father-in-law sent his last letter to Tananarivo. After having said that it was late in December or early in January he declared that he remembered nothing about it, and said that he did not see all the letters that Waller wrote.

There are two rooms in the house which they jointly occupy.

Hearing of Waller.

He considered the two letters of January 23 as being so important that he did not even show them to his son-in-law. He took them on board all by himself. As to Draper and Prudy, he was unable to say under what circumstances he had known hem. He wrote to friends the two letters were not sent by him, because he thought that it would be of no use. His son-in-law had known nothing of them. He generally locked up his letters.

Those whom he called "secretaries" in his letter to his wife were Tessier's secretaries.

Harvey-Panett (he does not know him) Ratsimanana (Rosmania) not the right spelling yet (matimeux); when he called him Ratsimanana by his right name, and wrote it; that was because he had his letter before him.

(Our friends) means when it does not refer to the chiefs of police, Waller's friends at Tamatave.

(Indorsed Exhibit A.) Extracts from examination.

[Inclosure 4 in No. 113.]

Extracts from letters.

[Letter from Ratsimanana to Waller, dated February 29, 1894.]

1. He speaks of several persons who have applied for places on his Fort Dauphin concession, especially of one to whom he refers as "that friend of mine who called on you with me the other night."

2. Various details—hopes of the Hovas that England will intervene, and expression of their intention to resist the protectorate.

3. Order for cha. (probably chapeaux—hats).

Directions as to the quality. Request that they may be sent before Christmas. Payment to be made to Mr. Waller. List inclosed.

[Letter from Waller to his wife, written in December, 1894.]

"Tamatave is now under military law and no one is allowed to leave here for the capital. I can not, therefore, tell when we shall meet again, but I hope that our separation will be brief.

"Let me caution you, my dear, to have notning to do in the troubles between the Hova and French Government [sic], as such would only tend to embarrass you. Of course this does not prevent you from keeping up our friendly relations with our friends among the missionaries and Hovas, being careful always to refrain from any discussion on the present difficulty."

[Letter from Waller to Mr. Chalom French, resident, dated December 20, 1894.]

He requests that "very important letter" may be delivered to his wife. It is the above letter, judging from injunctions which it contains. There is no record of any other. He offers to send it open, "if this is desired."

[Letter from Ratsimanana to Waller, dated December 30, 1894.]

It contains a long account of the steps taken by him in order to procure the funds necessary to get Waller out of the hands of his enemies.

He immediately asks for news with regard to the situation of the French at Tamatave, and says that he has offered his services to his ——— for the war.

"Now, as you will be off to London and America, I beg to remind you of those things which I ordered, a list of which I herewith inclose, for fear you will not find my first letter."

"As to the revolver you promised to my father, he will be very glad indeed to have it as soon as possible [a passage cut out].

"I also beg you to send me five more, if possible, for me and my brothers." * * *

[Letter from Waller to his wife, dated January 20, 1895.]

He says that he fears lest the French have seized his last letter, and adds: "It was a godsend that they did not open Ratsimanana's letter. If they had, Paul would have been shot on suspicion. Let me warn you to be careful."

[Letter from Waller to Ratsimanana, dated January 20, 1895.]

Returns his thanks for the trouble that he has taken to get him the money which he needs. Says: "I will remember my friends who have stood by me in this trouble. I dare not write you on matters about the French and Hovas here, and when you write do not mention any matter as to the war, but only friendly and business matters, as all letters are opened and read by an officer in the French army here. Therefore, be very careful what you write. I will find you the things you ask for as soon as I arrive."

[Letter from Waller to his wife, dated January 23, 1895.]

1. The matter of Geldard and Lyons. Reference to his own.

2. Geldart, Duder, and Poupard are as thick now as three in a bed, and Wetter is their god. I will inform you that D. and P. are on their way to Antananarivo, and they will likely reach there long before this letter leaves Tamatave.

Please inform M. Tessier and our friends that both of these men have been sent up there by the French to find out secretly all the movements of the Hova Government, which they will send to the French authorities from time to time. Therefore the Government had better keep a strict watch of these men and order them from the capital as soon as possible. Both of them are for the French. I shall slip this letter out by English steamer via Natal; then it will not be read by the French, as all letters are here at this time. I shall be anxious to learn that you have received this letter; therefore, when you get it do not mention anything you find in it, but simply say: Your No. 44 received. And please destroy it as soon as you and Mr. Tessier have read it, and not mention to anyone but Mr. Tessier and secretaries about the information which I send you.

2. Smallpox. Numerous rapes committed by the soldiers, which have been witnessed by him.

4. May God grant that the money shall have been raised and forwarded by you and our friends before this time.

5. Details concerning the material difficulties (hardships) of life at Tamatave. He proposes, moreover, to go up to Tananarivo as quickly as possible.

6. Let me know whether you received the passports or not, as it is a very important matter. They were sent through the French admiral here, and I want to know whether you have got them or not.

7. Tells the men having charge of his business at Washington that they must demand $20,000 damages of Mr. Wetter for having compelled him to remain here in the midst of such annoyances, both mental and physical.

8. Says that no reference must be made in the reply to what he writes.

[Letter from Waller to Tessier, dated January 23, 1894.]

1. I send an important letter, under cover to you, to my wife, which I will be pleased to have you hand her in person, on account of its importance.

I need not inform you that she will call your attention to a certain matter therein contained, the importance of which will at once challenge your most careful attention, and place our friends on their guard. This matter is strictly confidential, and I can assure you that our friends can not afford to lose any time in attending to it, etc.

Smallpox, rape, destruction of *embles*, wretchedness. Supplies of beeves.

Letter sent by British steamer, so that it might not be seen by the colonel.

He maintains that D. and P. are not Duder and Poupard. Explains that if he seems to be afraid of being shot, this is because he has been threatened several times by soldiers. He did not think, when he wrote about D. and P., that he could get them into trouble, for they are Englishmen; he merely wished to be revenged for the mean tricks which they had played on him by getting them expelled from the capital.

The promise made to Ratsimanana to send him what he wanted had reference simply to his order for hats and clothes. Bray did not bring a revolver from Mauritius because of this request to Bray by Ratsimanana, that he (Waller) put in his letter to his wife, "It was a godsend."

His intention is still to sail for America, and if he speaks of going to Tananarivo first, this is in order to get his family.

Waller has already written two letters to Tessier, which have been visèed by the military commandant and sent, of which they do not ———, not even Mrs. Waller, much less ———.

As to Ratsimanana, he writes to him on business only, and even declines to give him the information concerning the situation which he asks for.

Intention. Result.

I have not wished to treat the report as a partial one, but merely to remark that it took no notice of the side.

III.—CORRESPONDENCE WITH THE CONSUL OF THE UNITED STATES AT PORT LOUIS, MAURITIUS.

Mr. Uhl to Mr. Campbell.

[Telegram.]

MARCH 27, 1895.

Newspapers report Waller, formerly United States consul, imprisoned under sentence by court-martial at Tamatave. Inquire. Telegraph facts briefly.

UHL, *Acting.*

Mr. Campbell to Mr. Uhl.

[Telegram.]

PORT LOUIS, *March 28, 1895.*

Late reports from Madagascar say French authorities found compromising papers in Waller's possession; condemned to twenty years' imprisonment as Hova spy.

CAMPBELL.

Mr. Uhl to Mr. Campbell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 1, 1895.

Communicate with Wetter, and report further as to Waller's imprisonment.

UHL.

Mr. Campbell to Mr. Uhl.

[Telegram.]

PORT LOUIS, *April 9, 1895.*

Waller sent to France. His son, expelled from Madagascar, also sent to France.

CAMPBELL.

Mr. Campbell to Mr. Uhl.

No. 13.] CONSULATE OF THE UNITED STATES,
Port Louis, Mauritius, June 18, 1895. (Received August 1.)

SIR: * * * By the last steamer arriving here from Madagascar Mrs. Waller and four children reached this port. They are in destitute

circumstances. When she left Antananarivo she expected that she and her family would have been taken to the United States on board of the U. S. S. *Castine*, then lying in the harbor at Tamatave. She was assisted to get to that port and here by the generosity of an American named Mr. Ethelbert G. Woodford, who is also here, but expects to leave for the United States as soon as he can procure means to get there. Mrs. Waller felt very much disappointed that the commandant of the *Castine* was unable to comply with her request for passages home for herself and family.

In the absence of this consulate having any authority to relieve her, she has determined to cable the Department praying for Government assistance to bring herself and family home.

The hotel at which they put up on their arrival here has already refused to furnish food and lodging except some guaranty be given for payment.

Should the Department decide to render her the relief asked for, I will do all in my power to make the most economical arrangements possible for the passages of herself and family to the States.

I have, etc.,

JOHN P. CAMPBELL,
United States Consul.

Mr. Adee to Mr. Campbell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 6, 1895.

Draw on ambassador, Paris, reasonable expense sending Waller's family to Paris. Cable compliance.

ADEE, *Acting.*

Mr. Campbell to Mr. Uhl.

[Telegram.]

PORT LOUIS, *August 9, 1895.*

Wallers go Paris steamer 20th.

CAMPBELL.

Mr. Campbell to Mr. Uhl.

No. 17.] CONSULATE OF THE UNITED STATES,
Port Louis, Mauritius, August 21, 1895. (Received Oct. 4.)

SIR: I have the honor to inform you that the Waller family will leave this port at 2.30 p. m. of this date, by the French mail steamer, for Marseilles, thence to Paris.

In pursuance of instructions by cable, dated Washington, the 6th instant, I have drawn on the United States ambassador at Paris for the amount incurred for the transportation and incidental expenses of those people from this port to Paris.

I have decided to send them third class to Marseilles. Very respectable people who can afford to pay for different accommodations travel

by this class; besides, it would have cost the Government double the amount to send them to Paris second class.

They go second class from Marseilles to Paris. The Messageries Maritimes Company only issues through tickets to London; I was therefore necessitated to send a separate draft to the consul at Marseilles to purchase their tickets from that city to Paris. The reason I sent them second class from Marseilles to Paris is that upon inquiry I found that the third class was a sort of mixed train which took two or three days to make the journey, whereas the first and second class trains go through in one day.

The total expenses from this port to Paris for the five people, including everything, and $30 cash given Mrs. Waller for incidental expenses during the voyage, will be under $600, for which vouchers have been sent the United States ambassador.

Should I have sent them second class from this port to Paris it would have cost the Government more than double the above amount.

I have, etc.,

JOHN P. CAMPBELL,
United States Consul.

Mr. Adee to Mr. Campbell.

No. 13.] DEPARTMENT OF STATE,
Washington, October 11, 1895.

SIR: I have to acknowledge the receipt of your dispatch, No. 17, of August 21, in which you relate the arrangements made for the return of Mrs. Waller and her family to Paris.

Your course throughout in this matter meets with the approval of the Department.

I am, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

IV.—INTERVIEWS.

DEPARTMENT OF STATE, *May 19, 1895.*

Statement of Paul H. Bray, in re expulsion from Madagascar of ex-Consul Waller.

Questioned by Acting Secretary of State, Mr. UHL, and Solicitor DABNEY:

Q. I would like to have you go on and tell, in your own way, the occurrences there in Madagascar that you are familiar with, connected with the arrest and trial of Mr. Waller; what preceded the arrest, that is known to you, and all the circumstances connected with it, in order that the Department may have from you the very best information and all the facts within your knowledge?—A. Do you wish me to give any statement of things that are liable to have prejudiced his cause in any way with the French authorities previous to his arrest?

Q. I want you to tell all the facts, no matter what they may be, and withhold nothing and venture nothing that is not the simple fact, whatever might be its effect one way or the other; let that have no control—we want the information.—A. Of course. As regards Mr. Waller's

position in Madagascar, his position there has been very peculiar on account of the position which he had taken upon the exequatur question when he arrived there several years ago. That created, of course, the bitter enmity of the French authorities there, and he was constantly in hot water with them at all times. After he was succeeded by United States Consul Wetter he went to Antananarivo, about 225 miles from Tamatave, west. He was at the capital about a year ago, engaged with the government for the land, and soon after his arrival there I closed the negotiations and our contract was signed by the government, and the very next day after the concession was granted, the French resident called upon the prime minister and made a vigorous protest against his signing this concession to Mr. Waller, and intimated that the concession was prejudicial to the interests of France, and he construed this grant being made to Mr. Waller as a direct blow at the French interests in the island, and he wanted to know if it had any political significance, or was it merely a commercial matter; whether it would be prejudicial to the interests of French traders in the island, and the prime minister assured him that it was purely a commercial venture to an American citizen.

Q. What was the prime minister's name?—A. Rainilaiarivony was the prime minister's name. This concession was granted on the 15th day of March, 1894. The French papers there—the resident's paper—immediately began an attack upon Mr. Waller and his concession, and at Tamatave as well, and they did all they could to coerce the government into refusing to ratify the contract that had been made. Afterward Mr. Waller sent me to Mauritius. I left Antananarivo on the 2d of May, 1894, to enter into negotiations with some commercial firms there (Mauritius) to develop the concession which had been granted. Immediately the French authorities sent emissaries over there after me. They followed me. They (the French authorities) sent instructions to the consul—the French consul at Mauritius—to handicap me, and the very week that I left Madagascar the French paper published there—it is an official organ of the residency—published a very long article denunciatory of Mr. Waller, and making a grand attack on the land grant, and so on, and they sent several hundred copies of this paper to the French consul at Mauritius, who distributed them around among the papers there, and such articles were published in the Mauritius papers as would throw a damper over my prospects there. Everywhere I went in the community among business men I found that I had been forestalled by the French authorities, and they said they would be quite glad to take an interest in the concession; they believed that it was a valuable one, and would be a valuable one, but that upon the uncertainty of the French recognizing the legality of the grant from the Hova government, they feared to have anything to do with it. Different merchants made these statements.

Q. Why were you endeavoring to interest them?—A. I wanted them to capitalize it.

Q. What were these merchants?—A. Some were English—they were English and French extractions, or creoles—all residents there. I consulted one of the leading attorneys there in the place—Mr. Newton—and he told me that in his opinion our concession was all right, but at the same time, in view of the position of the French authorities toward our interests, there would be no possibility of my succeeding in Mauritius, and the merchants also, who were desirous of taking up the matter, told me virtually the same thing. I returned then to Madagascar after failing, on the 26th of November, 1894, to Tamatave, where Mr. Waller

had gone from the capital awaiting my arrival at Tamatave, from whence he would leave for America. I went and arrived there—it was just a few days, of course, after that. I was then to have gone to the capital, while he came on to America. But the French occupation took place on the 12th. They gave about one hour's notice to the consular authorities at Tamatave. They notified the consuls in the morning about 7 o'clock, and just at the hour that the bombardment began we received official notice to that effect. That was on the 12th of December. They bombarded the town. The Hovas, of course, had already left the day before because they anticipated this movement on the part of the Frenchmen. Every one of them left except the governor. He remained until the very last hour in the morning. A few days after that, on or about the 16th of December, some gendarmes came to the house where we were living and placed me under arrest as a Hova and took me, I insisting that I was an American. They refused, of course, to believe me, and said that I must go to prison. I then begged them to take me to the United States consulate before taking me to prison, and there I would prove my identity. They did so, and of course upon my arrival at the consulate Mr. Wetter informed them that I was an American and they permitted me to go at liberty. It was rumored in the community that Mr. Waller and myself were under suspicion and were being watched, and the French soldiers were daily insulting us on the street and everything—they didn't do any violence, but made insulting remarks, and so on, to which we paid no attention. They came to our doors sometime in the night and would interrupt us and disturb us, but we gave them no satisfaction, nor would we have anything to do with them. Things went on that way until on or about the 5th of March. We remained at Tamatave, because no one was permitted to go out; no one was permitted to go out by sea unless they had passed the medium of the French military authorities. You had to make your application and let them know where you were going, who you were, etc.

Pending some business arrangements at home—we had written home, having failed at Mauritius—waiting for that, it was during this time that Mr. Waller was arrested. It was on or about the 4th of March. Six gendarmes came and surrounded the house along about 4 or 4.30 in the afternoon, and they asked for Mr. Waller. He was absent at the time, and I informed them that Mr. Waller was in the neighborhood, and I would try to find him. So, in company with two of the gendarmes, I went to a neighbor's house and found Mr. Waller. We returned to the house. The leader said he had an order from the colonel commanding the troops to confiscate all the papers belonging to Mr. Waller, and his person—to arrest him. Mr. Waller demanded to know the reasons for it. He said that he would know that later on. He pulled the order out, and Mr. Waller asked for a translation, and he said never mind, to come along to the prison, where they were going to take him, and he would find out there. He asked also that he be permitted to go to the United States consul, and there to explain matters. They refused to go by there. They took all his letters and papers, and then, finding that I was rooming with him, they took all of mine as well. I asked them by what right they took my papers. They said they had no order to take them, but, notwithstanding, they would do so, because I lived in the same place, and of my relations with Mr. Waller. But they did not arrest me.

Q. Did they speak English to you?—A. They spoke in French, but they had an interpreter along with them. So they took Mr. Waller to prison and I immediately went to the consulate and reported the arrest

to Consul Wetter, and he immediately wrote an official letter to the colonel commanding the place, demanding an explanation why Mr. Waller was arrested and incarcerated, and upon what charges. The colonel commanding the troops and the admiral both sent him an official letter, and they stated that Mr. Waller was arrested upon two charges: First, for violation of article 3 of the order of place issued on or about the 18th of January, 1895, which prohibited the sending out of any letters, any communications whatever, without first passing through the hands of the military authorities.

Q. Did they state what he had done?—A. They stated that in the latter part of January he had dispatched a letter to Antananarivo addressed to Mr. George E. Tessier, via Natal and Vatromandry; that the letter had miscarried and returned to Tamatave, and there the authorities, attracted by the bulkiness of the letter, had opened it and found therein communications to the enemy giving information to the Hova authorities in Antananarivo; that was the gist of their charge.

Q. The first charge?—A. Yes. Of course, the second charge was violation of the—I forget the number of the section of the French penal code—for carrying on illicit correspondence with the enemy. For a few days Mr. Waller was not permitted to see anyone.

Q. Where was he kept?—A. He was kept in a house—a temporary prison they had established. We supplied him with his food during the time, and bed, and so on. The trial was set for the 16th of March, but it was on the 14th—until the 14th—before he was permitted to see anyone.

Q. He was taken there on what day?—A. He was taken there on the 5th of March.

Q. Taken to prison?—A. Yes; on the 5th of March. On the morning of the 14th—I do not like to say that positively, because my memory is not exact—on or about the 14th—I am not quite positive—it was along about the 14th of March that Consul Wetter called upon him in company with an attorney, Mr. Girandeau.

Q. Were you present?—A. I was permitted to be present at the interview.

Q. You called there with them?—A. Yes. Afterwards the attorney went to the colonel's office at the old British consulate, and there perused the charges against Mr. Waller and the statements which he had made, etc.

Q. Who had made?—A. Mr. Waller; that is to say, the examination. He had been examined by the French authorities, but without any counsel, representing himself, being present. They examined him themselves.

Q. That was immediately after his arrest?—A. Yes; they examined him several times; twice to my knowledge.

Q. Do you know whether that was taken stenographically?—A. No; it was not taken stenographically; only by an interpreter who does not understand English well at all. I was examined myself.

Q. During this time?—A. During this time.

Q. At the first examination?—A. Not at the first; between his arrest and his trial.

Q. Between the 5th and 15th?—A. Between the 5th and 15th. I have not my notebook here, or I could tell the exact date. It was between the 5th and 15th that I was taken to the captain's office.

Q. Before we go to that examination, just go on with what you were saying as to what this attorney did in the examination; you were on that point.—A. All he did was simply to confer with Mr. Waller, and

he decided that he would try Mr. Waller's case for $500—defend Mr. Waller for $500. At the time Mr. Waller did not have the $500 to advance to Mr. Girandeau, but during the day it seemed that they were trying to make some arrangements to that effect—have him proceed with the defense.

Q. Who was trying to make arrangements?—A. Mr. Waller and Mr. Wetter. Up to the very last minute, you may say, to the very morning—no, the evening before the trial—there had been no arrangements made satisfactory to the attorney, and he threw up the case. The French authorities then chose a French lawyer to defend him, Mr. Girandeau having refused to defend him unless he received this fee in advance. He refused to make any private arrangements and threw it up. The French lawyer took the case, and it was postponed until the 18th—Monday—at 7 o'clock.

Q. In the meantime, between the 15th and 18th, did he confer with this lawyer who was assigned to defend him?—A. Yes; he had a conference with this lawyer, the French lawyer, who was to try his case.

Q. Did you, in the meantime, see Waller at all?—A. No; I never did see him.

Q. Not permitted to?—A. I was not permitted to see him at any time except just the day we were being sent away.

Q. That was after his trial?—A. After his trial we were permitted to see each other in the presence of the officers, and say "Good-bye."

Q. The trial was set for the morning of the 18th?—A. Yes; the French tribunal held it, and it lasted up until about 10.30.

Q. Were you present?—A. Yes.

Q. Mr. Waller was present at the trial?—A. Yes.

Q. Just give as much in detail as you can—who constituted the tribunal, where it was held, and what were the proceedings.—A. The tribunal was constituted of, I think, seven military authorities from the army—French army—and the proceedings were in French, entirely in French, with the exception that they had this same interpreter put questions to myself who was called by the French authorities as a witness, and put also to Mr. Waller as to whether he had any objections to this or that statement which was made by one or two witnesses that were called.

Q. Who were called as witnesses?—A. There was a miner by the name of Mullen and a gentleman by the name of Poupard.

Q. Who else?—A. The captain of the place—of the troops. I forget what position he really occupied, but he was the one who had supervision of all the military; he was called as a witness.

Q. And you were called?—A. Yes; myself, and that was all.

Q. Now, was there a prosecuting officer, or anyone taking the position of prosecuting officer?—A. There was a reporter of the court-martial; he was the prosecuting attorney.

Q. Mr. Bray, was a written statement of the charges against Mr. Waller presented, and a copy of the statement given to him or his counsel?—A. No; they were only shown to him, and were read at the trial in French.

Q. Now, what did that statement specify—those charges that you mentioned a little while ago?—A. Well, I can not state, because they were not interpreted. They were simply read in French. I do not know in detail what the charges were, except from only the official letter which the colonel commanding the place sent to United States Consul Wetter, and from the interpretation that Mr. Wetter gave me of the letter at the time.

Q. But was there at the trial a written statement read which purported to be the statement of charges against Mr. Waller?—A. Yes; it was in French and not translated.

Q. In what language was this testimony given?—A. The language was given by the captain in French.

Q. Was it interpreted?—A. No; it was not interpreted into English; but the language, of course, of Mr. Poupard, was in English.

Q. Was that translated into French?—A. Yes; it was translated into French by the interpreter; and also that of Mr. Mullen, it was in English.

Q. And yourself?—A. And myself.

Q. That was interpreted—translated into French?—A. Into French.

Q. And there was only one witness who testified in the French language?—A. Yes, sir.

Q. That was not translated?—A. No.

Q. But Mr. Waller's counsel, being a Frenchman, understood it?—A. Yes.

Q. Did he speak English?—A. Yes, he spoke a little English; not much.

Q. Well, now, in brief, what did these men testify to; each one who spoke in English?—A. Mr. Mullen testified as to whether he knew two miners by the name of Draper and Purdy, mentioned in Mr. Waller's statement as to the identity of the persons mentioned in his communication to his wife.

Q. To Waller's wife?—A. Yes; in the communication to his wife, my mother, he had said D. and P.

Q. That letter had been intercepted?—A. Yes; on its way to Antananarivo.

Q. Where was she?—A. She was at Antananarivo. In his statement (Waller's) he had said that those initials meant Draper and Mr. Purdy. This miner was called to testify whether he knew any such persons.

Q. What do you mean by miner?—A. A man whose occupation is a miner—a gold digger. Mr. Poupard was also called for the same purpose.

Q. Were they brought from this place?—A. No; they were in Tamatave, but Mr. Mullen had been at the capital. He had been up through that country. Mr. Poupard had, of course, lived a long time in Madagascar, living at Tamatave. They were simply called to testify as to the identity of those persons and who they were.

Q. What did they say as to who they were?—A. They stated that they did not know any such persons as these. That was all their testimony consisted of, excepting that Mr. Poupard stated that Mr. Waller had tried to have him expelled from the country while he was consul of the United States.

Q. Mr. Waller was consul?—A. Yes. Mr. Poupard was an American, and it was supposed that the persons indicated in the letter—Mr. Waller's letter—were Mr. Poupard and another American by the name of Duder; that was the supposition.

Q. By the French authorities?—A. Yes; and it was for that purpose that they called Mr. Poupard to give his opinion, or give his testimony in that respect.

Q. Well, what was the reference in the letter to those initials?—A. In Mr. Waller's letter?

Q. Yes.—A. I have here extracts from correspondence of Mr. Waller made by his attorney.

Q. You mean extracts from this correspondence of which the French

authorities complain?—A. Yes, upon which the charges were based. These extracts cover entirely the main points of the letter; anything else in the correspondence is solely of a private and personal nature, as well as some portions of this; but in these extracts they found the whole substance of the charges of corresponding with the enemy.

Q. These extracts, you say, were made by the French attorney who defended him, and made from the letters themselves; and those letters were in the possession of the French authorities there at Tamatave?—A. Yes, sir.

Q. Is this the handwriting of the French attorney?—A. Yes. Some in French and some in English. The quotations from the letter are in English.

Q. The letter quoted was written in English?—A. Yes; and he quotes exactly the words of Mr. Waller in correspondence. [Reads.] "December, 1894. Tamatave is now under military law, and as no one is allowed to leave here for the capital, I can not therefore tell when we shall meet again, but I hope that our separation will be brief. Let me caution you, my dear, to have nothing to do in the trouble between Hova and French Governments, as such would only tend to embarrass you. Of course this does not prevent you from keeping up our friendly relations with our friends among the missionaries and Hovas, being careful always to refrain from any discussion on the present difficulty." Here is where the French authorities base their connection between the names of Mr. Duder and Mr. Poupard and Mr. D. and P. [Reads.] "Duder and Poupard are as thick now as three in a bed, and Wetter is their god. I will inform you that D. and P. are on their way for Antananarivo, and they will likely reach there long before this letter leaves Tamatave. Please inform Mr. Tessier and our friends that both of these men have been sent up there by the French to find out secretly all the movements of the Hova Government, which they will send to the French authorities from time to time. Therefore the Government had better keep a strict watch of these men, and order them from the capital as soon as possible. Both of them are for French. I shall slip this letter out by English steamer via Natal. Then it will not be read by the French, as all letters are here at this time. I shall be anxious to learn that you have received this letter. Therefore, when you get it do not mention anything you find in it, but simply say, 'Your number 44 received,' and please destroy it as soon as you and Mr. Tessier have read it, and do not mention to anyone but Mr. Tessier and the secretary about the information which I send you."

Q. Who did you say Mr. Tessier was?—A. He was the manager of the Fikambanna. He is a merchant. That is all that is said in regard to the French. He speaks in the letter of the case of Mr. Geldart and another man, but of course that had no bearing upon the case, and that was not copied.

Q. You stated just now that Mr. Waller in his first examination explained whom he meant by D. and P. Who was it he said he meant?—A. He said he meant Mr. Draper and Purdy, two miners he knew there and who were going up to the capital. That was what he explained in his examination.

Q. Now, right in this connection, before you go to that, would it not be well to read all the extracts from the letter? I would like to have you just read the extracts from the letter. They are taken, I suppose, out of different parts of the letter. It is not the entire letter?—A. These are extracts from the letter which was inclosed in this letter to

Mr. Tessier, and comprise the main points which have any relation to the case at all.

Q. How many letters did the French intercept?—A. There was only one letter with several inclosures seemingly that he had written. For instance, a letter to-day to his wife and the mail had not yet arrived and in a day or two he would sit down and write another one and, of course, when the time came for the mail to depart he put them all under one cover.

Q. Those were all to his wife?—A. Yes, sir.

Q. Were there inclosures to other people?—A. There was an inclosure to one other and an inclosure to Mr. Tessier, but the French did not produce that against him.

Q. Did they produce the letter to that Malagasy, Ratsimanana?—A. In the first place they produced the letter which they found among his effects from Ratsimanana to Mr. Waller.

Q. They found that letter when they arrested him?—A. Yes; and then they produced the letter from Mr. Waller to Ratsimanana.

Q. That was included in those inclosures to his wife?—A. Yes; first is the letter from Ratsimanana to Mr. Waller. That was written from the capital, dated the 29th.

Q. Just one moment. The letters which were in evidence before the court-martial to sustain the charges against Mr. Waller were those from Mr Waller to his wife, a number of them, and one from Mr. Waller to this Ratsimanana?—A. And the letter from Ratsimanana to Mr. Waller.

Q. Which had been discovered on Mr. Waller's premises when they arrested him?—A. Yes; those comprise the entire correspondence, and these are extracts.

Q. Now, the extract which you are about to read is what?—A. From the letter of Ratsimanana to Mr. Waller. After going on his letter speaking of different affairs connected with the concession, and so on, Mr. Waller speaks of the Hovas having the intervention of England to resist the protectorate.

Q. You are now just giving this French lawyer's extracts?—A. Yes.

Q. By the way, in what language was that letter written?—A. It was written in English.

Q. And you have not extracts in English?—A. But that which is here translated is just exactly what involved the point of the correspondence.

Q. As you have it here it is in French?—A. That part of it; but there are others here that are in English; this is only one; the lawyer seems to have put it all in French. This was the letter written by the Hova to Mr. Waller. This Mr. Waller writes to his wife——

Q. One moment. Is there any other extract there from this letter of the Hova?—A. No.

Q. Now, perhaps it would be better to read the reply of Mr. Waller to the Hova next.—A. The Hova writes Mr. Waller and speaks of the hopes of the Government receiving the intervention of England to resist the protectorate of France over Madagascar; then Mr. Waller replies.

Q. There were two letters, then, from the Malagassy to Mr. Waller?—A. Yes; one the 29th and the other 30th, sent down by the same mail. He says [reads]: "30 Xber, 1894. Now, as you will be off to London and America, I beg to remind you of those things which I ordered, of which list I here inclose for fear that you will not find my

first letter. As to the revolver you promised to my father, he will be very glad indeed to have it as soon as possible. I also beg you to send me five more, if possible, for me and my brothers." Here is the extract of Mr. Waller's letter to this young man. He says [reads]: "I will remember my friends who have stood by me in this trouble. I dare not write you on matters about the French and Hovas, and when you write do not mention any matter as to the war, but only friendly and business matters, as all letters are opened and read by an officer in the French army here. Therefore be very careful what you write. I will send you the things you ask for as soon as I arrive." That is all. That was the main point of his correspondence with any Hova. That was all the correspondence he had had and that they found on him of any nature in any way relating to any arms. They found nothing in the correspondence giving any explanation or discussing in any way the French situation with any Hova, when he referred in this letter to those revolvers which he had promised these boys out there.

Q. Now read the extracts from the letter of Mr. Waller to his wife.—A. I have already read the first extract and here is the second letter [reads]: "20th January, 1895. It was a Godsend that they did not get open Ratsimanana's letter. If they had Paul would have been shot on suspicion. Let me warn you to be careful." Paul means myself.

Q. Is that the letter that they did afterwards get?—A. No; this is a reference to that portion of the letter which they found in his possession, that had a portion of it cut out. It was cut out by him. The portion of the letter which referred to me was cut out, and the French observed that; but they were unable to know what was in that portion of the paper cut out, and only knew that it had some reference to me by the letter Mr. Waller had written to his wife. What that something was they did not know. Now, as a matter of fact, of course, I did not tell them what that something was; but all that it was was simply that some time previous to my departure from the capital for Mauritius, and when there were rumors of pending war, several of the officials—friends of mine—had advised me, or rather had suggested to me, that if I wanted a position with the Hovas in their coming trouble that I could have it, and knowing my sympathies for them, and so on, they would be glad to do anything they could for me in that direction; and one of these men was the father of this young man, and, of course, he then, in writing to Mr. Waller, said he was glad that I was for them and hoped that I would soon march to the capital and join them in the matter, and also that I would get the revolvers that he had requested of Mr. Waller—that I would get them in Mauritius if I could. That was all that was in this letter in this clipping that was cut out. Mr. Waller had cut it out thinking that it might bring trouble, but the rest of the letter there was nothing in.

Q. And when the French seized Mr. Waller's letters they found this particular one with this particular passage, the substance of which you have recited, cut out?—A. Yes, sir.

Q. And further than that was the reference in Mr. Waller's letter to his wife, which they intercepted and that excited their suspicion as to what it may have been?—A. Yes. They thought it was something very grave, of course. In another letter to his wife he says [reads]: "Let me know whether you received the passports or not, as it is very important matter. They were sent through the French admiral here, and I want to know whether you got them or not." In his letter to Mr. Tessier—that was one of the inclosures—he says [reads]: "I send an important letter under your cover to my wife, which I will be pleased to have

you hand her in person on account of its importance. I need not inform you that she will call your attention to a certain matter therein contained, the importance of which will at once challenge your most careful attention and place our friends on their guard. This matter is strictly confidential, and I can assure you that our friends can not afford to lose any time in attending to it." That is all the extracts.

Q. That is all the lawyer copied?—A. The lawyer took all the extracts from the letter which had any bearing at all upon the charge which the French made, out of the letters which they produced against him. Those extracts were taken exclusively from those letters, and that is the whole of Mr. Waller's case. There are some extracts here from the examination of Mr. Waller and of Mr. Poupard and myself.

Q. You are now referring to the trial, or the preliminary examination, which?—A. The preliminary examination of Mr. Waller, and the evidence of Mr. Poupard at the examination and of myself at the examination. This is in French. It is written in French, but I wish to call attention to the fact that at my examination this interpreter, the same interpreter that they got in Mr. Waller's case—he does not understand English well, sufficiently to understand it. He is a creole. I do not know whether he is a French citizen. I think so, but I would not be quite sure of that. He might be a British subject. At any rate, I understand French sufficiently to be able to say positively in reporting my replies to the questions which were put to me that they were altered to suit their own tastes; they put them down as they pleased. The interpreter would put the question to me in English, and I would give my reply in English. He would then give my reply to the reporter, the same officer who conducted the prosecution against Mr. Waller, and he would then put my reply down in French, and construed it to suit himself. It was not a correct translation.

Q. You understand French well enough to know that?—A. Yes; and for that reason, after the testimony was over, they tried to force me to sign my testimony, and I refused.

Q. You are referring to your preliminary examination?—A. Yes; and I refused to sign it, because I knew it was incorrect; and, secondly, because it was written in a foreign language, and I refused to sign anything that was not in my own language. They tried to make me do so, but I did not do it. Even in the extract which the French attorney has here made, they tried to make it appear in my preliminary examination that I refused to state when Mr. Waller sent his letters away, when he mailed his letters, where, as a matter of fact, I did not refuse to state that. I did not know when he sent them. That is only illustrative of what had happened in several instances.

Q. You were going on, when you began to read these extracts, to give the substance of the testimony that occurred on the trial, and you had stated what the miner and Mr. Poupard had testified to, and as I remember your statement, that was merely confined to an identity. Well, now, give anything else that you remember of the testimony.—A. There was nothing else given; that was all.

Q. You were examined. What did they ask you and what did you testify to?—A. They asked me if I knew Mr. Waller. If I knew anybody by the name of Draper and Purdy. I told them that I did not know anyone by that name. They asked me if I knew Ratsimanana, and I told them that I did. That was all.

Q. That was all of your examination?—A. That was all that they asked me at the trial.

Q. Those are the only questions asked you?—A. Yes.

Q. Did Mr. Waller's counsel put any questions to you?—A. No.

Q. Did he put any to any of the other witnesses?—A. Not in my presence.

Q. Were you there during the entire trial?—A. Yes. In the examination by the captain—I did not hear that, but I was at the trial. I was standing at the door, but I was inside when they examined the other witnesses.

Q. Did the counsel for Mr. Waller cross-examine any of the witnesses?—A. I do not know that he did. I am sure of myself that he did not.

Q. He was permitted to?—A. Yes; he was permitted to.

Q. They did not prevent him from cross-examining them?—A. As I understand it, all that the captain, the military captain, was called upon to testify was as regards Mr. Waller sending the letter and as regards to the rules governing the sending out of correspondence.

Q. Did you hear his testimony?—A. I did not hear it. This of course was told me afterwards, who heard it in French.

Q. Were any witnesses called in behalf of Mr. Waller?—A. None were called.

Q. He had the right to call them?—A. I do not know whether he had or not.

Q. Was he examined?—A. At the trial?

Q. Yes.—A. No, sir.

Q. He was not examined?—A. No, sir. All that was said to him at the trial was, he was asked if he had anything to say regarding the testimony which was given, and he said that all he had to say in regard to Mr. Poupard's testimony—that he had tried to have him expelled from the country as consul—was, that if he did so, there must certainly be some record in the United States consulate to show his reasons for so doing.

Q. He was not examined as a witness in his own behalf?—A. No; he was not examined.

Q. Do you know whether his counsel requested that he should be?—A. No; I do not.

Q. How large was this room where these proceedings were had?—A. The room was a little larger than this [indicating the office of the Secretary of State].

Q. Were many people present?—A. Yes.

Q. Was it open to the public?—A. Yes.

Q. Did they ask Mr. Waller or his counsel whether he had any objection to anyone who composed the court?—A. No; they made no such remark. The attorney for Mr. Waller argued that the court had no jurisdiction over Mr. Waller, and quoted French law. Of course, they overruled his objection, and brought in a verdict which was very lengthy, and which recited the laws of France.

Q. It was in writing?—A. Yes; it was; section after section of different laws bearing upon illicit correspondence, and so forth. I did not understand it, because it was in French and was very rapidly read. I could not keep up with him.

Q. When was that rendered?—A. That was rendered immediately after the trial.

Q. The same day?—A. Just at the same moment. The trial commenced at 7, and at 10 o'clock the court went out to bring in their verdict, and they came back in about twenty minutes.

Q. Then the document was already prepared and signed?—A. Yes; it must have been prepared before they went in. It was so very

lengthy that it would have taken a stenographer at least an hour to have prepared it and the papers they read. It covered, I should judge, at least eight or ten pages of large foolscap.

Q. Did they undertake to give the history of the entire offense charged against Mr. Waller?—A. Yes; they certainly did, and itemized the points, and so on.

Q. Was there any oral testimony given on the trial at all of any act or thing asserted or claimed to have been done by Mr. Waller?—A. No, sir.

Q. According to your understanding, that was entirely confined to what was contained in the letters to his wife and to this Mr. Tessier, and the letters to that other man?—A. Yes, sir; of course, except the argument of the prosecuting attorney.

Q. Did he refer to any evidence that was produced against him?—A. There was no evidence produced against him except these letters which are referred to and these extracts. That was all.

Q. There has been some statement made in the papers that he was giving valuable information as to the movements of the French troops, etc.?—A. I saw them. That was all newspaper talk. There was no ground for them at all.

Q. Was there any claim of that kind made on the trial?—A. No.

Q. And no witness gave any evidence as to any action on his part which they claimed was in sympathy with the Hovas?—A. No witness at all.

Q. You spoke of an examination—a preliminary examination—of Mr. Waller before the trial, and I am not sure whether you said that was reduced to writing?—A. Yes; it was.

Q. Do you remember whether it is a part of the records of the case?—A. Yes; it was made a part of it.

Q. Did they claim anything from that, do you remember?—A. No; because Mr. Waller did not commit himself in any way. Of course, he acknowledged that he had sent these letters away. Of course, that was in violation of this article 3 of the order of place, but he admitted his guilt in that respect. That was a question of a nominal fine.

Q. That would apply, as I infer from your remarks, to any correspondence, regardless of the contents of it?—A. Yes.

Q. That would be the gist of the offense, regardless of its contents?—A. Yes; you must not send anything out unless they see it first.

Q. Was there any stress laid upon the fact that Mr. Waller, at his preliminary examination, had explained these initials D. and P. as referring to two other men than those whose names beginning with the same initials had been mentioned at the trial?—A. They did point that out, and there was no question but what Mr. Waller meant Mr. Duder and Mr. Poupard in his letters. That was what the prosecuting attorney argued in that respect, and they claimed in substance that he was writing to the Hova authorities that these men were spies of the French Government.

Q. And to be on the lookout for them?—A. Yes.

Q. Now, what took place at this examination of yourself that you have referred to? I do not refer to your testimony at the trial, but the preliminary examination. You said they examined you. You have given something of that already. You were examined before whom?—A. I was examined before this prosecuting attorney, the military reporter of the court-martial.

Q. He was an officer attached to that military tribunal?—A. Yes; I was in his presence and his secretary and the interpreter.

Q. Were you sworn?—A. Yes.

Q. The oath was administered to you?—A. Yes.

Q. By whom?—A. By the prosecuting attorney.

Q. Do you know whether he exercises that function in connection with military trials?—A. No, sir; I do not. He put that question to me in my examination.

Q. Put what question?—A. He asked me if I did not know that I was under oath, and if I did not state the whole truth and nothing but the truth that I would be liable to prosecution. I replied to him that that question was one for a lawyer to discuss; that I did not know upon what authority I was called there. I did not know whether I was liable for prosecution or not.

Q. Did they send for you?—A. They issued a summons.

Q. What, substantially, were the questions that were asked you?—A. First, they asked me regarding my family, if I was connected with Mr. Waller; my name; if he was my stepfather. Then they asked me if I knew anything about Mr. Waller's correspondence. I told them that generally I did. He asked me several unimportant questions about his family, what they were doing, etc., what support they had, etc. Then he asked me if I knew different persons at the capital. They called the names of a dozen or more persons; asked me if I knew them. I told them that I did. They asked me if I knew Draper and Purdy; if I knew Mr. Tessier; if I knew Ratsimanana. They asked me if I knew when Mr. Waller wrote his last letters to his family. I told them the last I remembered was in the latter part of December or the early part of January, and they asked me if I knew when he sent those letters, if he did not send them along about the latter part of January. I told them that I did not know when he sent those letters.

Q. Was this the reply you say they interpreted as your refusing to answer?—A. Yes; then they asked me what was in that portion of the letter that was cut out. I told them that I did not remember what was in that portion of the letter.

Q. Did they have the letter there?—A. Yes, sir.

Q. Showed it to you?—A. Yes; they showed Mr. Waller's letters and asked me if I recognized those letters.

Q. The letters written by him?—A. Yes, sir; they asked me if I recognized them—knew their contents. I told them that I did not. I had never seen them before, did not know anything about them. They also asked me if I knew anything about Mr. Waller's correspondence with any of the Hova officials at the capital. I told them that I did not know of any correspondence of his of that nature. That was the substance of the examination. They, of course, asked me many other questions, but they had no bearing. I do not remember them.

Q. This is the pith of it?—A. Yes. I have got them all taken down in my notes exactly what they asked me, but there is nothing of importance in their examination.

Q. You have that? Who took it?—A. I took it afterwards from my memory the same day. There is nothing of importance. All they wanted to find out was as regards to the time he sent the letters, with whom he was corresponding, and as to the contents of that letter that had the clipping cut out. That was the main object of their examination.

Q. After the judgment was rendered by this military tribunal then what was done with Mr. Waller, and what was done by him or his counsel?—A. He was sent to prison. He sent for his counsel, and an appeal was then made to a higher court—to a different court.

Q. In Tamatave?—A. Yes; they formed a military court, a higher court, of different officials from those who had sat in the case, to hear the appeal, and they refused it.

Q. Was there such a tribunal then existing?—A. No; this was especially called to decide this case.

Q. Did he make his appeal in writing?—A. I did not see the appeal. It was made just the day before I left there in the afternoon, made by the lawyer, and of course the lawyer consulted with Mr. Waller, and the lawyer told me the points upon which he was going to base his appeal, but did not show me his notes.

Q. Then there was nothing further done so far as any pleading before any tribunal is concerned?—A. No.

Q. What was the judgment of this military tribunal before which he was tried and by which he was condemned?—A. The judgment was that he be confined for twenty years in prison.

Q. This application for appeal was made the same day of his conviction?—A. Yes; the application was made and the appeal was heard the following Saturday.

Q. What day of the week was this trial?—A. The trial was on Saturday.

Q. Before whom was this application for appeal heard?—A. It was heard before a higher military court, a higher one than the other one.

Q. Was that different and higher military court formed for the purpose of receiving the application for the appeal, and did they grant the application?—A. No; they did not; they denied the application.

Q. The higher court actually heard the application, and after hearing it declined to grant it?—A. Yes, sir.

Q. Was this higher court to which you refer a court constituted for the purpose of hearing appeals, or was it a court especially assigned for this particular case?—A. A court especially formed for this particular case.

Q. By whom was it designated?—A. It was designated by the commander of the fleet. The commander was absent, but the next in command did it. Anyway, he was acting commander at the time.

Q. Who was the chief officer of the French forces there, the naval officer or the land officer?—A. The naval officer.

Q. He was superior to the officer who was on land?—A. Colonel Colonna, he was the commander of the land forces, and Mr. Kiesel, he was the commander of the naval forces.

Q. Which of them had the higher authority, the naval or the land officer?—A. Colonel Colonna had command of the land forces.

Q. You spoke of this court of appeals being organized under the direction of the naval officer?—A. Yes; it was under the direction of the naval officer, but it was composed of members of the land force, land and naval as well. I do not know how that was. Of course the particular construction of the court I did not observe closely; only observed that it was the military court, but was not particular to observe how they formed that court; but I know that Colonel Kiesel is in command of the naval forces and Colonel Colonna in command of the land forces. This tribunal and, in fact, all military orders, must receive the sanction of the commander of the naval forces, because the whole expedition at the present time is under the command of the naval officer. I think the land colonel is subordinate to him.

Q. This application for appeal was heard on Saturday following his conviction, and the order refusing the application was made on or about the same day?—A. The application was made on the same day.

Q. The application was presented on Saturday?—A. Yes; and it was refused the same day.

Q. Was there a hearing at that time by counsel held privately?—A. Yes.

Q. Mr. Waller's counsel presented the application and made an argument?—A. Yes.

Q. It was not published?—A. No, sir.

Q. What were the grounds upon which Mr. Waller's counsel applied for the appeal?—A. Jurisdiction. He claimed that the military court that tried Mr. Waller had no jurisdiction over him; according to the French code, the French law, that they had no jurisdiction over him.

Q. You mean he claimed the case was not a proper one for the court-martial?—A. Yes; it was something of that nature, that that authority had no jurisdiction, or else it was not one for their consideration.

Q. After the appeal was refused, after the application was refused, then what was done?—A. Nothing was done then, only preparation for sending him off to France, and then it was just about this time, in fact I think it was the very day that this application was refused, that I was served with this order.

Q. Just a moment. When was Mr. Waller sent away?—A. He was sent away on the 25th. The trial was on the 18th, on Monday. The steamer left the 25th. No; it was on Saturday, the 23d, the paper was served on me—yes; it was the 23d.

Q. Is this the original paper you have here now?—A. Yes. I am mistaken, my order was served on March 21, a few days before that.

Q. That was handed to you by whom?—A. By a French gendarme.

Q. You have none of this French copy of the order?—A. Yes; the original copy.

Q. That purports to be a copy of the original?—A. Yes; they did not give the original to me, but a copy of it.

Q. What was done except to hand you that order by the French officers; were you arrested?—A. They attempted to arrest me, but I eluded them and got inside the consulate grounds, remained there for two or three days and slept there until the day of the departure of the ship. Of course in the meantime we were considering the advisability of whether I should remain and run my chances, remain inside the consulate yard and resist their order, or whether I should go. And the consul had written a letter to the colonel commanding the place demanding what right he had to expel me, to bring definite charges against me, and he said that I protested against going. The colonel replied that the military authorities were determined that I should go out of the country, and they would not entertain any interference on the part of civil authorities in the matter.

Q. When this order of expulsion was delivered to you by the officer you took refuge in the consulate grounds?—A. Yes.

Q. And there you remained until Monday?—A. Yes.

Q. And in the meantime Consul Wetter addressed a communication to the military authorities which you have referred to?—A. Yes.

Q. And the reply was received by Consul Wetter that——. Have you a copy of that reply?—A. No; I have not a copy.

Q. What was the substance of the reply?—A. It was, as I stated a moment ago, the military authorities were decided that I should be sent out of the country, and that they would not entertain any interference on the part of the civil authorities.

Q. This order of expulsion is in French. I would like to have you leave it here.—A. All right.

—(Order of expulsion marked Exhibit B, and forms a part of this statement.)

Q. Did you have counsel?—A. No; I had no counsel.

Q. Did you finally reach the conclusion that you would depart?—A. Yes; I wrote this letter to Consul Wetter, after carefully considering the subject.

Q. Just read the letter.—A. [Here Mr. Bray reads letter marked Exhibit C.] I received a reply from the consul, which is as follows: [Here Mr. Bray reads letter marked Exhibit D.]

Q. When did this ship arrive at Tamatave?—A. It arrived there on the 24th.

Q. That was Sunday?—A. Yes; it arrived on Sunday.

Q. She laid there how long?—A. No; she did not arrive on the 24th; she arrived Monday morning and left Monday evening, the 25th.

Q. When did you see Mr. Waller after the day of his trial and conviction?—A. I saw him on the day of our departure to the steamer.

Q. Where did you see him?—A. I saw him at the prison where he was confined.

Q. Before he was taken aboard the ship?—A. Yes; they sent for me to come and see him the day they were preparing to take him aboard the ship.

Q. Who sent for you?—A. He had requested to be permitted to see me the day before, and they had refused him, but for some reason or another, I don't know why, the next day this reporter, the captain, sent one of his orderlies over to the consulate.

Q. That was on Monday or Sunday?—A. That was on Monday.

Q. The day you left?—A. Yes—no, it was on a Sunday evening, the day before we left. He sent word to the consulate to come over and see him. I did so.

Q. You had an interview with him?—A. Yes.

Q. Anyone present?—A. The officer, the captain, and his orderly were present.

Q. They remained present?—A. Yes; and permitted us only to speak of family matters and personal matters, and say good-bye to each other; that is all.

Q. Then you went back to the consulate?—A. Yes, sir.

Q. How was he imprisoned there?—A. In a large room.

Q. Any guard?—A. There were three or four guards always on duty.

Q. You spoke here at one time of sending him in food, did you not?—A. Yes.

Q. Did they furnish him with food?—A. No food.

Q. No food all the time?—A. They did not furnish him with food until after he was convicted.

Q. Did they fail to provide him because you did provide him?—A. That of course I was not able to get from him. On the day of his arrest he sent word he had no supper and wanted something to eat and that he had no bed. Of course writing a note passing through the hands of the captain going to us—it must be inferred that they were not going to furnish it to him, because if they were they should have provided it themselves.

Q. After you saw him on this Sunday evening when and where did you next see him?—A. I have not seen him since.

Q. What time of the day did you leave Tamatave on this steamer on Monday?—A. We left about 6 o'clock in the evening.

Q. Did Mr. Waller go on the same steamer?—A. Yes.

Q. When did you go on the steamer?—A. They arrested me forcibly

on the street. I was in the consulate yard before the time of the departure of the steamer, when I was attempting to go to my home to prepare my baggage. They arrested me on the street and did not permit me to go to my house to get any of my things, but they took me on board and they went to the house themselves and got just what they saw; they got my trunk, which I have with me, and one box. My things were around in the wardrobe and left behind me.

Q. When you went to see Mr. Waller on Sunday an officer accompanied you from the consulate. Did he accompany you back to the consulate?—A. No, sir.

Q. On the day following, do I understand you to say, when from the consulate you started to go to your home for the purpose of getting your personal effects to take the steamer, you were arrested?—A. Yes; they feared, perhaps, that I was going to try to escape them. In fact, it was time for the steamer or nearly time for the steamer to depart, and they were very angry that I had not put in appearance.

Q. By whom were you arrested?—A. By the captain—this same captain who was a witness in Mr. Waller's trial; he arrested me with the assistance of two gendarmes who were there; they took me on board the ship.

Q. Did they ask you about your effects which you wanted?—A. I told them I wanted my things, and they said never mind; that if I could get them I could get them, and if I could not I would have to go without them; and, as I told you, they managed to get what things they found already prepared and brought them on board.

Q. After you went on board the ship were you under any restraint there?—A. I was not under any particular restraint; only I was not allowed to go aft, where Mr. Waller was.

Q. Where did you understand Mr. Waller was?—A. He was in the fourth class; he was in the hold below, and I was not permitted to see him at all on the voyage.

Q. Was he in charge of anybody?—A. Oh, yes; he was under guard all the time.

Q. How many?—A. Two. There was a number of them. I think there were half a dozen. They were on different watches. There was another man on board; his name is Watts. He was on board the ship, and without knowing me, but he knew I was from Madagascar; but he did not know that I had any relation with Mr. Waller at all. He said he understood that I was from Madagascar. Of course, he was also fourth class, and did not see me, but was with Mr. Waller, and he said: "You are an American, I understand. I want to tell you concerning the outrageous treatment that they accorded to that man Waller, who was consul to Madagascar, whom they have got as prisoner on board the ship." He said he saw them bring him nothing but rice, a little curry and water, and not even a spoon or a fork or anything to eat with. He said they treated him like a dog. He offered to buy a little wine or a little lemonade, because he could not stand the change of water, and they absolutely refused to give him anything except the rice, curry, water, and bread. He said that he was going to write to the Department.

Q. Did you get off at Zanzibar or did they put you off?—A. They put me off. They turned me over to the consul. They took my baggage.

Q. Who did?—A. The steward of the ship. He landed my baggage. I protested that there was no consul there, and on arrival I found that the consulate had been closed, so I pointed that out to the commander

of the ship and he said that he could not help that, that he had orders to land me there.

Q. Was it a French ship?—A. Yes.

Q. Where was she bound for?—A. Bound for Marseilles. I was put off there, and the French consul did not come to take me or see after me or anything, and when I landed it was about half-past four in the afternoon. I went to the French consul and told him who I was. He simply said: "Go where you please, you are at liberty." And I told him that I had no friends there and I had no means, and I said I wanted to go on, and I asked him to assist me on to Marseilles and to request the commander of the ship to send me on. But he refused to have anything to do with me. He said all he would do was to send me to the British authorities. He gave me a letter to Mr. Harding, the British consul-general. I went there, but he was absent. I wrote a letter then to the prime minister of the Sultan's court, protesting against being landed in Zanzibar, as I was in destitution, and asked his interference, and he sent his secretary around to the hotel where I stopped and sent me to the resident general about 10 o'clock at night. I went there, and the resident general, after I explained my case to him, said he was sorry, but he could not do anything for me because the United States Government had made no arrangement.

Q. Who was the resident-general?—A. Harding.

Q. The present resident-general?—A. Yes. They had not yet given him any instructions as to what to do with American citizens, and he could not interfere, although he felt it a case that justified interference, but he could not do so. He said he would cable to the consul at Aden to get instructions in the matter. He did so at his expense, and the consul at Aden telegraphed to him that he could give no advice in the matter; that he would have to correspond with the minister at Cairo or at Paris. I had a sufficient amount of funds to barely pay my passage to Marseilles, and the consul-general advised me that the best thing to do was to go on to Marseilles and manage to get to Paris and lay my case before Ambassador Eustis, rather than spend what little money I had by remaining there in Zanzibar waiting for instructions.

Q. You got back on the same ship?—A. I came on another.

Q. Where did she land you?—A. She landed at Marseilles. When I landed there I found the acting consul. He assisted me on to Paris, where I called upon Ambassador Eustis and told him my situation.

Q. How long were you in Paris?—A. I was there six days.

Q. Had you any funds when you reached Paris?—A. No; I had no funds at all. I would not have gotten to Paris had it not been for the consul at Marseilles.

Q. And Mr. Eustis paid your expenses in Paris?—A. Yes.

Q. Where is Mrs. Waller now?—A. She is at Antananarivo.

Q. What family has she?—A. There are six of us, three daughters and one son.

Q. How many by Mr. Waller?—A. Three by Mr. Waller.

Q. Where do you understand Mr. Waller is now?—A. He is at Marseilles. I forget the name of the prison there.

Q. Had the consul seen him?—A. No; he had not seen him.

Q. What is the situation there now from a military point of view; what was it when you left?—A. When I left the French were just simply occupying Tamatave, as they have been since the 12th of December. They have made no further advances, although they have made five different attempts to storm Farafati, the Hova stronghold.

Q. Where is that?—A. It is situated 6 miles back from Tamatave.

Q. Have they not pretty good fortifications at this place?—A. Yes, it is very strong. The French were repulsed there in the last war. They have been defeated five times already in Tamatave endeavoring to take it.

Q. That was during this period that you and Mr. Waller were kept confined in Tamatave that they had made the attempt to take this fort and been repulsed?—A. Yes, sir.

Q. It is considered on both sides that the actual state of war is existing between the Hovas and the French?—A. Yes, sir. Of course while there has been no real official declaration of war, simply the French coming there and landing their troops. First, they requested permission to land their troops peaceably there and put them in the hospital, a day or two before they opened up the bombardment. The governor refused, and then they landed their troops. The Hovas all retired to their fort; of course there was nothing done there; the French were only landing their arms and munitions and troops, getting themselves in position.

Q. What was the amount of the French force?—A. Only about seven or eight hundred.

Q. Are they occupying any part of the island except Tamatave?—A. Tamatave and Mojanga.

Q. And they have been endeavoring, from Tamatave as a base, to penetrate into the interior and have not made any progress?—A. They have made no progress. These are the only places in Madagascar where the French have possession.

Q. In taking possession of Tamatave what have they done except to land their forces?—A. They have taken possession of all the houses and valuable buildings. Any house they wanted they simply went and took possession of it.

Q. They took possession of them for occupation?—A. Yes, sir.

Q. They were willing to pay for that occupation?—A. Sometimes they were. I suppose they intended to do so. They did not ask how much you wanted for your house, but told you to get out. Of course what you get for it will be considered hereafter in whatever indemnity they may choose to pay them.

Q. Aside from that what are they doing?—A. Well, the soldiers have been conducting themselves very badly, stealing——

Q. I was not referring to depredations in any way, but their asserting or exercising authority?—A. In regard to that they have taken complete jurisdiction over the place, and they have issued a notification to the consular authorities that the civil authorities have nothing whatever to do.

Q. Before they occupied what were the courts there?—A. The courts were consular, under the exclusive consular jurisdiction.

Q. Were there any local courts?—A. No local courts.

Q. Mr. Bray, between two Malagasy subjects, how would the court have been constituted?—A. That would have been before a Malagasy court.

Q. What was the nature of that tribunal?—A. That was a local court composed of Malagasy.

Q. Since this occupation by the French, of course the local courts have ceased to exercise their judicial power?—A. Yes, sir.

Q. Do you understand, Mr. Bray, or did you say that for instance a controversy should arise between two foreigners in Tamatave, the consular court would still exercise jurisdiction, would it not? The French

would not claim to exercise jurisdiction between two foreigners?—A. As I understand it, if there is anything contrary to the order and discipline of the place under seige it comes under military jurisdiction—that is what the consul informed me; but if anything else, it comes under consular jurisdiction the same as before. A criminal case or civil case comes under the jurisdiction of the consul. Any violation of the orders they have issued there governing the place in seige; well, it is very hard to understand what position consular authorities do hold.

Q. What do you understand France has tried to make the Hova Government agree to by remaining there with the army?—A. They simply want the country. That is all there is to it. They want the country; that is all there is—nothing more. If they can get it they get it.

Q. Did they assert any grievance?—A. They have asserted grievances, but they are so absurd. They claim that they want to enforce the treaty of 1885, and they themselves are of course the ones that have violated the treaty and who are not keeping it. The first trouble was their attempt to extend their boundary. Under the treaty the boundary limits were fixed a certain number of miles, and since that time they have just simply been encroaching farther in on the Hova territory.

Q. At what place is that where they have been encroaching on the Hova territory?—A. At Diego Suarez.

Q. What part of the island is that?—A. It is the northeast coast.

Q. Above Tamatave?—A. Yes. The extreme northeast coast. They have been encroaching upon the Hova territory, and the Hovas of course objected to that and demanded that the French remove the buildings that they had erected upon their land over the boundary limit, and also to take away their flags that they had put up. The French governor at Diego Suarez told the Hova governor that he could take the flags down if he liked and do what he pleased, but if he did it would be considered as an act of hostility toward France, etc.

Q. This is just the common rumor?—A. This is a fact; it is not rumor, but it is real fact. I know it to be a fact, because the governor there—and I know him personally, and he was at the capital when I arrived there.

Q. The French governor?—A. No; the Hova governor. It has been published in the official red book. They have been encroaching upon them, and of course these difficulties have been growing more and more in many ways, and also the fact that the resident general has been all along, ever since Mr. Waller's exequatur difficulty and the arrival also of Consul Wetter, urging and doing all he could to press the prime minister into a recognition of the right of France to issue exequaturs to American consuls and all consular representatives. The French have only exercised jurisdiction in the two towns under military control, Tamatave and Mojanga. Since the last war they have had control of the customs in certain ports for the payment of the indemnity, but they had no further powers than simply to collect this money and oversee it. The Bay of Diego Suarez has been ceded to France by Madagascar by the treaty of 1885.

Q. How large is that settlement?—A. It comprises about 16 square miles.

Q. Where was this concession of Mr. Waller's?—A. It was on the southeast coast.

Q. How far from the capital?—A. It was about 380 miles from the capital.

Q. His wife is now at the capital?—A. Yes.

Q. Which is the nearest to the capital Tamatave or Mojanga?—A. Tamatave.

Q. How far is that?—A. It is about 225 miles and Mojanga is 300. Mojanga is on the west and Tamatave is on the east.

Q. Is it a pretty good road from Tamatave back to the capital?—A. No; there is just what you might call a footpath.

Q. That is the only means of communication?—A. Yes.

Q. No telegraph?—A. Yes; there is a telegraph.

Q. Are the native Hovas experts in managing the telegraph?—A. Yes.

Q. Are they pretty well educated?—A. Yes; very well educated.

Q. Is the language reduced to writing and capable of expressing ideas?—A. Oh, yes.

Q. Do you speak it?—A. Yes.

Q. When did you go out there?—A. I went out in 1892—the spring of 1892.

Q. That was after Mr. Waller was appointed consul?—A. Yes.

Q. And you went from what State?—A. Kansas.

Q. Were you with him in any official capacity while he was consul?—A. I was in the consulate all the time until, of course, I went to the capital to look after this concession.

Q. What has Mr. Waller been doing there since Mr. Wetter succeeded him?—A. He is simply waiting some action of some business men in regard to the concession. We had been negotiating with some parties in regard to it.

Q. When did he obtain that concession?—A. March 15, 1894.

Q. When did Mr. Wetter succeed him?—A. On the 26th of January, 1894.

Q. This is a concession from the Hova Government?—A. Yes.

Q. The rubber industry is the one contemplated?—A. Yes; rubber and timber.

Q. How near the coast is the concession?—A. It is 15 miles from the coast.

Q. It touches the coast?—A. One strip touches the coast.

Q. Which coast?—A. The east coast.

Q. By what authority was this concession granted?—A. It was granted by authority of the Queen and prime minister.

Q. No legislative body?—A. No.

Q. Have they any legislative body there?—A. Yes; they have a Parliament. It is not a representative Parliament like we have. The Queen and prime minister are supreme.

Q. How is that concession evidenced? Of course, by written instrument?—A. Yes. A contract drawn up in English and Malagasy, two texts, and signed simply by the Hova authorities and the translations certified to by the author of the Malagasy-English Dictionary, and visaed properly before the British consul and our own consul, and registered there.

Q. There is a system of recording there?—A. Yes. It is recorded at Tamatave.

Q. There is no local system under the Hovas of registering like there is in the United States?—A. They are registered at their own foreign office. The grant has been registered in their foreign office.

Q. The French Government, as soon as they had obtained information of Mr. Waller's grant, remonstrated with the Hova Government, did they not?—A. They had a very stormy meeting.

Q. What is the seat of the French resident?—A. At the capital The French resident heard of the grant and he protested against the grant being made.

Q. Did he protest in writing?—A. No; verbally. He said that it was prejudicial to the interests of France, and that he considered that it was impolitic for the prime minister to give such a large grant of land to an American citizen—to a foreigner. Of course they tried to add some political significance to the grant; that is, the French believed that. They labored under the impression that there was some scheme on foot between Mr. Waller and the Hova authorities in regard to it, and stated as much in their paper.

Q. Was there any written communication or protest by the French resident?—A. No; all that he did was after he found that the concession had actually been granted and he could not prevent it; he then issued a note, just a memorandum to his papers—they have two papers there, one at the capital and one at Tamatave—to the effect that no concessions granted by the Hova authorities would be recognized by the French Government unless they had been visaed by the French resident-general. Of course those instructions did not come from Paris to him, so we saw by the newspaper reports. He acted upon his own responsibility in that matter.

Q. His action has not been disclaimed, has it?—A. No; not publicly disclaimed. Of course it looks as though his acting has really been indorsed, because in the claims of the French Government to the Hovas, in their ultimatum, they demanded the right to visa all concessions of land granted to foreigners; that is to say, that all of these concessions must be registered.

Q. They have made a written demand to that effect?—A. Yes.

Q. It is one of the pending controversies?—A. Yes; one of their five demands.

Q. What did the Hova Government say to the remonstrance against that grant?—A. The prime minister assured him that it was only a commercial enterprise, and that he had no intention to throw any obstacles in the way of France.

Q. Did he disclaim the right of the French Government to interfere?—A. Yes, he did; and he further said that he could not entertain any interference on the part of the resident in that respect. He absolutely refused to recognize the protest which the resident made.

Q. What are the five demands? You mentioned one of them. Do you remember them?—A. I can not remember them all. I have them with me, but I do not remember them. I have those demands, and I have the reply also of the Hova Government to their demands. I will give you those also as soon as I get into my trunk. Of course the sum and substance of it is that they want the country—that is all.

Q. They did not say that?—A. No; but that is what it means.

Q. You stated that the order or the judgment of this military court did not direct where Mr. Waller would be imprisoned. What was the order that was made under which he was taken to Marseilles? Was there a subsequent order; if not, who determined where he was to be taken?—A. Since I come to think of it, the judgment stated that he was to be confined in France—I think the presiding colonel said in France. The place where, I suppose, was to be decided upon later by the military authorities. At least at the time of the trial no one knew just where he was to be sent, only that he was to go to France; we all knew that.

Q. So they put him on board this ship?—A. Yes.

Q. Are there any actual hostilities there now going on—were there when you left?—A. There were not when I left, although since I left they claim that there have been some hostilities on the west coast.

Q. The hostilities while you were there consisted in the attempt of the French forces at Tamatave to carry this fort of the Hovas, about 7 miles in the interior, and they were repulsed in that attempt on five occasions?—A. Yes; five times.

Q. When was Mr. Waller last at the capital?—A. He left the capital about the 1st of October, and he remained at Tamatave until the time of his arrest continuously.

Q. How long had he been at the capital before October?—A. He had been up there since January 18. He arrived at the capital on January 18.

Q. Did he go from Tamatave to the capital?—A. Yes.

Q. Was his wife with him?—A. Yes.

Q. She went with him from Tamatave?—A. Yes.

Q. Did he remain then at the capital all the time?—A. He remained there up until the latter part of September, when he reached Tamatave, say about the 1st of October.

Q. How did he go from Tamatave with his wife?—A. By bearers—palanquin carriers; the usual method of travel.

Q. At any time was he at his concession?—A. No; he has never been down there. Of course, about the time we were getting ready to go there the French put so many obstacles in our way to making any progress in our arrangements, and then even when I could have gone, or we could have gone, of course the hostilities broke out before either of us could get down there.

Q. When did you go from Tamatave to the capital?—A. I went in December, 1893.

Q. Before he did?—A. Yes. Let me see, I went in December, 1892, instead of 1893. I was there the year before he was.

Q. You went while he was consul?—A. Yes.

Q. And remained there?—A. Yes.

Q. Until what time?—A. Until his arrival; in fact, up until May, 1894.

Q. Then you came to Tamatave?—A. No; I went to Mauritius, passing through Tamatave.

Q. Mr. Waller stayed how long at the capital?—A. He stayed from the 18th of January until about the 1st of October.

Q. And you went over to Mauritius about the business connected with this concession?—A. Yes.

Q. Did you join Mr. Waller at Tamatave at that time?—A. I joined him there on the 26th of November.

Q. How long after that did the French occupancy take place?—A. The 12th of December.

Q. I will ask you again as to the date of the letter from Mr. Waller to his wife of which the French Government complained?—A. It was dated the 22d or 23d of January, 1895. That was after the French occupation, but the letter left Tamatave, was mailed out at Tamatave, actually on the 21st; but his reason, of course, in dating it was, it seems, that he had written the letter several days ahead of date because the mail was not due until the 25th, and naturally, of course, in writing his letters, if he would write them on the 12th or 15th he simply would date his letters perhaps on the mail day. That is the only way I account for the letter having date two days later than its actual departure.

Q. The mail went earlier than it was expected?—A. Yes.

Q. Do you think that these extracts you have here contain all that was in those letters of which the authorities complain in his trial?—A. Oh, yes; I am sure of that, because they contain more than was really necessary, and he made the argument that, notwithstanding the fact that he had mentioned that these two men were on their way up there as spies, it must have been personal, and he did not mean that they were to act as spies against the French Government, because in all of his letters he was particular to advise them not to write anything, and to avoid discussing any of these questions. It was to let them know about these two men.

Q. How do you account for his statement that these initials referred to two other men?—A. I do not know how to account for that. As regards Mr. Waller's statement, I do not know whether he made the statement or not. But he also took the point in his argument of the case that the question of the identity of the men had nothing to do with the charge of the French authorities. That was solely a matter for the men whom Mr. Waller charged with being spies. If he could prove that he meant them, that was for them to resent. It was a personal affair of their own against Mr. Waller.

EXHIBIT A.

[Translation.]

EXTRACTS FROM LETTERS.

[Letter from Ratsimanana to Waller, February 29, 1894.]

1. He speaks of several persons who have asked for employment on his concession of Fort Dauphin, especially of one of his friends—"that friend of mine who called on you with me the other night."

2. Various details; hopes of the Hovas of the intervention of England, and their intention to resist the protectorate.

3. Order for shoes; directions as to the quality. Request to have them before Christmas; payment to be made to Mrs. Waller; list inclosed.

[Letter from Waller to his wife, December —, 1894.]

"Tamatave is now under military law, and as no one is allowed to leave here for the capital, I can not, therefore, tell when we shall meet again, but I hope that our separation will be brief. Let me caution you, my dear, to have nothing to do in the troubles between Hova and French Governments, as such would only tend to embarrass you. Of course, this does not prevent you from keeping up our friendly relations with our friends among the missionaries and Hovas, being careful always to refrain from any discussion on the present difficulty."

[Letter from Waller to M. Chalain, December 20, 1894.]

He requests that "a very important letter" (the preceding one, on account of the directions which it contained; no other is known) be delivered to his wife. He offers to give it open, if desired.

[Letter from Ratsimanana to Waller, December 30, 1894.]

Long explanations with reference to the steps taken by him to procure the necessary funds to deliver Waller from the hands "of his enemies."

He asks casually for information as to the situation of the French at Tamatave, and says that he has offered his services to his [Government (?)] for the war. "Now, as you will be off to London and America, I beg to remind you of those things which I ordered, of which list I here inclose, for fear you will not find my first letter. * * * As to the revolver you promised to my father, he will be very glad to have it as soon as possible [an illegible passage]. I also beg you to send me five more, if possible, for me and my brothers.

[Letter from Waller to his wife, January 20, 1895.]

He fears that the French have kept his last letter. "It was a godsend that they did not get open Ratsimanana's letter. If they had, Paul would have been shot on suspicion. Let me warn you to be careful."

[Letter from Waller to Ratsimanana, January 20, 1895.]

Thanks for the trouble which he has taken for the purpose of procuring him the money which he needs. He will remember those of his friends who left him in the lurch. "I will remember my friends who have stood by me in this trouble. I dare not write you on matters about the French and Hovas here, and when you write do not mention any matter as to the war, but only friendly and business matters, as all letters are opened and read by an officer in the French army here; therefore be very careful what you write. I will send you the things you ask for as soon as I arrive."

[Letter of Waller to his wife, January 23, 1895.]

1. The case of Geldart *v.* Lyons. Calling up of his own case.
2. "Geldart, Duder, and Poupard are as thick now as three in a bed, and Wetter is their god. I will inform you that D. and P. are on their way to Antananarivo, and they will likely reach there long before this letter leaves Tamatave." "Please inform M. Tessier and our friends that both of these men have been sent up there by the French to find out secretly all the movements of the Hova Government, which they will send to the French authorities from time to time. Therefore the Government had better keep a strict watch of these men and order them from the capital as soon as possible. Both of them are for French."

"I shall slip this letter out by English steamer via Natal; then it will not be read by the French, as all letters are here at this time. I shall be anxious to learn that you have received this letter; therefore, when you get it do not mention anything you find in it, but simply say, 'Your No. 44 received,' and please destroy it as soon as you and M. Tessier have read it, and do not mention to any one but M. Tessier and secretaries about the information which I send you."

3. Smallpox. Numerous rapes of which he has been witness on the part of soldiers.
4. "May God grant that the money shall have been raised and forwarded by you and our friends before this time."
5. Details as to the material difficulties of living at Tamatave; he therefore intends to go to Tamatave as soon as possible.
6. Let me know whether you received the passports or not, as it is a very important matter. They were sent through the French admiral here, and I want to know whether you have got them or not. * * *
7. To recommend to his business agents at New York to demand $20,000 damages interest to M. Wetter to force him to remain here in such ———, material and moral.
8. To make no allusion in the reply to what he writes.

[Letter from Waller to Tessier, January 23, 1895.]

1. I send an important letter under your cover to my wife, which I will be pleased to have you hand her in person on account of its importance.

I need not inform you that she will call your attention to a certain matter therein contained, the importance of which will at once challenge your most careful attention and place our friends on their guard. This matter is strictly confidential, and I can assure you that our friend can not afford to lose any time in attending to it.

Smallpox, violence, destruction of property. Poverty. Provisions of beef—Letter.

EXHIBIT B.

Order No. 445. Troops of the Réunion. Tamatave.

[Translation.]

The lieutenant-colonel commanding the troops of the place in a state of seige—in view of the order of the commander of the squadron, bearing date of December 12, 1894, declaring the place to be in a state of siege; in view of article 283, paragraph 1, of the decree of October 26, 1883, relative to military service in the field; in view of the constant hostility that has been shown to the French authorities and the troops of occupation at Tamatave by Paul Bray, which hostility has even been manifested by letters and articles published in the newspapers; in view of the complicity of this foreigner with Mr. Waller, his father-in-law, who has been convicted of corresponding

with the enemy, hereby orders, subject to the approval of the captain, the delegate of the commander of the squadron, as follows:

Paul Bray, a citizen of the United States of America, shall be expelled from Tamatave.

He shall be put on board of the next steamer of the Messageries Maritimes that is bound to Zanzibar, where the consul of France shall turn him over to the consul of his nation.

COLONNA.

Approved:

KIESEL,
Captain Delegated to act for the Civil and Military Authorities.

DECISION.

On motion of the lieutenant commanding the place in a state of siege, Paul Bray is to be placed on board of the *Djeunah*, bound to Zanzibar.

The expense that may be thereby entailed shall be charged to the budget of the corps of occupation, chapter 13.

The chief of the administrative service and the military authority are each, in that which concerns them, charged with the execution of this decision.

KIESEL.

TAMATAVE, *March 21, 1895.*

EXHIBIT C.

Mr. Bray to Mr. Wetter.

TAMATAVE, MADAGASCAR, *March 24, 1895.*

SIR: I have the honor to inform you, formally, that an order was served upon me about 4 p. m. on the 21st instant by a French gendarme, from which it appears that I am to be expelled from Tamatave by the French military authorities per Messageries Maritimes, steamer *Djeunah*, destined for Zanzibar.

As this steamer is expected in a few hours whereon I am to leave, I wish to make the formal statement to you that I have done nothing that can in any way interfere with the French military occupation of this place; but, owing to the unfortunate position of my stepfather, and the fact of my color and resemblance to the Hovas, and of my having been previously arrested as a Hova by the military authorities here, I consider that my life would be seriously endangered by my remaining here after the receipt of this order.

Under such circumstance, I feel bound, for my own safety, to submit and leave to-morrow, as per the order aforementioned; but, sir, I certainly feel that it is an outrage upon the rights of an American citizen in this country for me to be thus driven out of the country and forced to abandon my father's family and rights here.

As American consul, I know that you will do your utmost to protect me in all my rights, and I thank you gratefully for the kind interest you have shown in your advice to me upon this matter, but feel compelled, by force of circumstances, to request that your efforts be confined to an impartial representation of my case to the Department of State, as I honestly believe and fear that any suspension of this order of expulsion demanded and secured by you would only lead to my private assassination. Although what I am to do in such a place as Zanzibar, and how I can in any way assist my poor father's family, I can not see; yet any condition there will be preferable to my remaining here and bearing the insults of, and the chance of being murdered by, French partisans. However, on my arrival at Zanzibar, I shall protest against being landed there without means of subsistence.

I have the honor, etc.,

PAUL BRAY.

EXHIBIT D.

Mr. Wetter to Mr. Bray.

CONSULATE OF THE UNITED STATES,
Tamatave, March 24, 1895.

SIR: Your letter of even date to hand and contents noted. Agreeable to your request, I will confine my efforts in your case to a representation thereof to the Department of State and to a representation to the military authorities here of the injustice to you of landing you at Zanzibar, where you claim to have neither friends nor acquaintances and will be without means of subsistence.

Remember you are welcome to an asylum here and will meet with every protection at my hands or in my power.

I am, sir, etc.,

EDW. TELFAIR WETTER.

EXHIBIT E.

He did not see all the letters which Waller wrote.
There are two rooms in the house which they occupied together.

Second examination of Waller.

He considered the two letters of January 23 as so important that he did not even show them to his son-in-law. He went away without carrying them on board the ship.

Neither is he able to say under what circumstances he knew "Draper" and "Bandez." He has written to friends the ——— in February. Two letters were not sent by him, because he considered that it would not advance anything. His son-in-law knew nothing of them. Generally he incloses his letters, those which he calls "secretaries," in the letters to his wife, without the secretaries of Vessier.

Harvey Parrett (he does not know him); Ratsimanana-Rosmania by ——— of spelling (Martineau), if he called and wrote Ratsimanana ——— it was because he had his letter before him.

"Our friends" signifies, independently of the chiefs of police, the friends of Waller on board ship.

He maintains that D. and P. are not Duder and Poupard.

He explains that if he seems to fear being shot it is because he has been threatened several times by soldiers.

He did not think that in writing on the subject of D. and P. he could do them any harm, for they are English. He simply wished to revenge himself for the rascally proceedings of which he had been the subject by causing them to be expelled from the capital.

The promise made to Ratsimanana to send him what he asked for had reference merely to an order for shoes and clothing. Bray brought no revolver from Maurice. It was because of this request [demande] for revolvers by Ratsimanana to Bray that he wrote in his letter to his wife, "It was a godsend."

His intention is still to go to America, and if he speaks of going first to Nanariva it is to get his family.

Waller has already written Vessier two letters, which have been inspected by the military authorities and sent to destination. Therefore they do not and can not consider him as a ———. Mr. Waller still less. As for Ratsimanana, he wrote to him only on business, and refuses to furnish him the information on the situation which he asks for.

Q. 1 (Waller). He says that the passage cut from Ratsimanana's letter had reference to an order for revolvers to be executed by the agency of Bray, who was then at Maurice; that in the letter to his wife he made allusion to the said Draper and ———, who deceived him, and told her to make them known to the chief of police, whom he calls his friend.

——— and Draper, miners coming from South Africa, whom he knew at the capital.

Q. (Tonfard). He has gone to reach Nanariva the 12th January. He believes that Waller is his enemy, having threatened to expel him from Madagascar in 1893, when he was consul there.

Q. (P. Bray). He refuses to say at what time his brother-in-law sent his last letter to Nanariva. (After saying that.) It was the end of October or the beginning of January, he declares that he no longer remembers.

Interview between Mr. Edwin F. Uhl, Assistant Secretary of State, and Mrs. Susan Waller, wife of John Waller, ex-consul at Tamatave, in the room of the Assistant Secretary of State, State Department, October 31, 1895, at 11 a. m., at which were present also Mr. Walter E. Faison, Chief of the Consular Bureau, and Professor Langston, who accompanied Mrs. Waller.

Mr. UHL. What is your first name, Mrs. Waller?

Mrs. WALLER. Susan; Susan Waller.

Mr. UHL. Mr. Kennedy, as you know, a day or two ago left here certain letters and papers which you furnished him as bearing upon the case of your husband; these have been examined, and the Department was desirous of seeing you to know if you had any other papers that would throw light upon the matter which you would wish to submit, or

if you have any personal knowledge of facts connected with the transaction that you could furnish.

Mrs. WALLER. I have no other papers. Of course, I was not in Tamatave at the time of my husband's arrest, nor at the time of the trial, and all that I have—anything bearing upon it at all—is, knowing as I do—that is, knowing what his policy has always been in regard to meddling with any affairs politically as between the French and the Hovas. There was talk of trouble and war between them, but he never allowed us to say anything in regard to their troubles. I was requested to write to some of the American newspapers, and I wrote several articles for them, but after having my manuscript prepared, he would not let me send it. He said: "You must not send it. If you write it, they will think it comes from me, and it will get me into trouble." So I destroyed it.

Mr. UHL. That was the first year you were living there?

Mrs. WALLER. Yes.

Mr. UHL. While he was consul?

Mrs. WALLER. Yes. The second year my son Mr. Bray arrived. He wrote something. I said to him that I was not allowed to write on politics. He said it would make no difference about him. He was not there officially. He prepared his manuscript, but when Mr. Waller heard of it his had to go the same as mine—to the wastebasket.

Mr. UHL. Referring to politics, you mean the political condition in Madagascar?

Mrs. WALLER. Yes. I had to confine my subject to general things. Of course, you see, all the letters that he sent to me—every time he would write to us he would always warn us not to say anything in regard to their trouble whatever—the trouble of the Hovas with the French.

Mr. UHL. When did you find out about his arrest?

Mrs. WALLER. I knew nothing of his arrest until after he was in prison. He was on his way to France before I knew anything at all about it. His letter was sent to me, but it did not arrive in Antananarivo for quite a while.

Mr. UHL. You mean the letter that he wrote after his conviction?

Mrs. WALLER. Yes.

Mr. UHL. That is the one you sent here the other day?

Mrs. WALLER. Yes.

Mr. UHL. When did you go to Madagascar?

Mrs. WALLER. In the fall of 1891.

Mr. UHL. You went with your husband?

Mrs. WALLER. No; I went after he went. He went in the spring and I went in the fall. He never in all his associations with the Malagasy—he never allowed himself to talk with the Malagasy about their difficulties. They would come and ask him questions, and he would say, "I can't have anything to say about this matter at all."

Mr. UHL. That was during the time that you lived at the capital, after he ceased to be consul?

Mrs. WALLER. Yes.

Mr. UHL. When did you go over to the capital?

Mrs. WALLER. We went about four weeks before Mr. Wetter took his position there; I think the last of December.

Mr. UHL. 1893?

Mrs. WALLER. Yes.

Mr. UHL. Did your husband go with you then?

Mrs. WALLER. Yes. He was sick and had to leave. He waited a

month for Mr. Wetter to come on, but he did not come, and he could not stay any longer; so he turned the consulate over to Mr. Geldart

Mr. UHL. Was he the vice-consul?

Mrs. WALLER. Yes.

Mr. UHL. You went to the capital with your entire family?

Mrs. WALLER. Yes; the whole family went with me.

Mr. UHL. Had he received his concession before then?

Mrs. WALLER. Right after that. He received the concession in March. He went up there in December and the concession was signed in March.

Mr. UHL. He, together with your family, remained at the capital until what time?

Mrs. WALLER. Until, I think, in October. He left in September or October, I think; October, I think.

Mr. UHL. Where did he purpose going when he left Antananarivo?

Mrs. WALLER. He started for home.

Mr. UHL. For America?

Mrs. WALLER. Yes; by the way of England.

Mr. UHL. Have you ever seen what purports to be a copy of the intercepted letter?

Mrs. WALLER. No, sir; I have never seen that. I have only been told different things that it contained; but of course I have never seen it and do not know what it contained.

Mr. UHL. You never have seen the original?

Mrs. WALLER. No; never seen the copy or the original. If it contained any news detrimental to the French, it was the first he had written.

Mr. UHL. Did you receive frequent letters from him?

Mrs. WALLER. Yes; until the trouble broke out I received letters almost every week. The British mail came up every week. Of course after the bombardment I did not get letters very often.

Mr. UHL. Who was Mr. Tesschi?

Mrs. WALLER. Tessier is a British subject who lives in Antananarivo. He was a friend of ours and had befriended the family, and that was why Mr. Waller corresponded with him.

Mr. UHL. Had he had anything to do with Mr. Tessier in a business way?

Mrs. WALLER. No; nothing at all. He simply had written him to help me in any way that he could, simply as a friend.

Mr. UHL. Were you acquainted with him before you went to the capital to live?

Mrs. WALLER. Yes; I met him a number of times. His sister, Amy Tessier, was Mr. Waller's secretary. He has been to our house at Tamatave several times.

Mr. UHL. So he was an acquaintance before you went to the capital to live?

Mrs. WALLER. Yes.

Mr. UHL. What was his business at the capital?

Mrs. WALLER. He was the manager of the shipping company there for the Malagasy.

Mr. UHL. Did you live in Antananarivo while you were at the capital?

Mrs. WALLER. Yes; we lived right in the city.

Mr. UHL. Did you know a man there by the name of Purdy—at the capital?

Mrs. WALLER. No; I knew a man by the name of Polity; that must be the man you refer to, not Purdy. I did not know anyone by the name of Purdy.

Mr. UHL. Did you know a man by the name of Draper?

Mrs. WALLER. I do not believe I do. Is he a foreigner?

Mr. UHL. I was under the impression that he was an American citizen, but I am not sure about that.

Mrs. WALLER. I do not know him. I knew an American citizen there; he was a Mauritian. I do not know of any man named Draper at Antananarivo.

Mr. UHL. I am not certain that he is an American. I want to know whether you knew any person of that name?

Mrs. WALLER. No; I do not think I do.

Mr. UHL. Did you know any person at Tamatave by the name of Purdy?

Mrs. WALLER. I do not remember anyone of that name.

Mr. UHL. Nor Draper?

Mrs. WALLER. No. I knew but a very few persons there. There were a great many people there, but I did not know but a very few.

Mr. UHL. Were there many Americans in Tamatave during the time you were there?

Mrs. WALLER. I do not think there were more than three or four that I knew of.

Mr. UHL. Who were they?

Mrs. WALLER. Mr. Geldart and Mr. Ryder, Mr. Dudor, and Mr. Poupard. They were the only Americans that I knew. Yes, there was another one, too; Mr. Marks. He was a Mauritian. His father was an American, but he was from Mauritius. His name was registered at the consulate, was on the consular books, and I think he claimed to be an American. He came there for protection and had his name put on the consular books.

Mr. UHL. How far is it from Tamatave to Antananarivo?

Mrs. WALLER. It is counted 250 miles.

Mr. UHL. Did you get any other letters from Mr. Waller?

Mrs. WALLER. A great many letters that Mr. Waller wrote to me I never received. He would write and ask me about certain things which he said he had mentioned before in previous letters, which I had never received. The same with my letters that I sent to him. Perhaps he would get one out of a half a dozen. The consul afterwards told me that there was some mail there, but they would not let him have it.

Mr. UHL. In Tamatave?

Mrs. WALLER. Yes, sir.

Mr. UHL. Where do you understand that this mail that you refer to is now?

Mrs. WALLER. It is at Tamatave now.

Mr. UHL. In whose possession?

Mrs. WALLER. At the post-office.

Mr. UHL. Is there anything that you now recall in addition to what appears in your sworn statement that Mr. Kennedy furnished as to the request by the Hova friend—that young man—made to Mr. Waller in regard to purchasing revolvers?

Mrs. WALLER. Nothing more than what is in my statement. I think my son has the original order.

Mr. UHL. The original order from whom?

Mrs. WALLER. The order from this Hova for the goods. In the same

letter that the revolvers were mentioned was a bill of dry goods that he was to buy in England for this young man. My son has the original order. Did he not leave it?

Mr. UHL. I do not remember whether it was left or not.

Mrs. WALLER. That was given to him before he left Antananarivo.

Mr. UHL. You say that your husband had frequently cautioned you not to say anything in regard to the political conditions existing in Madagascar, and not to take any part or do anything that would indicate any views one way or the other as between the Hovas and the French?

Mrs. WALLER. That was his advice to us all.

Mr. UHL. Suppose that you had received a letter from him while he was at Tamatave suggesting that you give any information to your Hova friends as to the anticipated movements of any parties in the interest of the French, what would you have done?

Mrs. WALLER. When I consider how he had always warned us, and if I knew his condition in Tamatave, as I would have, I would have felt that he was actuated by some feeling perhaps on account of his mistreatment, and I would not have given the advice, because I would have known that it would not have been well for him.

Mr. UHL. That is the way you look at it now?

Mrs. WALLER. Yes. Knowing how he was persecuted at Tamatave, he would very likely have said something, but at the same time I would certainly have acted on my best judgment in the whole matter.

Mr. UHL. Is there anything, Mr. Langston, that occurs to you that you would like to have asked?

Mr. LANGSTON. There is one thing that occurs to me. That is, when he left the capital and went down to Tamatave, where he was going and why he was detained at Tamatave at all. That bears upon the case—as to whether he left home, telling them all good-bye, that he was going to America. I should like for her to state what is true about this; all she knows. There; that is all.

Mr. UHL. Mrs. Waller, you have heard the suggestion made by Professor Langston. Suppose you tell all about his departure.

Mrs. WALLER. All I know about that is——

[Professor Langston here interrupts her.]

Mr. LANGSTON. As I understand it, he left the capital to go home—to America. Now, I want you to make your own statement—whether he left telling you all good-bye and telling you that he was leaving for the United States. I would like you to speak fully to the honorable Secretary what is true about that, carefully and slowly. When it was that he left——

Mrs. WALLER. He left, as I say, about the 1st of October, for Tamatave. I am not very good on dates, but you can refer to other papers.

Mr. LANGSTON. Tell us first how he left; what did he do in the way of making arrangements for you; what he said when telling you good-bye?

Mrs. WALLER. He prepared for us to remain until he could arrive home and send for us. Everyone knew that he was going home. He even wrote to the consul at Tamatave that he was going home. When he arrived in Tamatave—he got there two or three days before the sailing of the steamer; it was to sail on the 8th—he was to take the steamer of the 8th; he had two or three little matters to attend to at Tamatave. Well, just on the eve of the departure of the ship Mr. Wetter made a demand upon him that he claims he had no right to make and detained him.

Mr. UHL. Does that cover everything, Mr. Langston?

Mr. LANGSTON. Yes; it covers it substantially. I only wanted to bring out the fact that he left home for the United States, leaving his family, bidding them good-bye, starting on his journey regularly, and that he was detained at Tamatave.

Mrs. WALLER. I think he wrote to the Department that he was on his way home.

Mr. UHL. Was this demand that Mr. Wetter made in connection with a judgment that was had against him—Mr. Waller—growing out of the Crockett estate?

Mrs. WALLER. Yes. My husband had sent him a report, according to his request, and turned over the whole estate to him under protest feeling that he had no right to do it, but rather than have any difficulty he would turn it over. That was three months before he went down there. Mr. Wetter kept this report, making no protest. When he went down there on his way home Wetter demanded the money, demanded the estate, and then Mr. Wetter detained him.

Mr. UHL. When was this judgment rendered against him?

Mrs. WALLER. Shortly after he went to Tamatave; a few weeks after, I suppose.

Mr. UHL. I notice in his letters that you left here a reference by Mr. Waller to this subject and a request to you to raise the money to satisfy that judgment. That is the same one, is it?

Mrs. WALLER. Yes; and I had made arrangements to raise the money, but the men I was doing business with—the men there were not used to dealing with a woman, and they did not think the papers signed by a woman were good, and they said Mr. Waller must come up and sign them. I got a petition up and had it signed by the leading English people there, the missionaries and others, and sent it down to Mr. Wetter, asking him to permit Mr. Waller to come to the capital, and the reasons. He never even answered that petition.

Mr. UHL. Did your son leave the capital and go to Mauritius after Mr. Waller went to Tamatave?

Mrs. WALLER. He went there two or three months before Mr. Waller went down.

Mr. UHL. He went over to Mauritius to endeavor to raise some money on the concession?

Mrs. WALLER. Yes.

Mr. UHL. Did not Mr. Waller wait in Tamatave to meet Mr. Bray there?

Mrs. WALLER. Not specially to meet him; he was detained there by Mr. Wetter or else he would not have been there.

Mr. UHL. That is what you understood?

Mrs. WALLER. Yes. Mr. Bray came back to Tamatave again, but not by request of Mr. Waller, because he did not know he was going back. He got sick in Mauritius and came back.

Mr. UHL. They maintained correspondence with one another?

Mrs. WALLER. Yes; I think they wrote to one another.

Mr. UHL. What did this estate that you speak of consist of?

Mrs. WALLER. I do not know much about that. I have the papers that show the account. I have heard it reported here that it amounted to $5,000, but the amount was $2,000.

Mr. UHL. What did it consist of?

Mrs. WALLER. Whether it was real estate or money?

Mr. UHL. In what shape—form—was it?

Mrs. WALLER. It was money.

Mr. UHL. It was money when it went into the hands of Mr. Waller (Mrs. Waller nods her head affirmatively), what did it consist of when Mr. Wetter made this demand of Mr. Waller? What did it consist of at that time? Wasn't it notes?

Mrs. WALLER. Yes.

Mr. UHL. Notes against whom?

Mrs. WALLER. Two Hova gentlemen at the capital.

Mr. UHL. You said a moment ago that you were endeavoring to raise money for your husband to satisfy this judgment; how were you endeavoring to raise it? Did you try to borrow the money on these notes?

Mrs. WALLER. No, I could not do that. They had borrowed the money for a certain length of time and they did not have to pay it.

Mr. UHL. You learned that from them?

Mrs. WALLER. Yes.

Mr. UHL. You tried to get them to pay it?

Mrs. WALLER. Yes.

Mr. UHL. Did you try to dispose of the notes so as to raise the money?

Mrs. WALLER. Oh, no; I did not think of anything like that.

Mr. UHL. Where were the notes themselves?

Mrs. WALLER. Mr. Waller had them.

Mr. UHL. What did Mr. Waller do with the notes?

Mrs. WALLER. I do not know. Mr. Wetter turned the notes over to him——

Mr. UHL. The notes themselves were not in Mr. Wetter's possession finally?

Mrs. WALLER. Yes; he had the notes.

Mr. UHL. You say he gave them back to Mr. Waller?

Mrs. WALLER. Yes.

Mr. UHL. Do you know what became of them?

Mrs. WALLER. I suppose the French have them; they were in his boxes which the French seized.

Mr. UHL. What you were endeavoring to do was to raise the money to satisfy the judgment against Mr. Waller. Were you trying to raise it on the concession?

Mrs. WALLER. Yes.

Mr. UHL. Did you have a power of attorney from your husband?

Mrs. WALLER. Yes; I have a power of attorney. I wrote Mr. Wetter and told him that my husband could not raise the money in Tamatave. Of course, in Antananarivo the war was on and there was no bank there. There was no money. The prime minister was calling in all the money of the subjects. When they got their money it was subject to being called in, and when the war was on they called it in from their subjects, and, of course, it made it a very bad case of borrowing money from anyone, and those I could borrow the money from said, "How can we get the money back here?" That was the difficulty. I wrote to Mr. Wetter and told him my difficulty. I wrote to him three different times, and finally sent him the petition signed by these men, explaining that if Mr. Waller could come back there we could raise the money. He did not answer it. I thought he might not have received it, but Mr. Woodford told me he saw it in his office at Tamatave. Why he did not answer me I do not know.

Mr. UHL. There is nothing further occurs to me. Do you think of anything, Mr. Langston?

Mr. LANGSTON. I do not think of anything else. Do you think of anything else you want to say, Mrs. Waller?

Mrs. WALLER. No; I do not think of anything else. Of course, I

may speak of Mr. Waller's condition. I received a letter from Mr. Waller this morning. He always tells us about his condition first, how his health is; but he does not say anything about that this time. He speaks of settling up some matters. We take it from that that he is in a very bad state of health. He had been sick in the hospital for three months before he went to Tamatave. From the time he left Tamatave he never has been well a day, and just got out of the hospital about a month before he started for America, and why Mr. Wetter detained him in that condition in Tamatave I do not know. There was no cause for it.

Mr. LANGSTON. Mrs. Waller, won't you state to the honorable Secretary carefully, slowly, just what Mr. Waller's physical condition was when he left home?

Mrs. WALLER. He was sick ever since he left Tamatave.

Mr. LANGSTON. Was he really feeble—ill?

Mrs. WALLER. Yes; he was dangerously ill. The doctor did not think he would get well. When Mr. Wetter demanded he should come to Tamatave, he sent a certificate from the doctor saying he was not able to travel, and then in place of going he sent it right down, because he was in bed when he sent it down. About a month or so after that he went down. He was hardly able to travel when he went. You may get some idea of his condition when you know that when he left America he weighed over 200 pounds. When he left Antananarivo for Tamatave he only weighed 120.

Mr. LANGSTON. Do you know whether at the time he left the capital for Tamatave he had made arrangements to come right on through to the United States?

Mrs. WALLER. Yes; he had arranged to come straight on through. Mr. Shepard, a gentleman in England, was expecting to meet him at the wharf.

Mr. UHL. He was going to stop in England?

Mrs. WALLER. Yes; he told him to meet him there.

Mr. LANGSTON. And Mr. Shepard is his agent there?

Mrs. WALLER. Yes. He has letters in his possession from Mr. Waller. After Mr. Waller was detained he wrote and said he was very much disappointed that he could not meet him.

Mr. LANGSTON. Now, when Mr. Waller left the capital, bidding you good-bye, did he leave home with reference to the arrival of a steamer to be at Tamatave, which he was to take?

Mrs. WALLER. Yes; he left just in time to be in Tamatave a few days before the steamer sailed; he wanted to attend to some things there. He wanted to make the steamer which left on the 8th.

Mr. LANGSTON. Do you know whether he had made arrangements to pay his fare before he left Tamatave?

Mrs. WALLER. I do not know about that, because they always got their tickets at Tamatave.

Mr. LANGSTON. He left home to reach Tamatave to catch that steamer—the steamer to arrive on a given day?

Mrs. WALLER. Yes.

The foregoing statement of Mrs. Waller was taken stenographically. After the stenographic notes had been transcribed she called at the Department of State and, after reading the same, left a memorandum as follows:

Page 8 (typewritten copy):

Mrs. Waller is quoted as saying that the original order for the goods which Mr. Waller was to purchase for the young Hova was given to her son, Paul Bray, before

he left Antananarivo, when she should have said that the order was mailed to Mr. Waller at his London address, and when it returned to Tamatave with Mr. Waller's mail Mr. Bray got possession of it.

On the same day that Wetter received the petition in Mr. Waller's behalf my son received a letter telling him that I had sent such a petition.

Page 11 (typewritten copy):

Add: Wetter kept the notes sent three months without protest, and also accepted the interest on them for the first year. Hence, Mr. Waller believed that the matter was satisfactory to him (Wetter) and did not know any difference until he arrived at Tamative on his way.

Wetter sent word up to the capital that my husband had stolen $5,000 from the American children and tried to have the Government arrest him and bring him down. The prime minister knew all about the whole matter and refused to do anything against Mr. Waller. Besides, the prime minister claimed these children were Malagassy.

Interview between Mr. Edwin F. Uhl, Assistant Secretary of State, and Mr. Ethelbert G. Woodford, at which was present also Mr. Walter E. Faison, Chief of the Consular Bureau, at the Department of State, in the room of the Assistant Secretary, October 22, 1895, 9.30 a. m.

Mr. UHL. State your name in full.

Mr. WOODFORD. Ethelbert G. Woodford.

Mr. UHL. Where do you reside?

Mr. WOODFORD. I am at present residing in Baltimore. I have an office in New York, but I am living at Baltimore with my family. I have just returned to America and settled down.

Mr. UHL. How long have you been absent from here?

Mr. WOODFORD. I was here last—let me see—well, I have had no permanent home in the United States since 1870.

Mr. UHL. You have been in Europe part of the time since that?

Mr. WOODFORD. Yes; I have had my headquarters in London for the last five, six, or seven years.

Mr. UHL. Had an office there?

Mr. WOODFORD. Yes.

Mr. UHL. What has been your business during that time?

Mr. WOODFORD. Civil, mining, and consulting engineer.

Mr. UHL. You were acquainted with Mr. Waller?

Mr. WOODFORD. Yes; I met him in 1891, when he was in office.

Mr. UHL. Where?

Mr. WOODFORD. At Tamatave, Madagascar, during my first visit there.

Mr. UHL. You had not known him before?

Mr. WOODFORD. I never met the man before; simply heard a new consul had been appointed about the time of my arrival.

Mr. UHL. How long were you in Madagascar at that time?

Mr. WOODFORD. For about four and a half months.

Mr. UHL. When did you next meet Mr. Waller?

Mr. WOODFORD. The next time was when he was in jail after he had been condemned.

Mr. UHL. That was in 1895?

Mr. WOODFORD. Yes; last March.

Mr. UHL. When you arrived at Tamatave at that time, he had already been arrested and was in jail awaiting trial?

Mr. WOODFORD. I arrived there on March 9th, on the steamer *Dejunah*, and heard to my surprise that he had been arrested.

Mr. UHL. Now, will you just go on and tell what you may know con-

nected with his arrest, and his imprisonment, his trial, and any facts within your knowledge?

Mr. WOODFORD. When I arrived at Tamatave, the French had refused me permission to land. They singled me out, me and my secretary, and refused to let me land, so I immediately wrote to the acting American consul and demanded my right to land. I landed late at night through the assistance of the new American consul.

Mr. UHL. That was on the 9th of March?

Mr. WOODFORD. The 9th of March. I am not exactly certain about dates, as I mislaid my diary, but I think that is the time. Wetter told me that there was a strong feeling against me, as among the correspondence of Waller's intercepted was a statement of mine, published in the New York Sun, in which I had written in anticipation of the war, and spoken rather strongly against the French and very much in favor of the Hovas. Wetter said that I had better take up my quarters at the consulate, as it would not be safe for me to go any place else, and so I became his guest during the four weeks that I remained at Tamatave. Of course, being right at the consulate, I then heard a great deal about Mr. Waller's arrest, and met his son, Paul Bray, for the first time. He came down to the consulate to see Wetter on some business.

Mr. UHL. His stepson?

Mr. WOODFORD. Yes. At that time I had a bad foot, a swollen ankle, and was laid up at the house for some time, and of course heard a great deal of matters. Wetter knew that I had traveled extensively and had had a great deal to do with consular affairs, and he was only too glad to have someone to talk over this question with and to consult. I found that there existed a tremendously bitter feeling between Wetter and Waller; that is, that Wetter had charged Waller with some neglect of his duties while he was in office, of engaging in private business, and other matters I don't recall, and there had been a very strong feeling between him and some of the so-called American storekeepers and dealers. I had noticed something of it on my previous visit.

Mr. UHL. You had noticed what?

Mr. WOODFORD. My previous visit was in 1891. I noticed at that time among the so-called American traders a very bitter feeling. All the traders in that country are engaged in the same line of business, and each of course feels anxious to cut each other out and secure their trade in a business way. They are always saying this and that about one another, and there is any amount of scandal, gossip, lying, and everything like that; and there is so much of it that it would simply disgust anyone. I noticed at this time that there was the same gossip and the same quarreling; one man calling another a rascal, and so on. At various periods they had been deadly enemies and then they had made it all up again. They were a low class of men, not very refined ideas nor very high moral principles——

Mr. UHL. Suppose you relate that later on, and state now how Wetter acted toward Waller. That is what we want to get at. Just tell us what occurred and what you saw and what Wetter did about Waller.

Mr. WOODFORD. Well, Wetter had copies of Waller's correspondence. I think he engaged a lawyer named Girandeau. This lawyer had prepared copies of Waller's correspondence which had been intercepted by the French. I read these letters with a great deal of attention. Wetter gave them to me, and I not only read them, but called Paul Bray in and talked with him about them. He said his father had written the letters, and said his father had been in such very poor circumstances, and so anxious about his wife and family that he was nearly

beside himself. He had been detained so long by Wetter to answer these charges, and had been harassed so much and was actually destitute, as was his wife and family, as I found out afterwards. I read these letters through with a great deal of attention, and I could see nothing in any of the letters that could in anyway warrant the French in making the charges they did against him.

Mr. UHL. Enumerate the letters that you saw.

Mr. WOODFORD. Well, there were letters addressed to a man named Tessier, at the capital. There was a letter addressed to a young Hova, saying something about guns, and I think a couple of letters to his wife. The letters to his wife were advising her about money matters, mentioning his difficulties, and making a very bitter attack against Wetter for his action against him. I think that was all. Just about four letters that I saw. Wetter handed me the whole lot, and I studied them very attentively.

Mr. UHL. These purported to be copies of the original letters?

Mr. WOODFORD. Yes; and they were all the evidence that existed against Waller—these letters to his wife.

Mr. UHL. You read them before the trial?

Mr. WOODFORD. Yes.

Mr. UHL. And Wetter, through this lawyer you have mentioned, had obtained from the French these copies?

Mr. WOODFORD. Yes; these were copies of the original letters which the French had.

Mr. UHL. Now, taking the letters to his wife, state the contents of these letters so far as you are able. I don't expect you can give the language, but the substance and anything that you recall.

Mr. WOODFORD. Well, substantially, he recounts the miserable condition to which he has been reduced by the continuous persecution of Wetter. The months are going by and he is still in a terrible condition. The French have taken possession of the place, and things are in a very much troubled state. He speaks very bitterly of Wetter's continuous attacks upon him, and his difficulty in negotiating a bill, the impossibility of communication with the capital. States that it is difficult to get bail, and desires to know from her about the possibility of securing some $1,200 or $1,400 on some bill or something.

Mr. UHL. Did he say bail was offered him if he could procure it?

Mr. WOODFORD. Yes. He had to provide some $1,200 or $1,400, but he complains about his inability to communicate with her and get this sum of money through his friends at the capital. He says the French had seized the place—that was very shortly after the seizure and occupation by the French troops. He then goes on to recite an account of the occupation. He uses a whole page describing the raping of women, the atrocities practiced by the French soldiers, the way they treated the women and girls, etc. He was close by at the time and knew a great deal of it. He tells a terrible story of this raping and outrage. The man fairly cries out against it. He does not know what to do. He has a hopeful spirit about him, and there is a good deal of religious sentiment mixed up with it. That is as I remember it.

Mr. UHL. That is all you recollect?

Mr. WOODFORD. Yes. Now, no; I believe he mentions also something about that she is to beware of D. and P., and that they are French spies. This is the only point in the letter to which I took exception. He said they were French spies. They were only going there in French interests.

Mr. UHL. Did he refer to two men, or what did he say?

Mr. WOODFORD. I don't know whether he referred to two men or to whom he referred. There are such a lot of trading rascals running over that island that it is impossible to know who is who. There was another letter, but it was purely on business matters, and endeavoring to negotiate a bill at about a year, entirely connected with some prior transactions of his at the capital with reference to money matters.

The other letter to the young Hova was in reference to some revolvers which he wanted. He promised to bring them. There was nothing wrong about this; it was merely a question of a few revolvers for personal use. The last time I left the capital various persons asked me to bring them express rifles, fancy guns, ivory-mounted revolvers, and that sort of thing. That is all I remember about these letters.

At this time Bray was about there a good deal, and he worked very earnestly with the consul about this whole trouble, and the consul, it struck me, was not a man who had much desire to assist Waller. There was some bitterness, which arose prior to my arrival there. I, being Mr. Wetter's guest, and being anxious to get through myself, was in a very awkward position. I was forced to listen to repetitions of all sorts of village gossip, and so on, until the thing became utterly detestable. The whole business rather sickened me. Mr. Wetter was a very peculiar man, with a singular, overbearing, bullying style of speaking to anyone. He is a man of very commanding appearance, of sharp manner, and curt address. I heard him talk to Bray in the most violent manner. I winked at Bray to keep still and let him blow off steam. I took him aside and told him it would do no good to argue with him, and for him to just keep silent. That was the best way for both him and Waller.

Mr. UHL. Tell us at this point more about the trial of Waller, and all that you know, and then refer to this a little later.

Mr. WOODFORD. The trial of Waller had been fixed for a Saturday. Wetter had made a great deal of preparation for it. He had been continually talking and arguing with me about it, and the question arose as to the payment of $60 fee for this lawyer to defend Waller. He told me he had no funds with which to pay it, and was not going to pay it. I told him that, in my opinion, it was no good to do anything, for the French had made up their mind to get Waller out of the way, and it would only be throwing the money away to give it to this ignorant lawyer, who was not worth anything. Bray came and wanted Wetter to pay this lawyer, and he refused. Bray then came to me and asked me to lend him $60. I told him I could not; that I had a great many demands and had already paid out some money. Besides, it was a foregone conclusion that the French court would condemn Waller, and it would do no good to pay this money to this mulatto lawyer; that if I wanted to spend my money for Waller I would give it to his wife and family, where it would do more good.

Mr. UHL. This $60 was for the pay of the counsel?

Mr. WOODFORD. Yes.

Mr. UHL. This man that you referred to before?

Mr. WOODFORD. Yes; he is a mulatto, half-caste, runaway from the Island of Mauritius. He was what you would call a shyster lawyer, utterly incapable of assisting Waller, and it was useless to pay him any money to do so.

Mr. UHL. Then this lawyer was not employed—this lawyer to whom you referred?

Mr. WOODFORD. No; but I believe he attended the trial.

Mr. UHL. Do you know whether he had a conference with Waller?

Mr. WOODFORD. No; I do not; he had a number with Wetter.

Mr. UHL. This lawyer?

Mr. WOODFORD. Yes; a number of mornings he came down and had consultations with Wetter, but whether he had an interview with Waller or not I don't know.

Mr. UHL. You say you understand he did attend the trial?

Mr. WOODFORD. Yes; whether as a lawyer for the French, or simply as a spectator, I don't know. I know his sympathies were naturally with the French.

Mr. UHL. This lawyer?

Mr. WOODFORD. Yes; and he was by no means a friend of Waller.

Mr. UHL. Do you know whether Waller did have counsel to defend him?

Mr. WOODFORD. I don't know, but I understood he had none.

Mr. UHL. Did Wetter attend the trial?

Mr. WOODFORD. Yes; he was down there three or four hours. He was rather surprised at the severity of the sentence.

Mr. UHL. Do you remember the day on which the trial was had?

Mr. WOODFORD. I think it was on the 18th of March. He came back and said, "Waller's got twenty years."

Mr. UHL. Who said this?

Mr. WOODFORD. Wetter told me. The trial was before breakfast, and at breakfast he told me he got twenty years. I told Wetter that this was outrageous. The case was a very important one, and I was directly interested, being out here on business, and wanting to get away. I told him I was going to the capital; that I would get through some way, but get there I would. I said if the French are going to take such action as this before making any declaration of war they will get themselves in a hole. They had no right to touch this man. They have no further right over him than to simply expel him. That right I will admit; I would be bound to obey the order of the commandant myself; but to take this man off and to give him twenty years in prison is to practically give him his death warrant. I argued it out very strongly with Wetter at the time. In the first place, the French have no legal standing there, and are simply filibusters occupying this place. There has been no declaration of war. They simply wanted to get rid of Mr. Waller because he had obtained his large concession. His was a business matter, just as mine. I came out there to examine the assets of a banking corporation, looking to its purchase.

Mr. UHL. Where is that bank located?

Mr. WOODFORD. It had a branch at the capital and at Tamatave, but did business all over the country.

Mr. UHL. Where were their headquarters?

Mr. WOODFORD. In London.

Mr. UHL. You took hold of the assets?

Mr. WOODFORD. I made a proposal to take and buy the assets of the bank——

Mr. UHL. You were going there to examine their assets?

Mr. WOODFORD. Yes; and if they were good enough I was going to buy them, I had an option on their purchase.

Mr. UHL. Well, what else happened in relation to Waller?

Mr. WOODFORD. A few days after this Paul Bray received notice that he was exiled. I have a copy of that notice with me; I have a copy of the original order of exile.

Mr. UHL. Afterwards, did you see Waller at all?

Mr. WOODFORD. I went down one day to see him—bribed one of the soldiers to let me into the jail; so I went up to see him——

Mr. UHL. This was after the trial?

Mr. WOODFORD. Yes; after the trial and when he was condemned. He was sitting in a chair when I saw him, and I immediately said to him that I wanted him not to come near to me, in order that it might not be thought that I gave him anything or communicated with him secretly. I knew the soldiers on guard—some of them—could understand English, and I did not want to get him into trouble, or myself. I had quite a long talk with him and found him very stalwart and acting very bravely. I asked him how he was fed. He said he was doing fairly well—had been cared for by one or two soldiers. He said he felt confident his case would all come out well, and he asked me if I could not do something for him. I said I would not tell him where I was going, but I came out here to do some business. I could not say that I was going to Antananarivo, for the guards heard everything we said, and I knew that if they found out I was going to the capital it might be difficult for me to get away. He was taking things in the best manner; in fact, he stood it much better than I think I could have done under the circumstances. He was very bitter about the way he had been neglected. He told me how he had been persecuted by Wetter. I said, "Waller, there are very grave charges against you; you are charged by Wetter with all sorts of misdemeanors." He replied that these charges were false and could be disproven. I remember the man myself as being inclined to be strictly official; that was the character of my intercourse with him when he was consul.

Mr. UHL. In 1891?

Mr. WOODFORD. Yes. Then we had a general conversation over matters, and I said that, so far as I could, I would assist him in every way that lay within my power; that as soon as I got an opportunity I would communicate in the proper quarter, and do everything that I could.

Mr. UHL. Did he complain in that interview that Wetter had not supported him during the trial?

Mr. WOODFORD. Oh, yes; he complained against Wetter and the continuous persecution that he lived under. He said: "I was absolutely reduced. I left my family at the capital with very little money. I was five months in the hospital, and was on my way to the United States when Wetter gets these charges against me."

Mr. FAISON. Did the complaint that he made of Wetter have reference to the trials in the consular courts on charges that he made against Waller?

Mr. WOODFORD. Yes; that is what he complained of.

Mr. UHL. What did he say about Wetter in connection with his trial by the French—this tribunal?

Mr. WOODFORD. He complained that he had been left entirely undefended; that there was nobody to say a word for him. He also mentioned to me that he had no chance—that he was prejudged.

Mr. UHL. What, if anything, did he say as to these charges upon which he had been convicted, namely, these letters that he was said to have written?

Mr. WOODFORD. I did not like to talk with him about that, for we were observed all the time, and I thought it might do him more harm than good, and might make it difficult for me to get away, for I was intending to go to the capital. But the reference in his letter to these two men was the only thing which seemed to me to be indiscreet. But I told him, "If the two men whom you said were spies, what right had you, as an American citizen, to denounce them"? He said, "You do

not understand, neither can I explain to you." He said, "Since you have been absent from Madagascar great changes have occurred, etc." I called his attention to that part of the letter. The conversation was maintained under very great difficulties, as I have told you, but I kept on reiterating that I was going on to Mauritius. He knew perfectly well that they had soldiers on guard who understood English, and of course I could not tell him all that I was going to do, for it would make things hard for me. He said that the charges against him were absolutely baseless.

Mr. UHL. He did not make any explanation of that reference to D. and P.?

Mr. WOODFORD. No, none; nothing more than that he said I could not understand.

Mr. UHL. You did not understand what he meant?

Mr. WOODFORD. No; I did not understand him what it was.

Mr. UHL. Well, go on, Mr. Woodford, and state anything else you know in connection with this matter.

Mr. WOODFORD. A few days after this, Wetter immediately went to work and drew up a report, which was to come to Washington by the same steamer that took Waller—the *Djeunah*—and he was very busy at this, and he read over to me at various times portions of this report, and so on, and talked about it with me, and when it was finished I believe that I went in to assist him in copying it in his office.

Mr. UHL. You copied it, did you.

Mr. WOODFORD. I assisted him to run it through the letter press. Although I was not very familiar with it, he read me over several extracts, but now they have slipped my mind. He was an educated man and stated things very clearly, and he wrote it pretty rapidly and I should judge carefully.

Mr. UHL. Do you know whether he sent copies of these letters with his report—the letters which were in evidence against Waller?

Mr. WOODFORD. I was fully under the impression that Wetter had sent copies of this correspondence upon which Waller had been convicted; also a statement of what had occurred in court. I imagined that he would send the whole lot of them on here to the State Department, because, in our conversation together, we both came to the conclusion that nothing could be done—having no man-of-war there and there being such an international question involved—and I supposed, of course, that all the papers he had would be sent here. I accompanied him on the day when he mailed this letter at the post-office.

Mr. UHL. Do you know what became of those copies of the letters which the French counsel made—the letters that you saw?

Mr. WOODFORD. As I say, I was fully under the impression that Wetter had made copies of them and sent them on here, with a complete statement, as any man naturally would do holding an official position. I know I should have sent officially to the State Department the proceedings of the trial, copies of the evidence, the letters in question, and then I would have followed that with a statement of my own opinions on the subject, submitting them to the Department for approval.

Mr. UHL. Do you know whether Wetter had these letters after the trial?

Mr. WOODFORD. I don't remember that; the matter was then dismissed. I never read them after the trial.

Mr. UHL. In assisting him in making this copy, do you remember at that time his dispatch to the Department purported to inclose copies of those letters?

Mr. WOODFORD. I could not say. Of course, I did not read the dispatch; I only helped him to copy it in the press copy book.

Mr. UHL. You have no recollection?

Mr. WOODFORD. No; but I was under the impression that he had sent forward a full and complete report.

Mr. UHL. What did you base that impression upon?

Mr. WOODFORD. Because he told me he was sending everything forward; that he was very anxious about this question, and he worked very hard.

Mr. UHL. In what way did he work hard?

Mr. WOODFORD. He was in his office some time and writing faithfully. He was a very rapid and quick penman and a good one. I do remember, however, he told me distinctly he had paid either $30 or $60 for obtaining copies of these very letters in question from the French authorities.

Mr. UHL. Do you know whether he from time to time visited Waller when he was in prison?

Mr. WOODFORD. Yes; I believe he did.

Mr. UHL. Do you know whether he, at Waller's request, endeavored to secure this French lawyer?

Mr. WOODFORD. I don't know at whose request the lawyer was brought. It was a pure question of who was to pay him.

Mr. UHL. Who interviewed the lawyer; who sought him out in Waller's behalf?

Mr. WOODFORD. Wetter did.

Mr. UHL. And the question was as to who should pay his fee?

Mr. WOODFORD. Yes.

Mr. UHL. And you say it was $60?

Mr. WOODFORD. Yes.

Mr. UHL. Waller was unable to raise the money?

Mr. WOODFORD. Waller had nothing.

Mr. UHL. He was unable to raise it?

Mr. WOODFORD. Unable to raise it; yes.

Mr. FAISON. You agreed with Wetter that it was not prudent under the circumstances to protest against the French trying Waller?

Mr. WOODFORD. I did not say anything of the kind; just the reverse. I was very strongly of the opinion that he ought to interfere more strongly than he did; that he should have protested against the court trying him at all, as it had no right to do so. But he said that he had no man-of-war, the *Castine* was not there, and it would do no good. But I thought all along, and think now, that the French had no right to try Waller, and some sort of strong protest against their action should have been made.

Mr. UHL. Was Bray at the consulate during the time you were there?

Mr. WOODFORD. Daily.

Mr. UHL. Did he remain there any time? Did he take refuge inside the consulate?

Mr. WOODFORD. I myself gave him refuge inside the consulate.

Mr. UHL. Were you acting in an official capacity so that you could give him protection?

Mr. WOODFORD. No; but I was inside the consulate fence, and I opened the gate and let him in.

Mr. UHL. You were in the same situation as Bray.

Mr. WOODFORD. Yes.

Mr. UHL. How long did Mr. Bray remain there?

Mr. WOODFORD. I think he slept in my room for three or four nights.

I felt almost certain that some of the soldiers would kill him if he went out, there was such a feeling against him, and he slept on the floor of my room for several nights.

Mr. UHL. When you remarked to Wetter that it was useless to raise money for the purpose of employing counsel to defend Waller, so far as the trial of Waller was concerned, and any defense that might have been made, what more could Mr. Wetter have done than he did? Please confine your answer to this particular question.

Mr. WOODFORD. I do not know what more he could have done. I do not know what he did do at the court. I saw no one who was at the court.

Mr. UHL. You saw Bray, did you not?

Mr. WOODFORD. I do not know whether Bray was at the trial or not. He knew more about the true inwardness of the French-Hova business than Mr. Wetter did.

Mr. UHL. I am now talking about Waller's trial only. You do not know whether Mr. Bray attended the trial or not?

Mr. WOODFORD. I do not know.

Mr. UHL. Did you see him after the trial?

Mr. WOODFORD. Oh, yes; I saw him a number of times; in fact, I saw him a few hours before his departure.

Mr. UHL. How long did you remain at Tamatave after Waller was taken away on the ship?

Mr. WOODFORD. I sailed on the 4th of April on a small steamer. I think Waller left on the 28th of March, and I sailed on the 4th of April.

Mr. UHL. Is there anything else in regard to this trial that occurs to you?

Mr. WOODFORD. Nothing about the trial. Of course I have my own views about the whole affair. I had the opinion from the moment the French seized Waller that they intended to get rid of him. They thought he was a nigger, had no money, and that we white Americans, like Wetter, myself, and a few others, would not bother our heads about him. My opinion is that the war was caused through Waller's concession; and that was the origin of the last French expedition. There was tremendous opposition to the granting of his concession by the Queen, and the French looked with suspicion on this grant and upon all American enterprise. I myself moved on a larger scale than Waller, and was negotiating for several concessions, and had addressed a memorandum in 1891 to the prime minister, a copy of which had been sold by an employee of mine, in which I outlined the whole policy of granting concessions on a very large scale to Americans, with, of course, a view to my own advantage.

Mr. UHL. Do you have any concessions now?

Mr. WOODFORD. I have the banking, iron, and railroading, and some others, for the country at the present moment. I expected to have a large shipping trade, and expected to be appointed admiral. I was intending to have the right to issue letters of marque, but I was going to do it through a Hova officer, of course, and other transactions. When Waller was originally granted his concession, the moment it was granted to him in proper form by the Queen of Madagascar, that moment the trouble with the French commenced. There was a great deal of talk about it, and they were after him right along. Wetter, the acting American consul, having him arrested on these trivial charges, the man being without money, his family being in the interior and starving, they thought they had an easy thing of it. I did not care

what Wetter thought or said, and did not bother about it. I knew it was a foregone conclusion, from the moment I heard he had been arrested, to get him out of the way.

Mr. UHL. That was the reason you thought it unwise and were unwilling to advance any money for his defense?

Mr. WOODFORD. Yes; if I had any money to lay out for Waller's benefit I thought it had better go into his wife's pocket than into the pocket of this mulatto lawyer, who was not worth anything to him.

Mr. UHL. Explain what you would have had Wetter do in reference to Waller that he did not do with reference to this trial. You mentioned something about that.

Mr. WOODFORD. I should have liked him to have gone down there and deliberately refused to have acknowledged the French authorities—challenged their right to touch him.

Mr. UHL. Do you know whether the question was raised before the tribunal as to whether they had jurisdiction, and their jurisdiction challenged?

Mr. WOODFORD. I do not. I have only been informed since I have been here by some of Waller's friends that—I know that the French admiral wrote a letter to Bray——

Mr. UHL. You do not answer my question. Do you know whether on behalf of Waller the jurisdiction of this tribunal to try him was raised at the time of the trial.

Mr. WOODFORD. No; I do not.

Mr. UHL. You were not present at the trial?

Mr. WOODFORD. No; I was not present.

Mr. UHL. You say that Mr. Waller did not have any counsel to defend him at the trial? Of course, you do not know that, not being present?

Mr. WOODFORD. That is what I was told by Wetter and told by Bray.

Mr. UHL. Did you not hear at all that when this lawyer, whose name you have given, had declined to defend him because no fee was raised, that counsel was assigned to defend him, and did defend him?

Mr. WOODFORD. Some French officer was assigned, I believe. I remember hearing that.

Mr. UHL. That counsel was assigned by the tribunal.

Mr. WOODFORD. I believe so. He was a French officer.

Mr. FAISON. Did Mr. Wetter fail to do anything else that you think he should have done?

Mr. WOODFORD. He seemed to think that he would go down and demand the man's body. Then he would say, "I won't have anything to do with it. It serves him right." Finally Wetter said, "If the *Castine* had arrived, then I would have been in a position to have acted differently. Then I might have gone down and demanded his body, and had some support at my back."

Mr. UHL. Just a moment—did you in a letter to Mr. Eustis, written from London, say, "I may mention that during the time I was in Tamatave, prior to Waller's conviction, Mr. Wetter did everything that a man could to assist him?"

Mr. WOODFORD. Yes; I did.

Mr. UHL. Did you further say, "Mr. Wetter was at considerable private expense over matters not provided for in the consular regulations?" Do you mean actual disbursements?

Mr. WOODFORD. Yes; that's what I mean; actually paid out of his pocket—say about the copies of those letters.

Mr. UHL. Then it was your opinion that Mr. Wetter did everything he could?

Mr. WOODFORD. Well, you see I did not like, in writing to——

Mr. UHL. In writing to Mr. Eustis in any statement about it, you stated the truth?

Mr. WOODFORD. Yes; naturally I said what I believed to have been true; but I am speaking to you now on a different basis. I am here at headquarters. What I am telling you now is my impressions only, which I have formed, and I am giving you a more elaborate statement, so you can use your judgment. Of course, I can speak freer and at more detail.

Mr. UHL. We want the information as to any facts.

Mr. WOODFORD. I am trying to go over it now in a more elaborate way. I sincerely believe that Wetter is a man of small ideas, a man easily inflamed to anger and very vindictive. I believe that the man at the bottom of his heart tried to do the best that he could. The thing was too deep for him. He would get into a terrible fit of passion about what Waller would say. I said to him, "Why do you take any notice of what this man says about you?"

Mr. FAISON. Then you believe his failure to do his duty was in not challenging the jurisdiction?

Mr. WOODFORD. Yes.

Mr. UHL. And not in any indifference to the actual conduct of the trial?

Mr. WOODFORD. No, no. I think that Wetter worked like a dog over that matter to do what he thought was best and right and just, but I think he made an error in not challenging their jurisdiction. Wetter would not agree with me. I wish you to understand that my position with Mr. Wetter was a peculiarly difficult one for me. I was there as his guest, practically, and had to listen to all sorts of statements about what had occurred between them, etc., which nearly drove me crazy. I was sick of the whole business.

Mr. UHL. You brought in some documents with you?

Mr. WOODFORD. I have got a copy of a letter that Bray wrote to the consul before he left. I made a copy of the last page of my letter book where Bray had copied this letter. I have an affidavit that was prepared up in Antananarivo by the young Hova who requested Waller to get him the revolvers.

Mr. UHL. You may leave these, if you wish.

Mr. WOODFORD. Yes; I will leave copies of them.

NOTE.—Mr. Woodford here produces a copy of the affidavit made by Ratsimandresy, of May 13, 1895. He also produces a copy of the letter from Paul Bray to Consul Wetter, dated March 24, 1895. This copy was taken from an impression in the back of his letter book, which he has in Baltimore.

Mr. UHL. Is there anything else you remember about this matter? Did you see Wetter on your way back?

Mr. WOODFORD. When I came down from the capital with Mrs. Waller and her family on my way back, I had to pass the port of Tamatave on the English steamer. After six or seven hours in port the launch of the *Castine* came alongside, with Wetter and the captain of the *Castine* in it. They only stopped a few moments. Mr. Wetter gave me a very cold salutation; never inquired a single thing about my business or affairs. I told him that I had Mrs. Waller and her four children on board. I said, "What am I going to do with them?" He said, "I don't know. It has nothing to do with this consulate." I said, "May I speak to the captain of the *Castine* about them?" He said, "He has just come off. He has gone down to his launch." I said, "Wetter, what

is the matter with you?" He said, "I have got to hurry up and get off. I can't detain the captain of the *Castine*." And so he went downstairs. I went down, but I could not get him to stop. He ran down the stairs, and the captain then said, "Jump in." I said, "Are you the captain of the *Castine*?" He said he was; and then I told him about Mrs. Waller and her children, but he said he had no orders about the matter and would do nothing, and in fact treated me so coldly and indifferently, and seemed not to care what became of Mrs. Waller and her children, that I got angry, and finally told him to go to hell; God damn you. I was in a bad state of health, and there I was laid up with five women and children to care for, who had no claim on me, and with whom the officials of the United States would have nothing to do. Half an hour afterwards they came on board again, and seemed very apologetic, and wanted to know if they could see Mrs. Waller. I said, "Of course you can; I am not her keeper." I was very much angered to think that they came out on this coast to look after American interests and did not seem to want to take any notice of her and her children, who needed their protection. I said, "There are six Americans on this vessel, and you do not even give me the courtesy to ask how we are." He asked Mrs. Waller a number of questions, and finally took me to one side and said, "I am very sorry I can't take them on board." I said, "It has cost me about six or seven hundred dollars to get them thus far. Can't you suggest anything? I have done this much; can't you do anything?" He finally pulled out $10 and gave it to me, and that is all I got from him. My reception was equally bad when I got over the Mauritius. That man Campbell did not take any interest in the matter. He is a very wretched specimen of a United States official, and I have seen a few of them. The other day when I met Mrs. Waller here I found out for the first time that she was compelled to come third class; in with all those rough French soldiers, and with her young daughters, it must have been a terrible trial. This man Campbell sent her home third class; and third class on a French steamer is something awful.

Mr. UHL. Sent her home from where?

Mr. WOODFORD. From Mauritius to France. I never heard of such a thing in the world. If I had known of it I would have cabled the money out myself. I forgot to mention one important point. When I returned to Paris I went to see General Eustis and had a private interview with him. He had then his legal adviser with him and he asked me some particulars about the affair. I told him what little I knew, and I said: "It seems to me most extraordinary that the State Department has not taken action on this thing. I fully understood when Waller was condemned that something would be done. I wrote you several letters, but I found all my mail was seized by the French. Hasn't something been done to examine into this case? There is absolutely nothing against the man except his letters to his wife." He said: "What letters are you talking about? I have received no copies of any letters." I said: "General Eustis, what do you mean?" He said: "There are no letters, no documents; nothing has been received in relation to that trial." I said: "General Eustis, I can not understand you." I was most positive that Wetter had sent on those letters, and in my interview with him I stuck to it that Wetter had forwarded all of these letters. That was the first I had heard that all this long delay had been caused by those documents never having reached the State Department. I knew that things could not have gone as they did if the case had been understood.

V.—PAPERS LEFT AT THE DEPARTMENT OF STATE BY CRAMMOND KENNEDY, ESQ.

Statement of Ratsimandresy.

ANTANANARIVO, *May 13, 1895.*

I, Ratsimandresy, who sign my name underneath Malagasy, subject, born in Antananarivo in 1874, now still live in that city, make the following declaration with a swear:

On the 5th September, 1894, Mr. John Louis Waller called at our house, and because my father frequently stays in the country he asked him if he can send one revolver for his use there. Mr. J. L. Waller then agreed to satisfy my father's wish, and said that revolvers are very cheap abroad. I then told him that because of the cheapness of its price I should like him to make the number ordered four—one for my brother, one for myself, and one for my friend.

On the 7th September, 1894, I and my younger brother went up to Mr. J. L. Waller's house, carrying with us a revolver to be shown to him and of which we spoke; that we preferred the same kind if possible. He then agreed. The order of those revolvers was then done.

On the same day I informed Mr. J. L. Waller that I shall be very glad, indeed, if he would send me shoes, hat, trousers, and handkerchiefs. He agreed to do that, too, and requested me to write my letter as soon as possible in order to catch his departure; and if it can not be done before that, he asked me to hand it to Mrs. Waller, that she may send it down after him.

On the 28th September, 1894, I handed the letter to Mrs. Waller, and she then sent the letter after him (Mr. Waller).

Some time after that I was informed by his wife (Mrs. Waller) that Mr. J. L. Waller is still at Tamatave, and if I wish to write him a letter she (Mrs. Waller) should be glad to send that down to him. I then wrote a letter at her house to be sent down to him (Mr. Waller), and I let her read it, too, when I have done it. I do not remember well what I have written to him then, because I wrote it in a hurry, with the exception of his wife and children to go down to our country residence.

I must say now that those revolvers were not wanted but for ourselves only, and since Mr. J. L. Waller's departure I never have had any letter whatever from him.

The above declaration which I have made I made it with a swear.

I, the undersigned, hereby certify that I am familiar with the details of John L. Waller's arrest and imprisonment, and being the only American citizen at present residing in Antananarivo, and in the absence of any duly appointed consul, I have carefully examined the man Ratsimandresy, and have sworn him, without authority, because I must defend the interests and rights of citizens of the United States of America to the best of my ability.

E. G. WOODFORD.

Passport 17095.

I have requested, specially requested, that I, a Malagash, not understanding English perfectly, sign my name with the proviso that the Malagasy copy shall be the only one binding upon me.

RATSIMANDRESY.

Witnesses:

RAPIRISON.

FRANK HARVEY.

I think it was in November or December that I wrote this, but I can not remember for certain.

E. G. W.

I certify that I have translated from Malagasy to English the statement of Ratsimandresy, to the best of my ability.

RAPIRISON.

Mr. Waller to Mrs. Waller.

TAMATAVE, *November 27, 1894.*

MY DEAR WIFE: Since writing you this a. m., thank God a letter from Langston & McQuinn sending a copy of a dispatch from the State Department recognizes the right of the Hova Government to lease land to American citizens, and at the same time giving me to understand that there is but one point on which the French might raise a question, and that, that under our treaty with Madagascar land should be leased for a period of twenty-five years "instead of thirty years," as in my lease. My attorneys advise me to therefore get P. M. to change clause so as to read for the term of twenty-five years, with two renewals of twenty-five years each. Then the lease will be proof against all attacks from the French, who have not, as you will see from dispatch, dared to raise any objection to my lease in Washington. I have dispatched to Porter, Harvey, and Tessier, and do what you can to have T. and P. have change made as written on sheet marked "A," then our concession will be as good as gold.

Langston writes that there is an admitted balance due me of $314.92, and that the Secretary of the Treasury says that there are other amounts due me, and that I will be entitled to pay at $5.50 a day for seventy days in returning; that will be $385 plus $314.92 equals $669.92. But Wetter admits that he has held certain drafts which I drew and left in the consulate, and that prevents the settlement of my accounts in Washington. He says that he has written the State Department not to pay any drafts of mine. This is why I have not received my money. Oh, Sue, if you can only get friends to help me, I will teach Wetter a better lesson if I can only get out of his hands, and get home. You don't know how this man has wronged me! These assignments mentioned $1; that is the legal form. The men will pay you the amount named in letters if they accept the assignment.

JOHN.

Show envelope with Washington letter.

Mr. Waller to Mrs. Waller.

TAMATAVE, *December 22, 1894.*

MY DEAR WIFE: Now that Tamatave is under military law and no one is allowed to leave here for the capital, and all communication by post having been cut off, I can not therefore tell when we shall meet again or when you will hear from me; but I certainly hope that our separation will be brief, and that no harm will befall my loved ones. I am still at Mr. Dublin's, and am waiting anxiously to hear from you regarding the money which was to be sent in time to meet judgment against me here.

It was unfortunate for us that all communication was cut off on the very day that you promised to wire me.

Be sure and send the money, if you have not already done so, as soon as you receive this letter.

Send it in missionary bills if possible, and if these can not be had pay the money to Mr. Paolette or Porter and send order for same to me in care of John Dublin. Mr. Porter will instruct you how to send the letter, as he will probably have a courier running to Vatomandry or Mananjary.

You need not send the book for which I wrote, as I have found one here to answer the purpose.

Let me caution you to have nothing to do with or say anything about the troubles between the French and Hova Governments, as such would only tend to embarrass you. Of course, this does not prevent you from keeping up your friendly relations with our friends at the capital, being careful always to avoid any discussion on the present difficulty.

I herewith inclose passports for yourself and children. It will be necessary for you to sign them as soon as received. I hope there will be no difficulty in your sending money at once, which, when received, judgment will be satisfied, and I will send Paul home to dispose of my Iowa property, etc., and will request the proper French authorities here, through the United States consul, to allow me to return to my family at the capital, which I have no doubt they will kindly consent to. I hope Minnie has recovered from her illness, and that all the members of the family are well.

I wrote you some time ago that the Republicans in America had swept the country in the elections of November 6 last, and I am now able to give you a more definite statement of the result.

All Northern States have gone Republican; even Tennessee and West Virginia are in line. Republican majorities in the following States are very interesting and gratifying: New York (Morton, governor), 152,000; Pennsylvania, 234,000; Illinois, 125,000; Ohio, 135,000; Indiana, 60,000; Kansas elects full Republican ticket, and for the first time Michigan goes wholly Republican.

Republicans in next Congress will have 100 majority over all in the House. Senate, 44 Republicans; Democrats, 40; Populists, 3; doubtful, 1. This will permit Republicans to legislate over veto of President.

Methvene Castle is expected on 24th instant.

Hoping that this will reach you at an early date, and that God will guard and keep you all, I am,

Very sincerely, your husband, JOHN L. WALLER.

P. S.—You need not send the two letters sent me from Washington by Langston & McGuinn.

J. L. W.

Mr. Waller to Mrs. Waller.

TAMATAVE, *February 3, 1895.*

DEAR WIFE: Your letter of December 30 was received by me several days after it reached this town, as it is necessary for correspondence to be seen by the proper authorities here before delivered.

This as a matter of course causes some delay in the prompt reception of letters.

I am sadly disappointed and heartsick at the contents of your letter, but am sure that you have done all in your power to succeed with the

business intrusted to your care. I can not understand, however, your writing me on December 30 that you had failed, and our Faravhatra friend writes under same date that you had succeeded, and that you would write me how it all happened at an unexpected moment. This letter was directed by Minnie, who certainly knew whether it stated the truth or not, and who certainly would not have allowed it to come to me without correction, if it did not state a fact. Therefore I hope that the letter of our friend was written and mailed after yours, as the consul is still awaiting the arrival of your final response from Antananarivo, which we expect about the 20th of this month. You may always address me here until otherwise instructed by me. In sending letters to you I will have to send to you direct, as that will be more satisfactory to the authorities here; therefore you had better arrange to have your mail delivered to you in the country.

I send you an order for $30 on P. A. & Co., as there is no other source through which I could send it. I also send the power of attorney called for, and remind you at the same time that I sent your passports through the French naval authorities on December 22, 1894.

I only wish that you could have sent me the amount of money which you mentioned having on hand December 15, 1894. It would have greatly aided me; but as you have worked for four months in a vain effort to collect the money, I can not ask you to do more, though I hope that the amount is now en route, and that it will soon reach this place. The watch which Mr. Dublin gave me for John is a very good one indeed. I would like to write more fully to you of matters relative to family affairs, but as I have already informed you, the correspondence must be seen by an official assigned for that purpose; therefore we must defer writing of private affairs. I have already cautioned you to hold yourself aloof from all political and other matters pertaining to the present difficulty between the Government of the Republic of France and that of the Hovas. This is the position assumed by our Government, and Americans will be expected to observe the same attitude.

I send love to you and the children, and may we not hope that Providence will kindly favor us and again bring us together?

Remember me kindly to all friends. Paul and I have been called to the United States consulate to sit as assessors in the case of Mr. Lyons. Will write you all about it when case is finished. Hoping to hear from you favorably and soon,

I am, as ever, your husband, JOHN L. WALLER.

Mr. Waller to Mrs. Waller.

MILITARY PRISON,
Tamatave, Madagascar, March 20, 1895.

DEAR WIFE AND CHILDREN: I know you will all be heartbroken to hear that I have been charged with the violation of two certain articles of the French authorities. One is the violation of the order of the French naval division of January 18 by sending two letters, one to you and one to Mr. Tessier; also one to our young Hova friend who worked so hard to aid you in raising the money, and who wrote me that he had succeeded in getting the money, and sent me a list of things which he wished from London. The letters to you and our young friend were inclosed under cover to Mr. Tessier and addressed to him at Antananarivo. They returned here and were opened by the

French authorities, after which I was arrested and all my correspondence seized from my house, though there was nothing at the house, as I have not written anything against the French politically, but only individuals, in matters nonpolitical. So by sending you the letters referred to and the one to Mr. T. and R., our young Hova friend, I have been found guilty of "corresponding with the enemy" and condemned to twenty years' imprisonment in a fortress as a political prisoner. Never was a greater wrong done an innocent man. I shall therefore go to prison without a word and have the matter submitted to the authorities in France by my Government at Washington, and I am sure that the justice of the French people will not allow me to remain in prison when they shall have read my letters to you, Mr. Tessier, and our Hova friend.

Therefore I am happy to inform you that I am feeling very well, and that I shall take the bitter pill quietly and await the action of the American and French Governments and my thousands of friends at home in America to finally determine this matter.

While you will be greatly grieved, yet you must bear up for the sake of the children, with whom I hope you may be able to return home soon, and I think that the arrangements will soon be effected for your departure. We have friends up there who will doubtless aid you in this terrible hour of adversity. At any rate, God seems to speak to me and say that my family shall not suffer.

Paul will have full instructions from me how to aid you and try to get you home where the people, knowing my misfortune, will stand by you and the children. If Paul should fail to send you the money soon to leave for home you had better see all our friends, of whatever nationality, and raise the money for your return, and make a note for the amount for one or two years, at reasonable interest, as all my property is now in your hands, and you have my power of attorney. I shall make a duly executed will for you and the children before I leave for the place of imprisonment, which I will inform you as soon as I know, and until which time you will send——

Statement of Mrs. John L. Waller.

ANTANANARIVO, MADAGASCAR.

I, Susan Waller, a citizen of the United States of America, born in Urbana, Ohio, Champaign County, married to John Louis Waller, at Lawrence, Kans., Douglas County, on April 1, 1878. My maiden name was Susan Boyd, but was the widow of T. D. Bray at the time of my marriage with John L. Waller, being of lawful age. I make under oath the following statements:

On or about the 5th of September, 1894, I went in company with John L. Waller, my husband, to the house of Rabatrano, a Malagasy man residing in Antananarivo. While there he asked Mr. Waller if he would purchase for him a revolver, as it was not safe in his country home without one. Mr. Waller replied that he would soon be going home and would be pleased to send him one. A few days after this visit, Ratsimandresy and his brother, two sons of Rabatrano, came to see Mr. Waller and brought with them an old revolver, requesting him to send them three of the same model which they brought, as they each desired one for themselves and one for a friend who also lived in the country. Mr. Waller agreed to send these four revolvers, as well as a

list of merchandise which Ratsimandresy wanted, such as shoes, hats, broadcloth, etc.

On September 20, 1894, Mr. Waller left for Tamatave en route for America, and before leaving told Ratsimandresy to write a list of all the things he wanted in plain English, and give it to me and I would forward it to him at his stopping place in England. The young man prepared the list, and I sent it addressed to Mr. Waller at No. 4 Bedford Place, Russell Square, London, E. C., by the first mail which left for Tamatave after the departure of Mr. Waller.

The mail which came up from Tamatave after my letter had been sent, brought the news that Mr. Waller had been detained in Tamatave. I do not know whether Mr. Waller stopped this letter at Tamatave or whether it went to its destination in England.

I sent another letter for Ratsimandresy on December 30, 1894; this letter is referred to in my husband's letter from Tamatave, dated Feb ruary 3, 1895. I did not read the young man's letter carefully, but only remember of his writing personal affairs, at the same time referring to our intention to go for a visit to his father's country home. My husband, in all of his correspondence with me, has never mentioned one word about the existing trouble between the French and Hova Government. His caution to me in regard to same in a letter dated December 22, 1894, is as follows:

"Let me caution you to have nothing to do or say anything about the trouble between the French and Hova Government, as such would only tend to embarrass you."

Another, dated February 3, 1895: "Keep yourself aloof from all political and other matters pertaining to the difficulty between the Government of France and that of the Hova. This is the position assumed by our Government, and all Americans will be expected to assume that same attitude."

SUSAN WALLER.

JOHN P. CAMPBELL,
United States Consul.

Dated at Port Louis, Mauritius, this 9th day of July, 1895.

Witness to signature and the swearing of Mrs. Waller before the United States consul.

J. G. BARTLETT.

VI.—DISPATCHES FROM THE CONSUL OF THE UNITED STATES AT TAMATAVE RELATING TO MR. WALLER'S ADMINISTRATION OF THE ESTATE OF W. F. CROCKETT.

Mr. Wetter to Mr. Strobel.

[Extract.]

No. 7.] TAMATAVE, *January 27, 1894.*

I regret to say that the report here is prevalent that Mr. Waller "absconded." This I will state: I find he has appointed himself administrator of Crockett's estate and taken over the entire assets of said estate and carried them with him. As soon as I can I will report in a separate dispatch on this subject.

Mr. Wetter to Mr. Strobel.

No. 10.] CONSULATE OF THE UNITED STATES,
Tamatave, February 7, 1894. (Received March 12.)

SIR: I have the honor to call your attention to the following matters pertinent to ex-Consul Waller's management of this office, as also to request instructions as to any action the Department may want taken here in these matters:

* * * * * * *

4. That all the statements and accounts of the estate of W. F. Crockett, deceased, have been entered by Mr. Waller on the records in the Malagasy language exclusively, and therefore are at present absolutely indecipherable. This is the more peculiar, as Mr. Waller, I understand, can neither read, write, nor speak the Malagasy language.

5. That the records of this office have been so negligently kept that it is a most onerous task to examine them. None of the records have been indexed since Mr. Waller's incumbency, and many of the other documents and letters have not been properly docketed and filed.

6. That no official consular judicial court docket or record has been kept, the records of the court being upon loose sheets of paper folded up together.

* * * * * * *

13. That he has acted contrary to paragraph 373 in selling the perishable property of both the Crockett and Whitney estates without proper appraisement, etc.

14. That he has violated paragraph 375 in not reporting to the State Department his commissions upon the Whitney and Crockett estates, also the latter portion of said paragraph in so far as the sale of Mr. Whitney's trinkets, etc., were concerned.

15. That he has violated paragraph 376, because Department dispatch No. 25 (January 9, 1893) gives positive instructions as to distribution of said estate of Crockett.

16. That he has violated paragraphs 377 and 378, as far as the records of this office are concerned, in both the Whitney and Crockett cases.

17. That he has violated paragraph 379, as far as the Whitney case is concerned.

18. That he has violated paragraph 634 in both the Whitney and Crockett estate cases.

I would further state that after a careful consideration of all the premises, I deem it my duty to prevent Mr. Waller's leaving this country prior to his accounting, as administrator, to this consulate court for the Crockett estate and turning over of said estate to said court. Should he make no attempt to leave before I receive definite instructions from the Department I will take no further steps in the matter beyond collecting and preparing evidence in these cases.

I would in conclusion request definite instructions as to Mr. Waller's administration of the Crockett estate; as to what shall be done with said estate, if recovered from him; as to the matter involved in paragraphs Nos. 2, 3, and 4; the unpaid witness fees in the New Oriental Bank case; the unpaid court costs, etc., in the Dr. Jaillet case, and the translation of the Crockett accounts, and finally as to whether the Department considers that I should be put to the expense and labor of correcting, rebinding, etc., such of my predecessor's records as are not in proper shape, searching for missing vouchers, and refiling and dock-

eting the papers and letters of this office, or whether an account of such expense, etc., should be kept for ultimate recovery from Mr. Waller and his sureties.

I have, etc., EDW. TELFAIR WETTER.

Mr. Wetter to Mr. Strobel.

No. 13.] CONSULATE OF THE UNITED STATES,
Tamatave, February 7, 1894. (Received March 12.)

SIR: I have the honor to report in the Crockett estate matter:

1. That all the statements and accounts of the estate of W. F. Crocket have been entered and kept in Malagasy, vide my dispatch No. 10, paragraph 4.

2. That no return or account of any kind has been entered in the record for the Crockett estate since November, 1892; neither record of how the moneys of said estate, something over $2,000, were invested, nor any account of the disposition made of any interest accruing.

3. That the money of this estate was brought to Mr. Whitney, late United States consul, by Mr. Didier, while Waller was on a wild-goose trip to Antalaka in October, 1892, about the same estate, and by him turned over to Mr. Waller on the latter's return to Tamatave. Mr. Whitney died a few days later, and Waller actually seized all his goods and effects. Naturally the receipt for the moneys of this same estate must have been among Whitney's effects. Mr. Waller thus came into possession of not only the money, but also of the only evidence against him as to its amount, etc.

4. That it is especially worthy of note that I can not find the original of the inclosed entry made on page 11 of the "Record of deceased citizens and seamen, etc.," nor are there any "court minutes or records" of any formal action on Mr. Waller's part tending to legalize his assumption individually of the administration of the estate of Crockett as against his official position under the United States consular regulations.

5. That Mr. Waller has filed no bond in his individual capacity in the consulate here to protect the United States against any abuse of his administrative powers as an individual appointed by the court, etc., and therefore I am forced to the conclusion that he was acting solely in his consular capacity.

6. That, therefore, Mr. Waller, having failed to comply with the positive instructions contained in paragraph 635, has violated said paragraph, unless he claims exemption under paragraph 108, which, however, it seems to me, would be contrary to the proper conservation of the property, seeing that the heirs of Crockett are all here and not in the United States.

7. That Mr. Waller has violated paragraph No. 373 of Consular Regulations in not having an appraisement made to certify the perishable character of said estate.

8. That he has violated No. 375 in relation to quarterly statements as to amount of fees, etc.

9. That he has violated No. 376 by not remitting said estate to the Treasury Department, under the positive instructions given him in Department dispatch No. 25 (January 9, 1893).

10. That he has violated paragraph No. 377 in not keeping on file here a duplicate receipt of all moneys by him expended for said estate.

11. That he has violated No. 378 in not opening proper accounts; also in not transmitting copies of such accounts to the Fifth Auditor.

12. That he has violated No. 634 in not making the customary semi-annual reports on said estate.

Suggesting that you favor me with immediate instructions on the subject of my action in this matter, as also upon the other matters referring to and connected with this subject touched upon in my dispatch No. 10.

I have, etc., EDW. TELFAIR WETTER,
United States Consul.

N. B.—Ranarovelo was not the mother of Victoria Crockett, therefore had no control over herself or property. Waller knew this. Victoria Crockett never came into his hands. Both mother and the children are in Antalaka.

[Inclosure in No. 13.]

Appointment of John L. Waller as administrator and guardian for the estate of the late W. F. Crockett.

ANTALAKA, MADAGASCAR, *October 25, 1892.*

As the wife of the late W. F. Crockett I can not come to Tamatave for some time, as I am not well to travel. I will keep the baby of my dead husband by my breast for three years, then I will give him to Mr. John L. Waller, now the American consul, to educate, as I have given Miss Victoria Crockett, the daughter of W. F. Crockett. I want my girl to live in the family of Mr. Waller and to go to school until she is a big woman for herself. I want Mr. Waller to lend the money which belongs to me and my children at such interest as will pay for the clothes, board, and care of the children, without consuming the principal for that purpose. I want the interest paid at the end of each six months, provided that it shall always be applied on the board, lodging, and care of the children. I want a statement showing the amount of interest the principal has earned at the end of each six months. The statement must be sent to me at Antalaka. This paper will take effect and be in force from December 1, 1892.

RANOROVELO, *Mother.*

Witnesses:
RAKALEBA.
RAIMLOIA.
RAVELA.

This is to certify that the foregoing is an accurate copy of page 11 of the records of this consulate appearing in the book entitled "Record of deceased American citizens and seamen—Disposition of their effects and moneys." Furthermore, that said page is the last page in said record book containing an entry; that the preceding page, page 10, bears date January 29, 1893, and pertains exclusively to the American seaman, Martin Man, and his wages. In witness whereof I have hereunto set my hand and the official seal of my office this 7th day of February, 1894.

[SEAL.] EDW. TELFAIR WETTER,
United States Consul.

Mr. Wetter to Mr. Strobel.

No. 25.] CONSULATE OF THE UNITED STATES,
Tamatave, April 6, 1894.

SIR: I have the honor to call your attention to the inclosures herein marked 1[1] and 2.

Inclosure No. 1 has so far not elicited a reply from Mr. Geldart. My stand in this case is on the assumption that if a consular court has pro-

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[1] Inclosure 1 relates to another matter, and is omitted.

bate jurisdiction it must also have probate powers, and that wherever possible the forms of procedure most general in the United States should govern same, and that the same restrictions and safeguards should hedge about an estate here as would be operative in America.

The absolute lack of any records for this estate, except the bare bond of Geldart for an extremely long time, gives grave cause for the conclusion that it needs a careful auditing.

Inclosure No. 2 left here on Saturday last for Tananarivoo via British consular mail. It has consequently not had time to reach Mr. Waller. This letter was the result of a most careful reconsideration of the matter. It is, in my opinion, the only way of legally getting the Crockett money out of Waller's hands, as it gives this consulate the absolute jurisdiction over him in his administrative, etc., quality, and yet does not touch upon any of his consular acts, the power to adjudicate which I am not as yet able, because I am not adequately versed in the law touching thereon, to form a positive opinion upon. It seems to me so far that if the Department desires to proceed against him in any way in his consular capacity he would have to be sent back to the United States for trial, etc.

I have, etc., EDW. TELFAIR WETTER.

[Inclosure 2 in No. 25.]

Mr. Wetter to Mr. Waller.

CONSULATE OF THE UNITED STATES,
Tamatave, March 29, 1894.

SIR: The records of this office show that you appointed yourself administrator and guardian upon the estate and children of W. F. Crockett, deceased, on the application of a certain native woman, Renarovelo, dated October 25, 1892, at Antalaka, said application maintaining that said woman was Crockett's widow and the mother of his children.

Further than this fact there are no records here either as to your administration of said estate and guardianship or of the required semiannual returns thereof and thereon having been made to the State Department at any time since your assumption, under probate jurisdiction, of said administratorship in your consular capacity, or since your above-mentioned "judiciary appointment," and this notwithstanding the fact that paragraph 634 of Consular Regulations is most explicit, and even mandatory, in its requirement thereof.

I shall not here attempt to consider or discuss any of the legal issues, etc., that a close scrutiny of your anomalous position toward this estate would readily disclose, but since you have for the time being withdrawn this estate from under the more distant supervision of the Department of State to the direct one of this consulate, sitting in probate jurisdiction, I find myself forced, after a careful consideration of all the premises of the case, to request of you an immediate and complete return to this consulate of said estate and of your administration thereof in your dual capacities; and not only this, but also a complete surrender and payment into this consular court, sitting in probate, of any and all assets now in your hands, or that may hereafter, or have at any time, come into your hands, or into the hands of anyone else for you, belonging unto said estate, together with all interest, profits due thereon, or received therefrom.

Said return should embrace: The amount of the decedent's estate, both personal and real; the names of the parties interested; the exact amount of money that has come into your hands in either of your capacities, and how and whence derived; the amount of all court and other fees paid; and if there has been any distribution, your authority for such distribution, the amount thereof, and to whom made.

Said return must be accompanied by the original vouchers, executed in duplicate, for all moneys paid out, and by an accurate copy of all receipts given for moneys by you received. All receipts for moneys paid out ought, under the circumstances of the case, to be witnessed by at least one person not a native of this country.

Your past knowledge of the procedure in these matters must accentuate to you the absolute necessity of your immediate compliance in this matter, as also the fact that no appointee of a consular court, sitting in probate jurisdiction, can be relieved of the aforementioned requirement of paragraph 634, Consular Regulations,

and that a failure to make such returns, without taking into consideration any other issue whatsoever, is in itself sufficient grounds for the removal of any administrator, guardian, or both.

I am, etc., EDW. TELFAIR WETTER.

N. B.—You will please note that under the law no distribution of an estate can be made, whereof the heirs are any of them in minority, without a due compliance with certain legal forms and procedure.

Mr. Wetter to Mr. Uhl.

No. 60.] CONSULATE OF THE UNITED STATES,
Tamatave, October 26, 1894. (Received December 3.)

SIR: I have the honor to call your attention to the case of the United States *v.* John L. Waller, tried in this consular court on Monday, October 1. This case had been originally set for hearing on June 6, and the accused had been duly summoned; but on the day set for trial a letter was received from him containing a certificate signed by the Rev. Dr. Moss, wherein was certified Mr. Waller's illness and confinement in the L. M. S. Hospital at Antananarivo. From that time up to September 27, although Mr. Waller had been out of the hospital for some weeks, he made no attempt to comply with the original summons, and this consulate would have assuredly found means to bring him to trial but for its being engaged in securing evidence of the value of a certain promissory note, signed by J. Spiral, R. Ratsimihaba, and Thomas Rasafiniandrinsby (the former a renegade creole, who has joined the Malagasy, and the latter, Andrian Hovas, at Antananarivo) for $1,735.44, which said Waller had turned over to this consulate as the sole assets of the Crockett heirs and estate, together with a draft on the comptoir for the first year's interest, amounting to $86.77.

The records of this consulate show the net cash received from the Crockett estate by Mr. Waller to have been $1,964.67, against which he put in a claim for $229.23 for certain expenses claimed to have been incurred on behalf of said estate by him. The residuum of the estate he claims to have invested on January 22, 1894, by loan to said parties at Antananarivo.

Evidence could have been introduced whereby a very strong showing of embezzlement could have been made against Mr. Waller, but this court did not feel authorized, under existing conditions, to proceed criminally against Mr. Waller without further instructions from the Department. Waller so strenuously insisted that the note was good, and that he could get the money back at any time, that the entire court (in considering this question at a preliminary hearing just prior to the trial) consented not to call up any evidence proving the value of the note providing he would withdraw same and substitute the money; this he agreed to do if accorded forty-five days to get it in. Not a member of the court but doubted Waller's ability to produce the money; not a member of the court but believed that said note was fraudulent and that Waller had personally used up the entire funds in his hands, yet, owing to the fact that he had been United States consul here and, in the minds of the mass of the Madagascan public was still identified with the American good name and prestige, it was unanimously decided to give him this chance to retrieve himself if possible.

A copy of the unanimous judgment of the court is inclosed herein for the consideration of the Department. I have not inclosed a copy

of the evidence as it is rather voluminous and the postage thereon would be quite heavy, but am ready to send same at any time.

I would call the Department's attention to the inclosed copy of Mr. Waller's account for expenses and charges against the Crockett estate, and in particular to the eighth item, dated November 10, 1893. This entire account was disallowed except the seventh item. I would further state that Waller, when questioned why he presumed, in direct violation of paragraph No. 501, Consular Regulations, to take said fee as a personal perquisite, replied: "In that case, I will have to pay that over to you; I thought they were personal fees." (That the same thing has occurred with the Whitney estate can be easily proved.)

This is in positive violation of paragraph 545, Consular Regulations, and of section 1734, Revised Statutes, and becomes embezzlement.

I would request the Department to cable me on receipt of this dispatch what action to take against Mr. Waller because of this violation of section 1734, Revised Statutes cases, as well as should he fail to comply with the judgment of this court of October 1, 1894, to pay over the money by November 16, belonging to the Crockett estate.

This becomes necessary because he is straining every nerve to get away from here and float his rubber concession scheme, and would have slipped away on September 30 but for the quarantine regulations and this consulate's vigilance.

In conclusion, I would state that the court was composed, besides myself, of Messrs. Geldart and Ryder (Messrs. Duder and Poupard having been objected to by Mr. Waller), and of Mr. Howe, a new American arrival here. Mr. Geldart is Mr. Waller's most intimate friend and champion; Messrs. Ryder and Howe are perfectly neutral: hence the utmost impartiality has been secured to Mr. Waller.

I am, etc.,

EDW. TELFAIR WETTER.

[Inclosure 1 in No. 60.]

TAMATAVE, *October 1, 1894.*

The United States *v.* John L. Waller, administrator, guardian, etc. Negligence and mismanagement of fiduciary trusts.

Finding of the court.

This court, after a careful consideration of the evidence submitted and the statements of the accused, finds:

First. That Mr. Waller has been guilty of gross mismanagement of the funds of said estate.

Second. That Mr. Waller has in no way benefited the widow of W. F. Crockett or his minor children, either as guardian or administrator.

Third. That the items appearing upon his accounts as charges for a trip to Antalaka, amounting to $128, were expenditures wholly unwarrantable by the exigencies of the case and are likewise exorbitant, and therefore are disallowed.

Fourth. That Mr. Waller has been guilty of abuse and negligence of his fiduciary trusts, both as a citizen and an official.

Fifth. That we therefore adjudge him unworthy of further confidence and order his removal from said fiduciary capacities.

Sixth. That he pay into the United States consular court, sitting in probate jurisdiction at Tamatave, within forty-five days hereof, the amount of the balance due said Crockett's heirs now in his hands, to wit, $1,961.67, Madagascan currency.

Seventh. That he be further adjudged, in view of the fact that with due diligence he could have readily found safe investment for said amount here at Tamatave, to

pay interest at 8 per cent on said sum, $1,961.67, from January 1, 1893, amounting to $294.25 in same currency.

Eighth. That said defendant pay all charges of this action, costs of court, etc.

J. O. RYDER,
R. W. GELDART,
DANIEL J. HOWE,
Associate Justices.

EDWARD TELFAIR WETTER,
United States Consul, Acting Judicially.

UNITED STATES CONSULATE, TAMATAVE.

I hereby certify that the above is an accurate copy of said judgment, as recorded in this consulate and the court records thereof. Witness my hand and seal this 26th day of October, 1894.

[SEAL.]

EDWARD TELFAIR WETTER,
United States Consul (Acting).

[Inclosure No. 2 in dispatch No. 60.]

Expenditures for the estate of the late W. F. Crockett by United States consul.

Traveling and board expenses:		
Oct. 12, 1892. Captain of *Nancy Lee*	$20.00	
Oct. 16, 1892. Maigrot	7.00	
Nov. 3, 1892. Mr. Stewart & Co., £4 or	20.00	
Nov. 3, 1892. Mrs. Cole's Adelphi Hotel	10.00	
Oct. 25. Cargo master of *Gladiator*	12.00	
For expenses of trip from Antalaka to Vohema between the 21st and 25th of October 1894	59.00	
		$128.00
Miscellaneous expenses:		
Jan. 3, 1893. Madagascar News	3.00	
Nov. 10, 1893. For consular fee (C. R., p. 181) on the gross sum of $1,964.67 at 5 per cent	98.23	
		101.23
Total		229.23

CONSULATE OF THE UNITED STATES AT TAMATAVE,
October 26, 1894.

I hereby certify that the above is an accurate copy of the original copy forwarded to this consulate by Mr. Waller in June last, and exhibited in the case of the United States *v.* John L. Waller, administrator, etc. Witness my hand and seal the day and date above written.

[SEAL.]

EDW. TELFAIR WETTER,
United States Consul (Acting).

Mr. Wetter to Mr. Uhl.

No. 89.] CONSULATE OF THE UNITED STATES,
Tamatave, April 21, 1895. (Received May 31.)

SIR: I have the honor to request that you forward me such information and instructions as will enable me as ex officio guardian of the Crockett child, John, and as ex officio administrator on the estate of W. F. Crockett, deceased, to recover, if possible, from John L. Waller's estate in the United States, if he has any property, or from his bondsmen, if liable, the amount of balance due on this consular court's judgment of October last, as per annexed statement of account.

I regret to say that I can find no property here whereon to levy, unless it be upon the Waller land grant near Fort Dauphin. This I have been loath to do, as there was until recently a doubt in my mind as to the

original assets of the Crockett estate having been actually embezzled by Waller, and I was, owing to his race, previous position, and political enmity to myself and all Democrats, more than willing to give him the benefit of the doubt.

By certain representations made on November 16 by Waller, accompanied by a letter to himself from Mrs. Waller, I was induced, with the concurrence of the majority of the associate judges, to whom I personally presented the status of the same, to allow Waller the extension of time asked for wherein to pay the Crockett judgment. A complete report has already been made on this matter. When the occupation of Tamatave occurred, the thirty days' extension had not expired. Waller has ever since December 12 used this "occupation," one way or the other, as an excuse for the money not being forthcoming, exhibiting letters from Mrs. Waller stating that she had same collected, but could not transmit, etc.

Among the Ratsimanana letters to Waller, seized by the French military authorities, was one which gave a long and succinct account of how he and his father had tried to secure a loan of the money Waller required, or part of it, from some Hovas on Mrs. Waller's or Waller's notes of hand, but failed, because in some instances too much interest was asked, or someone interfered and questioned both the drawer's and indorser's stability. The phrasing of this same letter showed conclusively that no one in Antananarivo owed Waller any money; that even the men whose names he had secured to the note he essayed to turn over to me as the entire assets of the Crockett estate were not in any way interested in raising any money for him, and that he had in reality no claim upon them.

And now comes a letter from Mrs. Waller to this consulate, whereof I send copy, inclosing a petition and a letter, whereof I send the originals; the signer of the letter, Bonar, is an English adventurer of very shady reputation in Antananarivo. A perusal of these will show that Mrs. Waller has been in reality trying to raise this money on the strength of Waller's concessionary title and not of or from any persons owing him money in any capacity whatsoever.

To enable you to understand how Waller ever got into such financial straits as to resort to the use of this trust money would necessitate a complete summary of all the gossips and scandal of this scandal-mongering town; from which I must beg to be excused.

Suffice it to say, that at the time Waller received the Crockett money from Mr. Whitney he was in debt at every shop in town besides owing Mr. Whitney some $120 borrowed money (this Whitney deducted from the amount paid over to Waller, I understand). He and part of his family made a trip to Antananarivo, which must have cost him $500 or $600, to say nothing in the trip of January, 1894, when the whole party, six grown people and two children, went up there. How much of this money went for bribes to secure his concession it is impossible to say. I understand that when Waller turned over the Whitney estate from Geldart he was short and had to give advance salary drafts to cover, and Geldart admitted this when I questioned him thereabout. This would indicate that the Crockett money had been exhausted as far back as July, 1893.

One thing is certain, Waller and family in Madagascar are penniless. They have borrowed wherever they could borrow. In other instances they have begged and received in charity what prudence would not lend them. I know of one instance, a creole widow, where Mrs. Waller—Waller guaranteeing the venture—was intrusted with $300 worth of

goods which went to the capital in January a year ago. Up to date the creole widow has received, I hear, but $11 on account; and Vice-Consul Porter at Antananarivo is threatening a suit against her for obtaining money under false pretenses, because of the $50 she obtained from him and sent here to be paid into the consulate on account of the Crockett judgment.

To levy on and sell the Waller land grant would realize, I fear, under present circumstances, but small returns; and yet it seems an outrage on these two little half-breed orphans, down at Antalaka, to have their inheritance thus frittered away on other people's vices and extravagances.

Regretting that a feeling of duty towards these two children, whom I hold the law places under my especial charge, causes me to thus again bring up this most unpleasant matter to your attention, and sincerely hoping that you will give me such instructions *re* this matter as will cause its final adjustment, I am, etc.,

EDW. TELFAIR WETTER.

[Inclosure 1 in No. 89.]

Edw. Telfair Wetter, ex. of adm. est. Crockett, in account with John L. Waller, judgment debtor.

To amount of face of judgment	$2,255.92	By cash November 16	$100.00
Costs of suits, United States gold, $77.35.	80.10	By cash December 1 (P. A. & Co.)	280.00
		By balance due on judgment December 31	1,956.02
	2,336.02		2,336.02

To balance due on judgment December 31, $1,956.02.

TAMATAVE, *December 31, 1894.*

[Inclosure 2 in No. 89.]

Mrs. Waller to Mr. Wetter.

ANTANANARIVO, *January 28, 1895.*

DEAR SIR: As I have been in constant anxiety about Mr. Waller being detained in Tamatave, as his health has not been good for the past year, I now write and inclose to you a petition from friends, accompanied by my earnest request, that you will allow my husband to return to Antananarivo, where the money to pay the judgment can be raised, if he is here in person.

I have twice succeeded in raising the money, but was defeated at the last moment on account of my not having a proper power of attorney to sign my husband's name to the documents made. Some of the men were willing to accept my signature, but the British vice-consul refused to register the contract unless I had the right power of attorney. These men desire Mr. Waller to come to Antananarivo, and he may sign and make the contract himself. Of course you are aware that Mr. Waller can not raise the money in Tamatave, and besides, as the war is now on, his family must necessarily suffer by his further detention in Tamatave.

Hoping that you will grant this request, I am,

Very respectfully,

Mrs. J. L. WALLER.

I certify the foregoing to be an exact copy of the original on file in the office of this consulate.

EDW. TELFAIR WETTER,
United States Consul (Acting).

[Inclosure 3 in No. 89.]

Mr. Bana to Mrs. Waller.

ANTANANARIVO, *December 29, 1894.*

Mrs. WALLER.

MADAM: Referring to your conversation with Mr. E. Underwood Harvey, on the subject of raising a sum of money on the security of a first mortgage on Mr. J. L. Waller's concession of land in the district of Fort Dauphin, I am to inform you that a meeting of gentlemen interested in this matter has been held this afternoon. On their behalf I am empowered to lay before you the following proposal for your acceptance, viz, that the syndicate of gentlemen advance the sum of $2,500, to be repaid on or before the 1st of January, 1897, with interest at the rate of 10 per cent per annum, and, further, receive one-tenth interest in the concession. In the event of the loan not being repaid at the stated time the concession shall be the property of the syndicate. At the present moment I have definite promises of applications for $1,000. If you consent to the above proposal I shall take immediate steps for raising the remaining $1,500, and have no doubt of success.

I beg to remain, dear madam, yours, faithfully,

LEONELI L. BANA,
On Behalf of the Syndicate.

Please hand this letter to Mr. Waller.

[Inclosure 4 in No. 89.]

ANTANANARIVO, *January.*

Hon. E. T. WETTER,
Acting United States Consul for Madagascar.

We, the undersigned, having been honestly besought by Mrs. Waller to place before you the fact that the further detention of Mr. Waller in Tamatave would be, in consequence of his state of health, fatal to him, do respectfully call your attention to the matter, knowing that if Mr. Waller's health and life be in danger you will, on account of your high official position and duty to an American citizen who is under your protection, do all that you reasonably could to immediately release him from any danger for this reason. We appeal to you to allow Mr. Waller to return to Antananarivo.

Respectfully submitted.

JAMES SIBREL.
J. C. RINGZETT.
HENRY E. CLARK.
EDITH M. CLARK.
T. T. MATTHEWS.
CLARA HERBERT.
EDITH CRAVEN.
CHARLES INKES.
H. ANDREW HARVEY,
Editor Madagascar News.
H. M. ANDERSON.
ROSRA PAIRITTARISON.
MARC RABIBISON.
ROSAJIN.
ANDNANNANA.
And thirteen others.

FRENCH CLAIMS AGAINST THE DOMINICAN REPUBLIC.[1]

Mr. Gresham to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 11, 1895.

Instruction mailed you to-day concerning apprehended demonstration of French Government against Santo Domingo and possible impairment of rights of American citizens as farmers of Santo Domingo customs revenue under contract. It is reported a cabinet meeting will be held Paris to-morrow (Tuesday) to determine action against Santo Domingo. Notify minister for foreign affairs of existing rights of American citizens, in order that they may be duly protected in any action France may take for enforcement of her claim.

GRESHAM.

Mr. Gresham to Mr. Eustis.

No. 347.] DEPARTMENT OF STATE,
Washington, February 11, 1895.

SIR: I herewith transmit a copy of a letter[2] from Smith M. Weed, esq., president of the San Domingo Improvement Company of New York, an American corporation.

Mr. Weed complains that, by virtue of contracts between his company and the Government of Santo Domingo and in pursuance of the law of that Republic, the company is in possession of and is administering the Dominican custom-houses for the security and reimbursement of moneys due to it by that Government. He further states that the French Government has presented certain claims against Santo Domingo and is about to take action to compel payment of them. The action contemplated, it is thought, involves either a seizure of the custom-houses by France or such a demonstration of force as will compel the Dominican authorities to take possession of them for the purpose of speedily providing the necessary funds to meet the French claims. Either course would injuriously affect the company's rights.

You will, therefore, notify the French Government of the rights of the American company in the custom-houses and customs revenues of Santo Domingo, in order that they may be protected in any action France may take for the enforcement of her claims.

I am, etc., W. Q. GRESHAM.

Mr. Gresham to Mr. Eustis.

No. 350.] DEPARTMENT OF STATE,
Washington, February 12, 1895.

SIR: Referring to the Department's instruction to you, No. 347, of the 11th instant, concerning apprehended demonstration of the French Government against Santo Domingo and the possible impairment

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[1] See also under Dominican Republic, p. 235. [2] Not printed.

of rights of American citizens as farmers of Santo Domingo customs revenues, I inclose for your information a copy of a note from the Dominican chargé[1] at this capital, transmitting a memorandum of the circumstances which led to the rupture of diplomatic relations between France and Santo Domingo.

I am, etc., W. Q. GRESHAM.

Mr. Vignaud to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Paris, February 14, 1895.

Have called attention of minister for foreign affairs to existing American rights in Santo Domingo, and said you expected they would be respected. He said that he had no desire of creating additional trouble; was, on the contrary, disposed to be as conciliatory as possible, but it could not be reasonably expected that because a foreign company controlled all the revenues of Santo Domingo, the French Government would be deprived of the means of obtaining redress for repeated grievances. France has shown too much forbearance. Things had reached a point where some action must be taken without delay. The only thing he can do is to lay aside for a moment all other pending questions, if Santo Domingo will pay an indemnity for the willful murder of Cacavilli—a murder committed under circumstances showing the complicity of the authorities. He intimated a friendly advice from you to these people would bring them to their senses, and proposed to delay action until he heard from you. I declined to engage you in any way, but promised to telegraph fully. I think, however, he will wait, but not long. The minister spoke with evident sincerity. He is always very frank and means what he says. In my opinion, nothing short of payment of indemnity aforesaid will stop France's action.

VIGNAUD.

Mr. Vignaud to Mr. Gresham.

No. 263.] EMBASSY OF THE UNITED STATES,
Paris, February 15, 1895. (Received Feb. 25.)

SIR: Your telegram directing the ambassador to notify the minister of foreign affairs of the existing American rights in the Dominican Republic, and to say you expected they would be respected in case France should take any action against that Republic, having been received after Mr. Eustis had left under leave granted him, I complied with your instruction in the manner stated in my telegram of yesterday.

There is hardly anything to add to the information conveyed in this telegram. Mr. Hanotaux dwelt at some length on the circumstantial evidence showing that President Heureaux or his Government was directly responsible for the murder of Cacavilli, and on the moral reason which compelled France to exact an immediate payment of the indemnity demanded in that case. He thought that your interposition could settle the matter at once, and I have no doubt he would accept any suggestion you would be willing to make for the settlement of the

[1] See p. 235.

two other pending questions if the Cacavilli indemnity is paid without delay.

I ventured to communicate the substance of my conversation with Mr. Hanotaux to the representative of the San Domingo Improvement Company here, and he said he was going to telegraph to his people to advise the Dominican Government to pay, through you, the amount asked.

I saw Mr. Hanotaux last night at the President's reception, and he told me that no action had yet been taken.

I have, etc.,

HENRY VIGNAUD.

Mr. Gresham to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 16, 1895

Vignaud's telegram 14th instant received. Government of Santo Domingo denies complicity of any of its authorities in murder of Cacavilli, and insists that this will be established by investigation by French agent alone. While not claiming that the Dominican Government's contract with an American corporation precludes France from exercising any means of redress against that Government to which she is entitled by international law, the Government of the United States, as a friendly neutral and mindful of the interests of American citizens under contract referred to in my telegram of 11th instant, indulges the hope that France will exhaust all peaceful means of settling the controversy before resorting to force.

GRESHAM.

Mr. Vignaud to Mr. Gresham.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, February 18, 1895.

Saw minister for foreign affairs and acquainted him with your views as expressed in telegram received yesterday. He thinks you are incorrectly informed. Has unquestionable proof of complicity of authorities in murder Cacavilli. Has no desire of magnifying difficulties and would have listened to friendly suggestions, but will have to act if indemnity not paid. He appeared to me cooler and not in such a hurry to appeal to force as the last time.

VIGNAUD.

Mr. Vignaud to Mr Gresham.

No. 266.] EMBASSY OF THE UNITED STATES,
Paris, February 19, 1895. (Received March 4.)

SIR: I saw Mr. Hanotaux yesterday and telegraphed you the result of our conversation.

With reference to the Cacavilli case, he thinks you have been misinformed. He asserts positively that he has abundant proof of the com-

plicity of the authorities in the murder; that his mind is made up on this point, and that no investigation is being made by the French consular agency in this matter.

With regard to the position you have taken, he has no objection. He will assuredly exhaust all peaceful means of settling the difficulty before resorting to force, and should he be obliged to go to such an extremity, he will very naturally be guided by the principles of international law. But this does not mean that the existing American rights, which are altogether of a private character, can impair or check those of France. The French Government was no party to the contract made with the American company, and, like all other private persons, those interested in it would have to submit, temporarily at least, to the consequences of a conflict, in case such conflict became unavoidable. He had no doubt you understood this perfectly well, and would feel sorry if the Dominicans did not. At all events, the American company could not be mistaken in this respect, and it remained with them to bring the matter to a speedy and peaceful termination.

As stated in my telegram, Mr. Hanotaux was not so pressing as when I saw him the first time, but he seemed nevertheless quite determined to take proceedings against the Dominicans if they did not submit, although he was more willing to temporize. He said that a cabinet council had authorized him to act, but that it was a matter of indifference to him whether he ate the pie hot or cold. These are his own words.

Although he did not intimate it, I think he hoped you would have suggested to the American company that the best thing they could do under the circumstances was to pay the indemnity for the Dominican Government, a step which would, in his opinion, strengthen the hold of the company on that Government.

Parties interested in the company over here entertain, I believe, that view.

I have, etc., HENRY VIGNAUD.

Mr. Vignaud to Mr. Gresham.

No. 272.] EMBASSY OF THE UNITED STATES,
Paris, March 11, 1895. (Received March 25.)

SIR: On the last diplomatic reception day, Mr. Hanotaux informed me that the Santo Domingo difficulty was in a fair way of being quietly settled, and the trouble, it would seem, is now at an end. The terms of the agreement have been made public by one of those informal notes which it is the practice of the French Government to give occasionally to the press. It appeared this morning in all the papers, and I inclose herewith a translation of the same, clipped from the Paris edition of the New York Herald. As far as I know the statement is correct, and I have nothing to add to it.

I have, etc., HENRY VIGNAUD.

[Inclosure in No. 272.—Extract from the New York Herald (Paris edition), March 11, 1895.]

France and Santo Domingo.—An agreement arrived at and diplomatic relations to be resumed.

M. Hanotaux, minister of foreign affairs, announced to his colleagues on Saturday that the negotiations which were commenced in Paris through the good offices of

Señor Leon y Castillo, the Spanish ambassador, had been brought to a successful issue. The following are the terms of the agreement:

The Dominican Government undertakes to pay to Captain Boimare a total indemnity of 1,000,000 francs, of which 150,000 francs on account must be paid cash down in Paris. The remainder is to be paid in monthly installments of, first, 12,000 francs, and then 15,000 francs, guaranteed on the dette extérieure and on the whole of the Dominican revenues.

So far as concerns the Cacavilli affair, the aggressor having been sentenced and executed, the Dominican Government undertakes to pay an indemnity of 225,000 francs, of which 80,000 francs shall be paid on account at once, and the remainder is payable in monthly installments of 5,000 francs.

The claims of the Banque de St. Domingue and those of Abbe Chiappini are submitted to the arbitration of Spain.

The minister of France at Haiti is to go to Santo Domingo on board a man-of-war. He is to be saluted with a salvo of twenty-eight guns. The Dominican authorities are to meet the representative when he lands, and to express to him the regrets of their Government and the desire to see relations reestablished with the French Government.

The representative of the Republic of Santo Domingo will be received in Paris by the President of the Republic as soon as the minister of foreign affairs has been informed of the reception accorded to the French agent at Santo Domingo.

These negotiations were commenced seven months ago by Señor de Escoriaza, the representative of Santo Domingo at Madrid. He had recourse to the good offices of the Spanish ambassador in Paris to communicate with the French minister of foreign affairs. The engagement entered into by the Dominican Government to execute the arrangement which has just been concluded is contained in a letter that Señor de Escoriaza has addressed to Señor Leon y Castillo which the ambassador has transmitted to M. Hanotaux.

The sums which the Dominican Government are to pay immediately on account are in the hands of the Spanish ambassador.

The instructions of the French Government to M. Pichon, French minister in Haiti, to go to Santo Domingo to receive the apologies of the Dominican Government, will be sent from France by the mail leaving on March 19.

As soon as M. Pichon has fulfilled his mission, M. Hanotaux will choose his successor. Santo Domingo will be represented in Paris by Señor de Escoriaza.

Mr. Uhl to Mr. Vignaud.

No. 379.] DEPARTMENT OF STATE,
Washington, March 18, 1895.

SIR: Referring to the recent correspondence between the Department and your embassy relative to the difficulties between France and the Dominican Republic, I inclose for your information a copy of a letter of the 12th instant from the president of the San Domingo Improvement Company of New York, thanking this Government for its assistance in the matter.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 379.]

Mr. Weed to Mr. Gresham.

THE SAN DOMINGO IMPROVEMENT COMPANY OF NEW YORK,
New York, March 12, 1895.

DEAR SIR: We are in receipt to-day of a cable from Gen. Ulisse Heureaux, the President of the Dominican Republic, stating that the agreement of settlement between France and Santo Domingo has been signed and the matter closed. He desires us at the very first opportunity to thank the Government of the United States, through you, the Secretary of State, for your kind offices and assistance in this matter.

We take great pleasure in so doing, and in adding our appreciation of the manner in which you have treated us and defended the rights of our company—an American company, and composed of American citizens.

With high esteem and assurances of our sincere appreciation of your cordial consideration, we beg to remain, etc.,

SMITH M. WEED,
President.

PROHIBITION OF THE IMPORTATION OF AMERICAN CATTLE.

Mr. Vignaud to Mr. Gresham.

[Telegram.]

PARIS, *February 25, 1895.* (Received Feb. 25.)

A decree of the minister of agriculture, gazetted this morning, forbids the importation into France, until further orders, of cattle coming from the United States. Cattle shipped before February 24 will be admitted under certain restrictions.

VIGNAUD, *Chargé.*

Mr. Vignaud to Mr. Gresham.

No. 268.] EMBASSY OF THE UNITED STATES,
Paris, February 26, 1895. (Received March 13.)

SIR: I inclose herewith a copy and a translation of the decree of February 24, forbidding the importation of American cattle into France, the substance of which I telegraphed you on the 25th instant. It is reported that the pretext under which this measure was taken was the prevalence in the United States of Texas fever and pleuro-pneumonia. I inclose also a copy of my telegram.

I have, etc., HENRY VIGNAUD.

[Inclosure in No. 268.—Translation.—Extract from Journal Officiel, February 25, 1895.]

Decree prohibiting importation of American cattle into France.

The minister of agriculture, referring to the law of July 21, 1881, on the sanitary inspection of animals, and the decree of June 22, 1882, regulating the public administration for the execution of said law, considering that contagious diseases which do not exist in France are prevalent in the United States of America among animals of the bovine species, and that cases have been established as existing among animals imported into Europe from that country, it becomes necessary to take measures preventing the introduction of these diseases into our territory.

According to the advice of the consulting committee on epizootics, on the report of the councillor of state, director of agriculture decrees:

ARTICLE 1. The importation into or the transit through France of animals of the bovine species from the United States of America is prohibited both by our frontiers on land or by sea until otherwise ordered.

At the same time, all such animals which have been shipped from the United States before the 24th of February, 1895, will be allowed entry into France under the reservation that they are imported in compliance with the rules governing the importation of animals into France.

ARTICLE 2. The prefects of the departments are requested, each according to his duty, to see to the enforcement of the present order.

Paris, February 24, 1895. GADAUD.

Mr. Gresham to Mr. Vignaud.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 2, 1895.

Your telegram of February 26, announcing that importation of American cattle to France has been prohibited, does not state grounds for this abrupt and unexpected harsh action. The Secretary of Agriculture asserts that cattle in the United States are entirely free from contagious, infectious, and communicable diseases, and have been for more than a year, and that our regulations are ample to prevent the exportation of diseased animals. In view of these statements, the President directs that you inform the French Government the United States regards this prohibition as a needless and unfriendly interference with an important branch of legitimate trade, and that you remonstrate against its enforcement.

GRESHAM.

Mr. Vignaud to Mr. Gresham.

[Telegram.]

PARIS, *March 4, 1895.*

Your telegram concerning prohibition of cattle received Sunday. This morning, after writing a strong protest against the action of France, I took it to the foreign office to deliver it myself to the minister. Before reading my communication, he declared that he had personally opposed the measure and had yielded only after obtaining evidence that the cattle were really in bad condition, and having ascertained that two countries at least, Germany and Belgium, had taken similar measures, England having practically done so long ago.

He added that, although very desirous to give you satisfaction in this matter, it would be impossible for him to have the order of prohibition canceled. But that with the view of showing the conciliatory disposition of France, he had insisted for the suppression of the microscopical inspection of hog products asked by us some time ago, and had carried the point.

He then intimated that if our protest was of such a character as to indispose the minister of agriculture, his consent to the suppression of microscopic inspection might be withheld. In short, I understood him to mean that he could fix at once this last affair if he was let alone with the other.

Under these circumstances I deemed it advisable to wait for further instructions before delivering our protest, which I had couched in the firm language used by you. I saw a large importer of American cattle, who admitted that the animals are always in unhealthy condition upon arrival on this side, and that other countries have taken same measures as France.

VIGNAUD, *Chargé.*

Mr. Gresham to Mr. Vignaud.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 5, 1895.

Telegram 4th received. Act as instructed in telegram 2d instant. French order prohibiting importation of American cattle is remarkable in assigning no reason for such action. French consul-general, New York, informs our veterinary inspector there that France prohibited importation of American cattle because pleuro-pneumonia had been detected not in shipments imported into France, but in American cattle recently imported into Belgium and Germany. This uncalled for and unfriendly attitude of French Government is deeply regretted here.

GRESHAM.

Mr. Vignaud to Mr. Gresham.

[Telegram.]

PARIS, *March 6, 1895.*

Instructions complied with.

VIGNAUD, *Chargé.*

Mr. Vignaud to the Secretary of State.

No. 270.] EMBASSY OF THE UNITED STATES,
Paris, March 7, 1895. (Received March 19.)

SIR: On February 25 I telegraphed you the substance of an order just issued forbidding the importation into France of American cattle, and a copy of the order with a translation of same were sent you on the following day.

The 27th being the diplomatic reception day at the foreign office, I saw Mr. Hanotaux, to whom I said that, although the embassy had received no instructions concerning this prohibition, it could not but create a very bad impression at home, and would certainly be followed by representations from the United States Government. He replied, with a certain warmth, that he had opposed the measure as long as he could, and only had yielded when it was shown that the Governments of Germany and Belgium had already taken the same step, and that cases of malady had been actually detected in France among the animals imported from the United States. I asked whether he was sure of this last fact. He replied that the minister of agriculture himself was his authority for the statement. The chief of the commercial department in the foreign office gave me the same assurance.

When your cable of the 2d instant reached me, I called at once on Mr. Hanotaux and told him that the anticipated instructions had come, and that I was directed to protest against the order of prohibition and to remonstrate against its enforcement. I added that this matter being a very serious one, I had put in writing what I was instructed to say, and then handed him the note dated March 4, a copy of which is herewith inclosed. He did not read it, and what took place between us is explained in my long telegram of the 4th of March. Being satisfied that it was impossible for Mr. Hanotaux to have the order of prohibi-

tion rescinded, I consented to withdraw, temporarily, our protest until you could be consulted on the propriety of accepting the suppression of the microscopical examination of pork as a sort of compensation for the wrong done us in so abruptly suspending the importation of our cattle.

Your cable of the 5th instant having put an end to this expectation, I proceeded immediately to the foreign office and delivered to Mr. Hanotaux the identical note mentioned above, which I trust you will find satisfactory, as it follows as closely as possible your own line of argument and language. The minister asked if the suggestion about the microscopical examination of pork had engaged your attention. I replied that you had made no reference whatever to this matter; that your telegram insisted on the extraordinary character of the order of prohibition, and simply directed me to comply with my previous instruction. He then repeated what he had already said about his opposition to the prohibition, and added that after all there was nothing extraordinary in France resorting to measures of protection which had already been adopted by Germany and Belgium. I remarked that it was no reason because Germany had given us a kick that France should give us one too; and that so far as Belgium was concerned, she pretended at least to have detected two cases of contagious disease among our cattle, whereas none had been found in France. The minister insisted that such cases had been found, but I called his attention to the peculiar wording of the order of prohibition, which shows the contrary, as it simply alludes to cases of malady found in Europe, not in France.

Mr. Hanotaux has evidently been deceived with regard to these cases. It is true that some of the animals imported from the United States have been reported by the French inspectors as being in an unhealthy condition, but these are not cases of contagious infection, being rather due to the fatigues of an ocean transit.

Mr. Hanotaux is no doubt annoyed at being obliged to assume the responsibility of a measure he disapproves of, and is sincerely desirous of doing anything he can to attenuate its evil effect in the United States. Unfortunately, he can not do much in this respect at least. The pressure brought to bear upon the Government to secure this prohibition was such that they did not dare to resist it to the last, and it is useless to entertain the hope that the measure might be canceled. Like the pork decree, it has evidently come to stay, and notwithstanding all our representations and remonstrances it will remain.

We had a far better case some years ago, when our pork was prohibited. Not a single case of trichinosis was found in France. Our inspectors had declared the meat perfectly healthy. France's own Academy of Medicine and her highest scientific authorities had stated that no better meat existed. In the face of all this, the decree of prohibition, based upon the unhealthiness of the meat, remained in force ten years, and when, after incessant diplomatic representations, its removal was secured, we gained nothing whatever thereby, as the pork trade had in the meantime been diverted to other channels and the duty raised in such a way that the meat could no longer find an open market in France. With regard to the cattle, the result will be exactly the same. If the prohibition is removed it will not be before the peculiar circumstances which make it profitable at this moment to import American cattle have changed. The French farmers, who had to slaughter nearly all their cattle two years ago on account of the drought, are rapidly reconstituting their herds, and within eighteen months the price of meat will be

such that it will hardly pay to send American cattle to France. Such is the opinion of the most competent men engaged in the trade on this side.

I have, etc., HENRY VIGNAUD.

[Inclosure in No. 270.]

Mr. Vignaud to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, March 4, 1895.

SIR: On the 27th of February I called your excellency's attention to the serious character of the order of February 24, forbidding the importation into France of American cattle, and said that although our embassy had not yet received any instructions concerning the matter, there could be no doubt that they would come. They have now been received, and by order of the President I am directed to protest against this abrupt and unexpected harsh action.

My Government considers that it is in every way unjustifiable. Cattle in the United States are entirely free from contagious infection and from any disease or malady of a communicative nature, and such has been the case for more than a year. Besides, our regulations governing this matter are of such a character that no unhealthy animal could be exported.

In view of these facts, which are asserted after careful examination, I am directed to inform your excellency that the United States regard the order of February 24 as a needless and unfriendly interference with an important branch of legitimate trade, and I am further instructed to remonstrate against its enforcement.

I avail, etc., HENRY VIGNAUD,
Chargé d'Affaires.

Mr. Eustis to Mr. Gresham.

No. 285.] EMBASSY OF THE UNITED STATES,
Paris, April 5, 1895. (Received April 15.)

SIR: I inclose herewith a copy and translation of Mr. Hanotaux's reply to Mr. Vignaud's communication of March 4 protesting, under instructions from the Department, against the prohibition of American cattle.

Mr. Hanotaux disclaims that the French Government was moved in this matter by any unfriendly feeling toward the United States. He asserts that cases of contagious disease affecting American cattle were found in Germany, in Belgium, and also in France; that in Canada and in some parts of our own States measures of exclusion against Texan cattle are taken, and that the circumstances rendered the action of the French Government necessary. He refers to the exclusion of French animals at the time of the Chicago Exhibition, which was quite legitimate, he says, and against which France did not protest, and hopes that after reading his explanations you will be satisfied that the action of France has not the character you attributed to it, according to Mr. Vignaud's dispatch.

I am informed that some of the butchers of Paris have asked the Government to permit the landing of the cattle at some designated place, where they would be slaughtered and the meat inspected before being sent into the interior.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 285.—Translation.]

Mr. Hanotaux to Mr. Vignaud.

PARIS, *March 31, 1895.*

Mr. CHARGÉ D'AFFAIRES: In informing me by your letter of the 4th instant of the impression made in the United States by the publication of the minister's order of February 24 forbidding the importation into France of animals of the bovine species, coming from the territory of the Union, you stated that your Government considered this order as unjustifiable because "cattle in the United States are entirely free from contagious infection or malady of a communicative character, which has been the case for more than a year, and, besides, because the regulations in force in the United States are such that no unhealthy animal can be exported."

I did not fail to acquaint the minister of agriculture with the letter you did me the honor of writing me, and I had most particularly called his attention to it.

My colleague has just sent me his reply, and the explanations it contains, which are stated hereafter, will satisfy you that if the French Administration has temporarily prohibited the importation of American cattle, it is because it was compelled to do so by an imperative reason—the necessity of protecting French cattle from contagious diseases propagated by contaminated American animals.

According to the letter of my colleague, the facts which have led the French sanitary department to adopt the measures of precaution prescribed February 24 are the following:

Cases of epizooty, known under the name of Texas fever, were detected in two instances at Hamburg during the month of October last in a shipment of cattle arriving from the United States, in consequence of which the German authorities felt that it was their duty to forbid the importation into their territory not only of animals of the bovine species, but of fresh meat of the same origin as well.

On its part, the Belgian Government, which had, in August, 1892, subjected to a quarantine of forty-five days cattle arriving at Antwerp from the United States, for the reason that its sanitary agents had detected cases of contagious peripneumonia among these animals, also resorted to prohibition by an order issued December 29 last in consequence of other cases of the same disease among oxen landed at Antwerp.

Finally, according to information furnished to the Government of the Republic, the Canadian authorities do not allow any herds (convois) of American cattle unless the animals are found to be healthy after having been subjected to a quarantine of ninety days.

On the other hand, with reference to France particularly, a case of peri-pneumonia was detected December 9, 1894, at the abattoirs of Villejuif in an ox landed at Havre November 30, which was imported from the United States by the firm of Goldsmith, on board the steamer *Prussian*.

Besides, on the 10th of January, 1895, at the abattoirs of Mouronclois le Grand (Marne), a bull imported by Messrs. Nelson, Morris & Co., of Chicago, was found having general tuberculosis (tuberculose généralisée); and on January 23, 1895, a case appearing to be one of contagious peripneumonia was found at the abattoir of Rheims on a bull imported by Messrs. Morris & Co., of Chicago, on the transport *Prussian*, arriving at Havre January 19, which case, however, was found to be one of that peculiar disease of cattle called in the United States the "cornstalk disease."

In pointing out the cases of disease mentioned above, the minister of agriculture remarks that it is upon the advice, duly considered, of the consulting committee of epizootics, that cattle from the United States were excluded by the order of February 24 last. That committee, which has, by the way in which it is composed, the highest authority in matters of this kind, declared that in admitting that the case of contagious peripneumonia detected at the abattoir of Villejuif is one of "cornstalk disease," it is nevertheless true that contagious maladies existed among the cattle in the United States, and that cases of this kind having been found upon their arrival in Europe among animals shipped from the United States, the French Administration would assume a grave responsibility if it did not prevent by prohibitory measures the importation into France of cases of disease.

Measures of this kind seem to be the more justifiable, as certain States of the Union have resorted to prohibition against Texas cattle. The authorities of South Dakota have particularly forbidden the introduction of these cattle in consequence of a case of peripneumonia found among animals coming from that region, and the State of Illinois subjects to a long quarantine cattle of the same origin.

Under these circumstances, I am pleased to think, sir, that the Administration of the Union will realize that it was impossible for the minister of agriculture not to share the opinion given by the consulting committee of epizootics. It will not be surprising, on the other hand, to see the Government of the Republic take for the sanitary protection of its national production measures which correspond to those which were legitimately enacted in the United States at the time of the Chicago Exhibition, and against which France did not protest.

In concluding, I will add that in forbidding the importation of live animals and in continuing to admit fresh beef, the sanitary department has given an evident proof of its desire to reduce to its minimum the measure of exclusion it was obliged to resort to. That administration has shown in that way that its intention was not at all to close to American farmers the market they could find among French consumers for their products. Its decision, therefore, can not be considered as having the character attributed to it, according to your communication, by the Federal Administration.

I believe it my duty, Mr. Chargé d'Affaires, to call your attention to the foregoing explanations, and I would be much obliged to you if you would bring them to the knowledge of the Government of the Union.

Please accept, etc.,

G. HANOTAUX.

Mr. Eustis to Mr. Gresham.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, April 8, 1895.

Minister for foreign affairs says, in reply to our protest, that Canada subjects American cattle to a quarantine of ninety days; that similar measures were taken by several of the United States; that South Dakota prohibits their introduction; that Illinois, in consequence of pleuro-pneumonia, subjects the same to a long quarantine. Are these statements correct? Reply and translation mailed to you April 5. Telegraph reply.

EUSTIS.

Mr. Uhl to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 8, 1895.

Secretary of Agriculture says it is true that Canada subjects American cattle to quarantine of ninety days, but it is not true that any of our States enforce a quarantine against cattle from any other part of the country in consequence of pleuro-pneumonia. Regulations of South Dakota and Illinois, referred to in telegram, are the adoption by those States of the regulations of Department of Agriculture for preventing Texas fever. They allow introduction of Southern cattle during the warm months of year for slaughter only. These regulations have effectually prevented Texas fever. Our export trade is protected in every way as thoroughly as the trade to any State, and has the important additional protection that no Southern cattle are allowed exportation.

UHL,
Acting Secretary.

Mr. Eustis to Mr. Gresham.

No. 286.] EMBASSY OF THE UNITED STATES,
Paris, April 11, 1895. (Received April 22.)

SIR: I had yesterday an interview with Mr. Hanotaux with reference to the cattle question.

I commenced by saying that if he would recall the terms of President Cleveland's protest, he would remember that it was exceptionally vigorous and almost impeached the good faith of the French Government.

He said that he did not understand it in that sense, but that he did consider that the protest was a little "fiery." Our conversation was in French.

I replied that Mr. Cleveland always carefully weighed his words, and that when he characterized the action of the French Government as unfriendly, needless, and surprising, it is impossible to misinterpret such language. I stated that I had recalled to his mind that protest, in order that he should be fully impressed with the importance of the question under discussion; that it was unfortunate for us that this was a controversy determinable exclusively by the facts in the case; that if the

French Government could establish that any American cattle contaminated by contagious disease had been imported into France, then I had not one word to say, as neither my Government, nor American cattle raisers, nor dealers in cattle in their own interest desired that any diseased American cattle should be exported to any foreign country.

But, on the other hand, if we could disprove or refute any allegation on the part of the French Government that any American cattle affected by a contagious disease had been imported into France, then our protest was perfectly justified, and we had a right to denounce this proceeding as most unfriendly, because so needlessly inimical to our interests.

That I must frankly tell him that that ministerial decree of prohibition had produced a most unfavorable impression upon my Government and throughout the United States, because it was believed that it was founded upon no fact or sensible reason; that in his reply to our protest three cases had been cited. I analyzed these cases. Two of them were not cases of contagious disease, therefore utterly useless to support the theory of the French Government. The case of pleuro-pneumonia claimed to have been discovered at the slaughterhouse of Villejuif was the only case in point.

Unless the veterinary is very expert, he might confound pneumonia, which is not contagious, with pleuro-pneumonia as easily as yellow fever has been confounded with malarial fever.

That the average passage of a cattle steamer to Havre is sixteen days; that if it had been an imported case of pleuro-pneumonia it would certainly have declared itself on shipboard, and would have contaminated both the cattle cargo and the herd on shore.

That, in view of the extraordinary precautions taken by our Government, as shown by the fact that in 1894 one American firm landed twenty-four shiploads of cattle without a case of disease, also in view of the vigorous and vigilant inspection by the French official, and that no other animal was contaminated, it could be safely asserted that it was a physical impossibility that the case at Villejuif was one of pleuro-pneumonia; that that disease had been entirely extirpated in the United States by a vast expenditure of money by our Government.

He then stated that when he sent to us his reply it was based upon facts furnished by the minister of agriculture, and he had considered it conclusive, but he admitted that his convictions were somewhat shaken, and that inasmuch as he was not competent to pass upon these controverted facts, he asked me to submit them in writing for the consideration of the minister of agriculture. He then expressed a desire to discuss the question generally. He took the ground that our Government ought not to be so sensitive with regard to the action of the French Government, inasmuch as she had only followed the example of such Governments as Belgium and Germany. I replied that this was merely a question of internal police, and that the Government of France could not admit that its action was influenced or controlled by the action of any other Government; that such a doctrine was inadmissible, because France could not know what motives influenced the action of other Governments; that they might be honest or dishonest, purposely unfriendly, or such as France would not like to acknowledge were capable of influencing her action toward a power for which she professed sincere friendship. He seemed to acquiesce in this view.

The only other argument he advanced was based upon the doctrine of quarantine. He asked, "Suppose that cholera existed in Italy," whether I thought France was obliged to wait until she was invaded

by that pestilential disease before taking any sanitary measures of precaution by quarantine? I replied, "Clearly not," and for a very simple reason, which would illustrate the force of the views I had endeavored to present. Quarantine was based upon ascertained facts; the existence of the disease, its importability, and its contagiousness were established by facts, and constituted a justification for the quarantine; and that was precisely our contention in this case. I said in further reply, "Suppose I were to notify you that my Government had issued an order prohibiting any French citizen from landing in the United States because cholera existed several years ago in France, would not the French Government consider that a most unfriendly proceeding, a violation of treaty rights, a just ground not only for complaint but for retaliation, because it would be an arbitrary interdict of intercourse between two civilized nations; and yet in the absence of any substantial facts or valid reasons, and as a matter of international right, I could not distinguish between the supposed case and the actual case as presented by the action of the French Government with reference to American cattle."

The cablegram received from the Department enabled me to correct erroneous impressions as to the interstate regulations affecting cattle in the United States. I have related at length the interchange of views which occurred between Mr. Hanotaux and myself, in order to enable my Government to appreciate what I considered, after having heard the French side of the case, the utter want of justification for the ministerial decree prohibiting the importation of American cattle. I can not but believe that Mr. Hanotaux, who is a very intelligent and fair-minded man, regrets that there is any cause of complaint on our part, but at the same time my sense of duty compels me to express the conviction that upon this question the present ministry is dominated by influences which reflect interests that are adverse to those of the American people.

I have, etc., J. B. EUSTIS.

Mr. Adee to Mr. Eustis.

No. 512.] DEPARTMENT OF STATE,
Washington, August 28, 1895.

SIR: I inclose for your information a copy of my instruction, No. 158, of the 26th instant,[1] to the United States minister at Brussels, instructing him to bring the matter of the prohibition of the importation of American cattle into Belgium to the attention of the Belgian Government, and to ask for the revocation of its restrictive decree on the subject, in view of the fact that the present healthful condition of all kinds of live stock in the United States is well established, as is shown by the letter of the Secretary of Agriculture of the 22d instant, a copy of which accompanies that instruction.

You are instructed to avail yourself of a convenient opportunity to bring this subject to the attention of the Government of France, and to ask that, in view of the present good sanitary condition of our live stock of all kinds, the question of revoking the restrictive measures with reference to the importation of American meat products into France may be taken into consideration.

I am, etc., ALVEY A. ADEE,
Acting Secretary.

[1] Printed ante, p. 34.

Mr. Eustis to Mr. Olney.

No. 379.] EMBASSY OF THE UNITED STATES,
Paris, September 24, 1895. (Received Oct. 7.)

SIR: Upon receiving dispatch No. 512 from the Department, instructing me to bring again to the attention of the French Government the subject of the prohibition of the importation of our cattle, and to ask that, in view of the present good sanitary condition of our live stock of all kinds, the question of revoking this measure be taken into consideration, I communicated at once with Mr. Hanotaux.

Quoting the statement made by the Secretary of Agriculture in the letter accompanying your dispatch, I represented that the present healthful condition of our cattle was well established; that the existence of pleuro-pneumonia among the animals shipped abroad was unfounded and based upon errors of diagnosis, as there had been no cases of this disease in the United States for several years; that our cattle were also equally free from Texas fever, and that even if cattle affected by that fever had been found among our exportations, we should have the right to protest against the prohibition of the trade on that account, as the disease is not disseminated by affected cattle. I added that, in view of these facts, my Government entertained the hope that it may be found practicable to revoke the decree prohibiting the importation of American cattle into France.

Under date of the 23d instant, Mr. Hanotaux replies that he hastened to transmit my communication to the minister of commerce, recommending it to his attention in the most particular manner, but adds that, in view of the information published in the American papers with reference to the existence of epizootic diseases in several States of the Union, he would have liked the statement of our Secretary of Agriculture to have been accompanied by statistic data, furnished by the veterinary inspectors, showing the number of cases of epizooty recorded in the United States during the months of June and July.

I inclose herewith copy and translation of this reply.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 379.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *September 23, 1895.*

Mr. AMBASSADOR: By a communication dated the 11th of this month you were kind enough to make known to me the importance your Government would attach to the removal of the prohibition, which was decreed on the 24th of last February as a sanitary measure, against the introduction in France of animals of the bovine species native to the United States.

Your excellency adds that in support of this demand you had received a letter from the Secretary of Agriculture, setting forth the satisfactory condition of the actual sanitary state of American cattle. I have the honor to inform you that I hastened to transmit your communication to my colleague, Mr. Garland, recommending to his attention in a special manner the demand which you did me the honor to address to me in the name of your Government.

It will nevertheless not escape you, Mr. Ambassador, that in the face of information spread by the American press itself regarding epizooty

supposed to exist in divers States of the Union, it would have been of great help to me to have been able, at the same time, to point out to my colleague that the information sent you by the Federal Secretary of Agriculture, relating to the sanitary condition of animals of the bovine species in the United States, was accompanied by statistical reports emanating from the official veterinary inspection service in those States of the Union where cattle raising and trading is practiced, and containing the number of cases of epizooty existing in the different States during the months of June and July.

Please accept, etc., G. HANOTAUX.

Mr. Olney to Mr. Eustis.

No. 543.] DEPARTMENT OF STATE,
Washington, October 12, 1895.

SIR: In further reply to your No. 379, of the 24th ultimo, touching the prohibition of the importation of American cattle into France and the newspaper statements to which the French minister for foreign affairs adverts as conclusive of the existence of epizootic disease in the United States, I have now to apprise you of the receipt of a letter from the Secretary of Agriculture, of the 9th instant, upon the subject, which is practically as follows:

The communication of Mr. Hanotaux gives the impression that the French Government is unwilling to give serious consideration to the representations made by you under instructions from this Department. After the French Government had been officially informed that there has been no pleuro pneumonia among the animals of the United States for several years, and that our cattle are free from Texas fever, but that in case this disease should affect them there would be no danger of its introduction into France, as the disease is not disseminated by affected cattle, the reference to alleged epizootics of cattle reported in the newspapers is an extremely unsatisfactory answer. The French Government would certainly have a right to complain if this Government accepted newspaper statements in regard to the diagnosis and prevalence of epizootic diseases in France, and, in doing so, rejected their official reports. It can be no less a cause of complaint for this Government that unauthorized newspaper reports are apparently accepted as more reliable than the representations amply made by the Government of the United States after careful investigation and a thorough knowledge of the subject.

It is not to be understood that the Secretary of Agriculture alleges that there has been absolute freedom from Texas fever in the United States during the year, but he does affirm that the disease is not epizootic and that it has been thoroughly controlled under the Federal regulations, so that there is no danger of the infection being carried into France or other foreign countries. Because of the existence of a district in this country in which Texas fever is epizootic the Government of France excludes our live cattle, even when shipped for slaughter, although there has never been a case of Texas fever produced among the cattle of Europe by the millions of head of cattle which have been shipped there from the United States, and although what is known of the disease clearly indicates that it is impossible for this to occur under the regulations of this Government. On the other hand, it has been freely admitted by the French Government, in their official

publications, that both pleuro-pneumonia and foot-and-mouth disease have existed in that country during the last year, and yet this Government has shown its friendly inclinations toward France by admitting French cattle for breeding purposes. It certainly is much less dangerous to admit cattle for immediate slaughter at the port of landing than it is to admit them for breeding purposes, and allow them to go into the herds of the country, even after a reasonable quarantine.

It is well, therefore, to state to the French Government that if, under the conditions as they exist in this country, it is necessary for the protection of the French herds that the cattle from the United States be excluded, the same process of reasoning would make it equally essential to the protection of the cattle of the United States that French cattle, particularly the Normandy breed, which is now attracting much attention here, should be excluded from the United States. There is no demand nor desire in this country for unnecessary restrictions upon the importation of animals into this country, but if this Government makes favorable regulations for the admission of French cattle, thereby taking some risk of the introduction of diseases, the French Government should be equally liberal in its regulations and accept its share of the risk which attends such international trade. Any sanitary authority, however, must admit that the danger of introducing pleuro-pneumonia and foot-and-mouth disease into the United States with French cattle is many times more serious than the danger of conveying Texas fever from this country to France, even if such danger exists.

You will suitably communicate these views to Mr. Hanotaux.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Eustis.

DEPARTMENT OF STATE,
No. 562.] *Washington, November 11, 1895.*

SIR: In connection with my instruction, No. 543, of October 12 last, I have now to apprise you of the receipt of a letter from the Secretary of Agriculture of the 7th instant, wherein he says that he is in receipt of a letter from Mr. Nelson Morris, of Chicago, one of the largest cattle exporters, "who states that he is informed by correspondents in France that the present ministry is likely to be more favorable to the admission of American cattle than was the one which recently retired. In view of these statements, I would respectfully suggest that the American ambassador be requested to press our case and endeavor to secure favorable action at as early a date as possible."

You will accomplish all that is possible in furtherance of the wishes of the Secretary of Agriculture.

I am, etc., RICHARD OLNEY.

WITHDRAWAL OF CONSULAR PRIVILEGES FROM UNSALARIED OFFICERS IN TUNIS.

Mr. Uhl to Mr. Vignaud.

No. 370.] DEPARTMENT OF STATE,
Washington, March 12, 1895.

SIR: I inclose herewith a copy of a communication from Mr. Alfred Chapelié, United States vice-consul at Tunis, Africa, dated February

12, 1895, representing that the minister for foreign affairs of the Bey of Tunis (who is also at the same time the French minister resident) had notified him that the Government of Tunis intended to suppress all privileges, honors, and prerogatives granted to the consuls by treaties, except those who were salaried officers.

Mr. Chapelié gives no decree or other public announcement of the new rule which appears to have been adopted in respect to unsalaried consular representatives at Tunis, and it would seem to be an arbitrary distinction put in practice without notice or any other than oral explanation.

This Government, following the rule generally observed in other countries, makes no discrimination between salaried and unsalaried consular officers of foreign States. They all stand on the same footing, according to the commission they bear which defines their grade and jurisdiction; they receive like exequaturs and enjoy identical privileges and exemptions.

Under these circumstances this Government can not acquiesce in any differential treatment of its consular officers abroad based upon a mere detail of financial relation between this Government and its agent, which in no manner concerns the agent's relation to the Government to which he is accredited and from which he receives his exequatur.

It must expect that such officers shall receive in a foreign country equal treatment with other officers of like grade representing any country whatsoever.

If it should appear that the invidious distinction in question has not been imposed by the French Government, but has been adopted by the French resident at Tunis in his accessory capacity as minister for foreign affairs of the Bey, it is not doubted that it will suffice to bring the matter to the attention of the French Government in order to insure its correction in the proper quarter.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 in No. 370.]

Mr. Chapelié to Mr. Uhl.

CONSULATE OF THE UNITED STATES OF AMERICA,
Tunis, February 12, 1895.

SIR: I beg to acknowledge receipt of your dispatch No. 7 of the 5th of January last. I have the honor to-day of submitting to the Department's examination the following fact:

According to the terms of the treaties confirmed by those of the exequaturs, granted by the Beys of Tunis to the consular officers in Tunis, the honors, privileges, and prerogatives they had a right to were the following: Right to put a flagstaff and flag on the consular house; right to have one or more janissaries appointed by the Bey; to be exempted from civil or criminal jurisdiction; to be exempted from custom-house duties upon personal effects for the consul and family; to have the right of refuge or inviolability of the consular house and official documents; right to the clause of the most favored nation; exemption from taxes upon the consular house.

These privileges have lasted for centuries, and I have been admitted to divide [share] them as soon as I received my exequatur, but, to my great surprise, on the 26th of January last, having sent one of my

janissaries to draw out of the custom-house a small package I had received from Malta for my private use, the custom-house officer informed him that he had orders to refuse me the exemption of duties, as all privileges had been abolished for unsalaried consular officers in Tunis.

Having had no official information of this fact from the Tunisian government, I supposed it was the result of a mistake, and I called the following day upon the French resident, who is at the same time the minister of foreign affairs of the Bey, to inquire about the matter but, to my great surprise, Mr. Millet made me the following declaration, which, to my regret, it is my duty to transmit to the Department. Mr. Millet told me that as soon as he had arrived from Sweden, about four months ago, he decided that the honors and privileges granted by the Tunisian government indistinctly to all consular officers in Tunis had no reason to be extended to the unsalaried ones; that he had therefore decided that henceforth they should be suppressed for these, while they should be continued for the salaried ones; that consequently he had divided the consular corps of Tunis into two distinct parts, the salaried and the unsalaried consuls and vice-consuls; that we were five of the second class, my colleagues of Belgium, Holland, Sweden, Russia, and myself, and that we should not expect any more to be treated on the same footing as the others, not only about the accustomed prerogatives and honors, but even about the official invitations to the palace and to the residence—in fact, depriving us at his pleasure of all the advantages and prestige of our commissions.

I answered Mr. Millet that I could not understand the reasons which could lead him to take such a serious step against a corps which was independent of him, or authorize him to an arbitrary classification of it, especially as the unpaid officers represented as well as the others, and in all their integrity, the rights and interests of the Governments which had accredited them here; that I was extremely surprised that no official communication should have been made previously to us about this question, and that in his capacity of minister to the Bey he could take upon himself the serious responsibility of modifying at his pleasure the existing treaties without having previously and officially ascertained the intentions of the United States Government on the subject; that I had no authority to treat diplomatic questions and consequently to discuss the measure he wanted to enforce in such a blunt manner, but that the appreciation of this question remained altogether to the American Government alone, and that I was going to refer the matter to Washington and wait for instructions. I suggested at the same time that it would be much more preferable to let things stand until the question should be examined by the Department, but he would not hear of it, saying that his decision was irrevocable.

I called upon my colleagues of Belgium, Holland, and Russia, and consulted them on the matter; they divide [share] entirely my opinion and are transmitting the fact to their respective Governments.

I remained a few days in suspense waiting to see whether Mr. Millet had modified his views on this matter, but, finding they were unchanged, I thought it necessary to prove my opposition by sending him a protestative note. This note, of which I insert herewith a translation, was forwarded to Mr. Millet on the 5th instant and no answer has been made to it yet.

I shall conclude this perhaps too extensive dispatch by saying that my private impression is that the whole of the affair is due to Mr. Millet's initiative alone. I know by private sayings that he wants to diminish gradually and reduce to nothing the prestige and power of the

consular body here, which he considers as dangerous. It will remain to the foreign powers to know what to do in the matter, but I am perfectly convinced that if the Tunisian government was really trying to obtain this modification to the treaties, the affair should have been conducted in the very courteous and very refined manner in which Oriental Governments are in the habit of treating diplomatic questions.

The manner in which I was informed—by a custom-house officer and through my janissary—of Mr. Millet's decision is more than sufficient to prove that the Tunisian government had nothing to do with the matter.

I am, etc., ALFRED CHAPELIÉ,
United States Vice-Consul.

[Inclosure 2 in No. 370.—Translation].

Mr. Chapelié to Mr. Millet.

TUNIS, *February 2, 1895.*

SIR: In consequence of the conversation I had the honor of having with you a few days ago, and in which you informed me that the Tunisian government had decided upon the suppression of all the honors, privileges, and prerogatives granted until now to the unsalaried consular officers of the foreign powers in Tunis, while it would continue them in favor of the salaried agents, notwithstanding the perfect assimilation which always existed between them from time immemorial in Tunis, I have examined again, with the greatest attention, the texts of the treaties and regulations which fix the relations of the American consular officers with the Tunisian government, and I have arrived at the following conclusions:

I am not authorized by my Government to treat diplomatic questions, and have, consequently, no official quality to discuss with the Bey's government the reasons which led him to decide upon a measure so unexpected and so completely in opposition to the terms of the treaties which bind him to the United States Government. A measure, in short, of a slighting nature both for the foreign representatives it is aiming at and for the Governments they have the honor of representing in Tunis.

The appreciation of this fact belongs to the Government at Washington alone, and I am transmitting to it immediately the official declaration you have thought proper to communicate to me on the subject, asking for special orders.

Moreover, I am obliged in the meantime by the official position I am occupying here, although an unsalaried officer, and by the mission which is confided to me by the United States Government to oversee and defend its interests in Tunis, to protest formally and in the most absolute way against this arbitrary way of modifying the treaties which the Tunisian government believes it has the right of decreeing and which I consider as illegal and prejudicial to the dignity and to the interests of the American nation; making my most absolute reserves upon the application of this new measure, which is not only in direct contradiction of the treaties as well as with the terms of the exequatur which was granted to me hardly four months ago, but which can not in any way be put into execution before a previous understanding between the interested parties and the formal consent of the United States.

For these reasons I have the honor of informing you that as long as I have no special instructions from the Department at Washington upon

this question I shall continue to consider my official position in Tunis as unchanged, and to hold the Tunisian government responsible for the consequences of all the attempts which may take place against it.

I am, etc.,

A. CHAPELIÉ,
United States Vice-Consul in Tunis.

Mr. Eustis to Mr. Gresham.

No. 305.] EMBASSY OF THE UNITED STATES,
Paris, May 24, 1895. (Received June 3, 1895.)

SIR: In accordance with the Department's instruction, No. 370, of March 12, concerning the consular privileges of unsalaried consular officers at Tunis, the matter was submitted to the minister of foreign affairs in a note dated March 26, embodying the views expressed by the Department and stating that my Government could not acquiesce in any differential treatment of its consular officers abroad based upon a mere detail of financial relation between the Government and its agent.

The matter was also discussed with the chief of the protectorate department of the foreign office, who endeavored to explain that in Eastern countries foreign consuls occupied a position from which they might derive unfair advantages when they were engaged in business like unsalaried officials, and particularly like Mr. Chapelié, who does not seem to be persona grata at the foreign office, although he is a Frenchman. This gentleman admitted, however, that perhaps the French resident had been too hasty in his decision and said that satisfactory explanation would be given you. A note from Mr. Hanotaux, dated the 22d instant, states that the French ambassador at Washington has been instructed to furnish these explanations, and adds that the French resident's decision was intended to apply only to the withdrawal of the custom-house franchise from consular agents engaged in business.

I inclose herewith a copy and a translation of the note.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 305.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *May 22, 1895.*

Mr. AMBASSADOR: By a letter dated March 21 last the chargé d'affaires of the United States at Paris called my attention to certain information which had reached his Government according to which the resident-general of the French Republic at Tunis had recently decided to "suppress all the privileges, honors, and prerogatives granted to consuls by treaties except those who were salaried officers."

I had not failed to interrogate our representative in the regency of Tunis with reference to this matter, and I have just invited the ambassador of the French Republic at Washington to furnish the Federal Government with such explanations as appeared to me to be called for by Mr. Vignaud's communication.

I deem it proper, however, to inform your excellency that the decision taken by Mr. Réné Millet had only in view the withdrawal of the custom-house franchise from the consular agents engaged in business.

Please accept, etc.,

G. HANOTAUX.

Mr. Olney to Mr. Eustis.

No. 442.] DEPARTMENT OF STATE,
Washington, June 17, 1895.

SIR: Since Mr. Uhl's No. 438,[1] of the 5th instant, informing you that the Department had received no communication from the French ambassador here concerning the withdrawal of consular privileges from unsalaried consular officers in the regency of Tunis, Mr. Patenôtre has informally stated to Mr. Rockhill, the Third Assistant Secretary, certain reasons for the discrimination of which Mr. Chapelié, the United States vice-consul at Tunis, complains.

Apparently the main considerations advanced by Mr. Patenôtre were personal in character, but without specific allegation or tangible proof the Department may not properly take cognizance of this aspect of the matter. Moreover, such personal objections, whatever may be their merit so far as concerns the French Government, bear no obvious relation to the ground of complaint presented in Mr. Uhl's instruction No. 370, of March 12, 1895. * * *

The ambassador's attention was directed to our treaty with Tunis of August, 1797, article 17 of which reads as follows:

> Each of the contracting parties shall be at liberty to establish a consul in the dependencies of the other, and if such consul does not act in conformity with the usages of the country, like others, the Government of the place shall inform his Government of it, to the end that he may be changed and replaced; but he shall enjoy, as well for himself as his family and suite, the protection of the Government, and he may import for his own use all his provisions and furniture without paying any duty; and if he shall import merchandise (which it shall be lawful for him to do) he shall pay duty for it.

It is evident from this that no distinction of salaried or unsalaried consular officers is made, and that the right to import goods and supplies free of duty may be guarded against abuse by suitable regulations whereby the local customs authorities may assure themselves of the true character of the imported articles. These consular privileges being conventional, it is not in the power of the authorities at Tunis to arbitrarily set them aside and substitute a new discrimination founded upon the unusual and inapplicable test of the salary attaching to the consular office.

It is perfectly compatible with a consular officer's duties as such, that he be permitted to engage in trade, and the practice is generally recognized among nations. Vice-consuls as a rule are resident merchants, and even officers of the regular consular "career," receiving salaries below a stated amount, are permitted to engage in business apart from their office and subject to the laws governing trade. The Government of the United States sends and receives consular officers of this class.

The ambassador did not question the interpretation placed upon article 17 of our treaty as herein explained, but he referred to article 3 of the general convention between Great Britain and Tunis of July 19, 1875,

[1] Not printed.

wherein it is expressly stated that the privilege of importing provisions, furniture, and other articles free of duty "shall only be accorded to consular officers who are not engaged in trade," and expressed the hope that the Government of the United States would not insist on privileges granted under a very old treaty, and which Great Britain, a country peculiarly tenacious in claiming all its rights, had been willing to relinquish.

The relevancy of this citation to the question now under consideration is not apparent, for, in the first place, neither expansion nor restriction of existing treaty stipulations is inferable from any later treaty of either contracting party with a third power, and in the second place, even were the provisions of our treaty with Tunis admittedly inadequate to meet the apprehended abuse, the Anglo-Tunisian rule is a very different thing from the proposal of the French minister resident (who is also the Bey's minister for foreign affairs) to suppress all consular privileges, honors, and prerogatives, except to salaried officers.

Mr. Chapelié may be objectionable because persona non grata or because abusing as a merchant the strictly limited privilege of consular importation, but his being salaried or nonsalaried can really have nothing to do with the question. If there be any personal charges against him which the French Government may think it necessary to communicate they will be carefully and impartially inquired into. Otherwise, under accepted international usage, that Government has the remedy within its power, should it deem such course justifiable, by simply withdrawing his exequatur.

If no satisfactory adjustment of the matter shall have been effected before the arrival of this instruction, you will communicate these views to Mr. Hanotaux, expressing the Department's confident expectation that any needful steps will be immediately taken to insure the vice-consul of the United States at Tunis all rights and privileges guaranteed to him by treaty.

I am, etc., RICHARD OLNEY.

Mr. Eustis to Mr. Olney.

No. 339.] EMBASSY OF THE UNITED STATES,
Paris, July 19, 1895. (Received July 29.)

SIR: Upon receipt of your dispatch No. 422, with reference to the consular rights of Mr. Chapelié in Tunis, I addressed a note to Mr. Hanotaux, a copy of which I inclose herewith.

I have, etc., J. B. EUSTIS.

[Inclosure in No. 339.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, July 5, 1895.

SIR: I have the honor to inform you that I have received a dispatch from my Government with reference to the consular rights of Mr. Chapelié in Tunis which were withdrawn by the French minister resident. The considerations which were submitted by Mr. Patenôtre at Washington with reference to this matter are considered by my Government wholly unsatisfactory.

The consular privileges of the American vice-consul are guaranteed by treaty which my Government made with Tunis, dated August, 1797, article 17 of which reads as follows:

Each of the contracting parties shall be at liberty to establish a consul in the dependencies of the other, and if such consul does not act in conformity with the usages of the country, like others, the Government of the place shall inform his Government of it, to the end that he may be changed and replaced; but he shall enjoy, as well for himself as his family and suite, the protection of the Government, and he may import for his own use all his provisions and furniture without paying any duty; and if he shall import merchandise (which it shall be lawful for him to do) he shall pay duty for it.

It is very clear from this provision that the above-quoted treaty makes no distinction between salaried and unsalaried officers. My Government takes the position that these consular privileges being conventional, it is not in the power of the authorities at Tunis to ignore them, and still less arbitrarily set them aside, and that the question of salary is inapplicable and can not be considered, and that the French minister resident in Tunis has no power to modify or change the treaty existing between the United States and Tunis.

If there is any cause of complaint against Mr. Chapelié for any reason whatsoever my Government is ready to promptly investigate it. If he be persona non grata, the French Government, if it deems such course justifiable, can withdraw his exequatur, otherwise in such a clear case my Government has a right to confidently expect that the French Government will take immediate means to insure to the vice-consul of the United States at Tunis all rights and privileges guaranteed to him by treaty.

I avail, etc.,

J. B. EUSTIS.

Mr. Eustis to Mr. Olney.

No. 396.] EMBASSY OF THE UNITED STATES,
Paris, October 25, 1895. (Received Nov. 4, 1895.)

SIR: Receiving no answer to my communication of July 5, concerning the consular privileges in Tunis, I recalled the matter to the minister of foreign affairs and received in reply the note under date of the 23d instant, of which a copy and translation I inclose. Mr. Hanotaux merely states that the French resident at Tunis has been informed of our correspondence, and that the French ambassador at Washington was instructed to communicate with you on the subject.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 396.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *October 23, 1895.*

Mr. AMBASSADOR: Under date of the 12th instant you did me the honor of writing me to call my attention again to the question of the consular privileges in Tunis.

As I had the honor of informing you, I had not failed to point out to our representative in the regency the communications which your embassy had previously addressed me on the subject.

This matter has not been lost sight of by my department, and the ambassador of the French Republic at Washington has been invited to see the Federal Government about it.

Please accept, etc., G. HANOTAUX.

Mr. Olney to Mr. Eustis.

No. 569.] DEPARTMENT OF STATE,
Washington, December 7, 1895.

SIR: Referring to previous correspondence concerning the status of unsalaried consular officers in Tunis, I inclose for your information a copy of a dispatch (No. 18[1]) of the 9th ultimo, from Mr. Alfred Chapelié, United States vice-consul at Tunis, inclosing a copy of a note received by him from the French resident-general to the effect that the latter had given orders to the customs-house officials to permit the free entry of his personal effects in Tunis according to the old custom, but only for a temporary period and under special conditions which are not applied to those whom he calls salaried consuls.

You will observe that our vice-consul, acting in concert with certain other consular officers at Tunis, declined to accept the proposed arrangement.

You are instructed to bring this subject to the attention of the French foreign office and to say that this Government can not accept the terms laid down by the French resident-general in Tunis for the free entry of the personal effects of our vice-consul there. The practice must be uniform. There can be no discrimination against our consular agent. If the French resident requires the information Mr. Millet asked for in his letter to Mr. Chapelié of October 28 last, he can ask it directly of the Tunisian customs authorities. You will therefore insist on similar treatment for our consular agent to that accorded to other consuls de carrière.

I am, etc., RICHARD OLNEY.

RUPTURE OF RELATIONS BETWEEN FRANCE AND VENEZUELA.

Mr. Uhl to Mr. Eustis.

No. 424.] DEPARTMENT OF STATE,
Washington, May 23, 1895.

SIR: The Venezuelan minister at this capital has communicated to this Department the desire of his Government to seek some friendly solution for the rupture of diplomatic relations now existing between France and Venezuela. Attaching great importance to the amicable offices of the United States by reason of our absolute impartiality as regards the affairs of Europe and our natural influence in the councils of the American Hemisphere, the Government of Venezuela asks that you be authorized to invite in all proper ways the reestablishment of relations between France and Venezuela.

The President directs that you will accede to this request, taking an early occasion to state to the French Government, through its minister

[1] Not printed.

for foreign affairs, the great pleasure it would afford the Government of the United States to see such restoration of necessary and friendly intercourse between the two countries, and its readiness to contribute in any fitting way to bring about so desirable a result.

It is not, of course, incumbent upon this Government, as the impartial and equal friend of both France and Venezuela, to express any opinion as to the merits of the difference which has arisen between them. The Venezuelan minister has communicated to me copies of the correspondence and documents in the case, of which I send you the English text as conveniently furnished to me by Señor Andrade, and from this you will observe that Venezuela asserts that the dismissal of the French and Belgian ministers was a purely personal act, due alone to the circumstance that those individuals had joined with certain other foreign representatives not now accredited to Venezuela in signing a certain protocol of conference containing gratuitous and defamatory statements reflecting upon the honor of the State and the integrity of its executive, which protocol was subsequently made public by the Italian Government in the annual Green Book; that by so doing, of their own initiative and not in compliance with instructions from the friendly Governments they represented, each of those gentlemen had rendered himself individually to the Government of Venezuela persona non grata; and that in acting upon the situation so created and in accordance with the usual course of independent States in such contingencies, Venezuela intended no affront to France or Belgium, whose flags she had conspicuously saluted on the same day that she dismissed their personally objectionable agents, but rather invited the continuance of the hitherto unbroken friendly relations through new agents who should more fittingly reflect what she is happy to believe are the true sentiments of friendship which those Governments feel for Venezuela.

Señor Pulido's instruction to Señor Andrade further suggests that as Belgium has not in terms broken off diplomatic relations in response to the action of Venezuela, the good offices now solicited of you may be limited in this regard to expressing to the Belgian representative in Paris the gratification with which Venezuela would receive a new minister from Belgium and the interest that American Republic feels in strengthening and making permanent the cordial ties that unite the two peoples.

It is thought more convenient to convey this intimation to the Belgian Government through the United States minister at Brussels, to whom a copy of this instruction will be sent, with suitable directions for his guidance, so that no action in this sense is expected of you. It is herein adverted to in order that you may be informed should your Belgian colleague speak to you on the subject.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Eustis to Mr. Uhl.

No. 311.] EMBASSY OF THE UNITED STATES,
Paris, June 6, 1895. (Received June 17.)

SIR: Yesterday I had an interview with Mr. Hanotaux and followed the instructions of your dispatch No. 424, of May 23, in reference to the Venezuelan affair.

He accepted my official statement with courtesy, but gave me no encouragement to believe that the French Government would change its attitude.

I have, etc., J. B. EUSTIS.

Mr. Uhl to Mr. Eustis.

No. 461.] DEPARTMENT OF STATE,
Washington, July 3, 1895.

SIR: Your No. 311, of the 6th ultimo, has been received. You therein report the result of an interview with Mr. Hanotaux in reference to the rupture of relations between France and Venezuela, from which it appears that Mr. Hanotaux gave you no encouragement to believe that the French Government would change its attitude, and that there was a decided indisposition on its part to resume at present diplomatic relations with the Venezuelan Government.

It is sincerely hoped that your discreet and temperate representations may tend to induce the French Government to view the situation in a more favorable light, and that its present indisposition to resume diplomatic relations with the Venezuelan Government may be overcome.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

PROTECTION OF VENEZUELAN CITIZENS IN FRANCE.

Mr. Uhl to Mr. Vignaud.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 12, 1895.

At the request of the Venezuelan Government you will, with the acquiescence of the Government of France, upon the retirement of Venezuelan minister and upon application by him, afford your friendly good offices for the protection of Venezuelan citizens in France; but you will not represent Venezuela diplomatically, nor will consuls under you act in official representation of Venezuela.

UHL, *Acting.*

Mr. Vignaud to Mr. Gresham.

No. 275.] EMBASSY OF THE UNITED STATES,
Paris, March 22, 1895. (Received April 2.)

SIR: On the 15th instant, the Venezuelan chargé d'affaires having formally asked this embassy to assume the protection of Venezuelan citizens residing in France during the interruption of diplomatic relations between France and Venezuela, I at once informed the minister

of foreign affairs of this request and of the willingness of the embassy to comply with it if there were no objections on his part.

I saw Mr. Hanotaux on the 20th instant and he said that he acquiesced to the proposed arrangement, provided, however, that the pending diplomatic questions would have to be settled between France and Venezuela themselves.

I told him that such was my understanding, your instructions being that the embassy was not to represent Venezuela diplomatically.

I have, etc.,

HENRY VIGNAUD.

CITIZENSHIP OF CASPAR S. CROWNINSHIELD.

Mr. Uhl to Mr. Vignaud.

No. 362.] DEPARTMENT OF STATE,
Washington, March 1, 1895.

SIR: I inclose for your information a copy of a correspondence between Capt. A. S. Crowninshield, U. S. N., and the Department with regard to the possibility of a claim on the part of the French Government to exact military service of his son, Caspar Schuyler Crowninshield, on the ground of his birth in France and his present residence there. As elucidating the general principle involved in this case you are referred to the Hubbard correspondence, printed on pages 491–494 of the volume of Foreign Relations for the year 1891.

In addition to the considerations adduced in the Department's letter to Captain Crowninshield, it is to be noted that young Crowninshield was born of American parents while his father was on official station in French waters as an officer of the United States Navy. It does not appear that France has the slightest claim to this young man's allegiance, and it is not thought likely that any such claim will be made.

The representations of Captain Crowninshield appear to be based on apprehensions alleged to have been expressed by you in a conversation with young Crowninshield, and not on an actual case raised by the French authorities. It will probably suffice to issue a passport to him, if he has not one already, and to procure his registration at the prefecture on the usual footing of a three months' sojourner.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 in No. 362.]

Captain Crowninshield to Mr. Gresham.

U. S. R. S. RICHMOND,
Navy-Yard, League Island, Pa., February 16, 1895.

SIR: My son, Caspar Schuyler Crowninshield, was born at Nice, France, June 1, 1871; he left there with his parents July 4, 1871, and has never returned there.

At the time of my son's birth I was serving on board a United States ship of war of the European squadron as an officer of the Navy and my wife was residing temporarily at Nice.

Since last October he has resided in Paris as an art student.

On February 1, 1895, when my son applied to the United States embassy in Paris for a "letter of identification" in order to comply with the French regulation requiring registration at the perfecture of all foreigners residing in France over three months, he was informed by the secretary of our embassy that the French Government would try, on account of the place of his birth, to force him to serve three years in the French army. The secretary thought that my son could not be forced to serve in the French army, but he said that the French authorities might cause him much trouble and require him to pay a large sum of money.

That any question should be raised by the United States embassy regarding my son's status as a citizen of the United States, in view of section 1993, Revised Statutes, is to me astounding.

This matter has caused my son very considerable anxiety, so much so that he has seriously thought of abandoning his studies in Paris and returning to the United States.

In view of the foregoing, I have the honor to respectfully request that such instructions as this case appears to warrant may be given the United States ambassador to France, regarding my son's full and complete title to American citizenship, and that he is no more liable to be called upon to serve in the French army or to pay any fine than is any other American citizen.

Very respectfully, A. S. CROWNINSHIELD,
Captain, U. S. Navy.

The Hon. SECRETARY OF STATE,
Washington, D. C.

[Inclosure 2 in No. 362.]

Mr. Gresham to Captain Crowninshield.

DEPARTMENT OF STATE,
Washington, D. C., February 23, 1895.

SIR: Your letter in regard to the possibility of a claim on the part of the French Government to exact military service of your son, Caspar Schuyler Crowninshield, on the ground of his birth in France and personal residence there, has been received.

The clause of the French law of nationality which the secretary of embassy seems to suppose applicable to your son's case (article 8) reads as follows: These are French * * *

4. Any person born in France of foreign parents and who at the time of his majority is domiciled in France, unless within the year following such majority, as fixed by French law, he has declined French nationality and proved that he has retained the nationality of his parents by means of an attestation in due form from his Government, which attestation shall remain attached to his declaration, and by producing, besides, if there is occasion to do so, a certificate showing that he has complied with the call to perform military service in accordance with the military laws of his country.

This provision appears to concern those persons who, being born in France of foreign parents, continue to dwell there during minority, and treating them as invested with a dual status, gives them one year after attaining majority within which to elect either French nationality or that of their parents. It does not appear to affect those who, like your son, have been removed from France soon after birth and thereafter dwell and come of age in the country of their parents' allegiance.

Your son, born at Nice, June 1, 1871, was taken thence by his parents a few weeks later, July 4, 1871, and never returned to France until last October, when, being over 23 years of age, he went to Paris as an art student.

No claim to your son's military service appears to have been made by the French authorities, but a copy of your letter and of this reply will be sent to the United States ambassador at Paris, and Mr. Eustis will be instructed that, in the event of any such claim, this Government would hold that your son, being born a citizen of the United States, under our laws has conserved his status and perfected it as against any conflicting claim on the part of France by continuous domicile in the United States during minority and entrance upon all the rights of American citizenship on attaining majority.

Without discussing the hypothetical question whether, in such a case, option and declaration are required in France within the year after attaining majority, it is clear that the year having elapsed without your son having been within French jurisdiction no retroactive declaration can now be demanded of him. He is to be regarded as having precisely the same status in France as any other adult citizen of the United States visiting that country; and Mr. Eustis will be instructed to attest the fact of such citizenship by the issuance of a passport to him on the usual evidence of right thereto.

I am, etc., W. Q. GRESHAM.

ARBITRATION.

Mr. Eustis to Mr. Olney.

[Telegram.]

PARIS, *July 9, 1895.*

The French Chamber yesterday adopted unanimously the following resolution:

The Chamber invites the Government to negotiate, as soon as possible, a permanent treaty of arbitration between the French Republic and the Republic of the United States of America.

EUSTIS.

GERMANY.

EXCLUSION OF AMERICAN LIFE INSURANCE COMPANIES.*

Mr. Uhl to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 6, 1895.

RUNYON, *Ambassador, Berlin:*

Am informed that on April 27 Mutual Life Insurance Company of New York was notified to conform to certain stipulated Prussian methods within fortnight on pain of cancellation of concession. It is represented that company's methods in Germany are unchanged since concession was given some nine years ago; that they are uniform as to United States and all foreign countries, and that it is impossible to frame a special system for use in Prussia. Ascertain unofficially whether the German Government will further investigate the methods of American life insurance companies with a view of modifying the ultimatum, and in the meantime suspend its operation.

UHL, *Acting.*

Mr. Uhl to Mr. Runyon.

No. 313.] DEPARTMENT OF STATE,
Washington, June 4, 1895.

SIR: Referring to my telegram of the 6th ultimo, I inclose herewith for your information a copy of the memorial addressed on the 31st ultimo to the President by Mr. Richard A. McCurdy, president of the Mutual Life Insurance Company of New York, in relation to the present situation of that company in Prussia.

From the memorial it appears that the company was granted a concession in 1886 to do business in Prussia, in pursuance of which and in the confidence of maintaining a permanent relation in that country, it established a main branch in Berlin, invested $400,000 in the purchase of a building, and incurred large expenses in other transactions incident to the opening of a large business in a foreign country; that since the date of its establishment in Prussia there has been no alteration in the methods of business or in the forms of policy employed by the company; that, complying with new requirements that have been in the meantime imposed, it has made a deposit with the Prussian Government of more than $500,000 worth of Prussian consuls, represent-

* Reprinted from House Doc. No. 247, Fifty-fourth Congress, first session.

ing one-half of all its receipts from its Prussian business; that it has made every effort to conform to the wishes of the Prussian Government as to its reports and every other detail connected with its methods. It further appears that certain conditions are now sought to be imposed with which it is impossible for the company to comply, and, as a consequence of such noncompliance, the company is threatened with summary expulsion from Prussia.

However clear may be the strict right of each State to determine the conditions on which it will permit foreign corporations to carry on business within its jurisdiction, there prevails in such matters a comity which it is the interest of all nations to maintain, and which is well illustrated in the freedom and equality with which foreign corporations are permitted to extend their operations to the United States. There is ground for the belief that the necessary result of the course lately adopted by the Prussian authorities in respect to the Mutual Life Insurance Company would be to give to the beneficent principle of comity a restricted and uncertain operation. Under the circumstances, the President is of the opinion that the subject is one proper for presentation through the present diplomatic channels, for consideration in all its aspects by the Royal Government of Prussia and by the Imperial authorities as well, so far as the latter may have jurisdiction in the premises.

The requirements of the Prussian Government of which the company complains are particularly set forth in the memorial.

It is desirable that the difficulties under which the company is now laboring in Prussia should be fully comprehended and equitably adjusted, and to that end you are instructed to use your good offices.

Mr. Emory McClintock, the actuary of the company, expects to be in Berlin about the 20th of the present month, and you are authorized to confer with him in regard to the matter under consideration. It is suggested that you defer the presentation of this subject to the German Government until the arrival of Mr. McClintock.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 313.]

Mr. McCurdy to the President.

PRESIDENT'S OFFICE,
THE MUTUAL LIFE INSURANCE COMPANY OF NEW YORK,
May 31, 1895.

The PRESIDENT.

SIR: As president of The Mutual Life Insurance Company of New York, I beg leave to lay before you, with a view to obtain the friendly interposition of our Government in behalf of an imperiled American interest, a statement as to the embarrassing and uncertain position into which this company has suddenly been forced in the Kingdom of Prussia by the recent action of the authorities of that country.

In presenting this petition, I beg to point out that we are not invoking the aid of our Government for the purpose of obtaining any privileges other than those which we now enjoy, or of overcoming legal requirements to which we are justly liable. Our appeal to you is simply for what we claim to be justice and fair treatment.

In the various foreign countries in which this company prosecutes its business it has always pursued the same policy as that which it has followed at home—of complying cheerfully with the local laws and regulations, seeking only equality of treatment, and relying upon its own enterprise, the advantages it offers to the insuring public, and its own high reputation for the increase of its business. It is asking at the hands of the Prussian authorities only the same tolerance as is extended in

the United States to the many foreign corporations which are now engaged in the transaction of business in this country.

It is nearly nine years since this company entered into business in Prussia, under a concession or license issued by the minister of the interior of that country on the 16th of November, 1886. Before granting this concession, the Prussian Government made an exhaustive examination into the charter and the by-laws of the company, and into its methods of business and financial standing. For this purpose there were furnished to the Government, in addition to its charter and by-laws, the company's statements for the years 1884 and 1885 legalized by the Imperial German consul, the company's instructions to general agents, forms of all policies in use by the company, a paragraph making the policies subject to the Prussian law, the phraseology of which was prescribed by the authorities, and an allegation of domicile in Berlin; also a full and complete power of attorney to the general manager to make all contracts of insurance binding by his signature in Berlin, premium rate books, and explanation of policy contracts and application forms for all classes of policies; and the same were submitted to the privy councilor, Von Forch, for his approval.

Formal application for the concession was lodged with the minister of the interior on August 12, 1886, although the preliminary application for obtaining the same had been made in the previous April, and negotiations had been pending during the entire interval. After the formal application for the concession to the Government, the secretary of the interior made inquiries of the minister of foreign affairs as to the standing of the Mutual Life. The minister of foreign affairs then applied to the ambassador of the German Empire in Washington for further information concerning the company, and finally, on November 16, 1886, the concession was granted.

Thus it appears that while the Prussian Government was informally considering our application for a concession for between three and four months before the same was formally applied for, which application manifestly would not have been formally made unless the impression had been conveyed to our representatives that the same would be granted, the officials of the Prussian Government consumed a further period of upward of three months in satisfying themselves as to the propriety of our contract obligations and the standing of the company before the concession was finally made.

It is fair to presume that the Prussian Government exercised in this matter due deliberation, and made most careful examination before deciding upon its action.

Believing that the concession so granted was a thing of value and of enduring quality, and reposing confidence in the good will of the Prussian Government, my company, in conformity with the conditions imposed upon it, established a head office in Berlin and proceeded to incur a very considerable expense for the general establishment of the business in the kingdom. In similar reliance upon the good will of the Government, and in the permanency of its concession, it thereafter purchased a lot of ground, with a suitable building thereon, in Berlin, at a cost of $400,000, for the transaction of its business. Indeed, although the company had previously, and has since, been doing business on a large scale in Great Britain, France, Austria, Italy, Belgium, Holland, Denmark, Norway, Sweden, and other European countries, it chose its Prussian branch as the one best fitted for this mark of confidence, and up to this day it owns no office building in Europe other than that in Berlin.

The company also constituted agencies in various parts of Prussia, with much trouble, and at considerable expense, such as naturally and necessarily attend the opening of transactions with a great foreign people, transactions prospectively large in total volume, though of small amount individually, and therefore numerous and widely distributed.

It should be observed at the outset that in the prosecution of this particular business the outlay falls most heavily on the first and earlier years. Agents are compensated by a comparatively large commission on the first annual premiums and by a diminished commission on those of subsequent years, usually for a limited term, while the premiums of later years are generally free from any expense beyond a small banker's charge for collection. In other words, the continued payment of premiums through a series of years at a diminished cost serves to recoup the company for the large initial expense of procuring the business, and it is essential that these subsequent premiums should continue to be so paid to effect that result. If, therefore, the company is forced to abandon its business, its initial outlay is wasted and can never be recovered.

In our own country, where the character and standing of the company is well known, few preliminary expenditures are necessary. The agent is supplied with a few blank forms and explanatory documents, and that is all. His compensation flows from his success in obtaining business and is greater or less in proportion to his success or failure.

But in countries foreign to us, where this company is the foreign company, and the insuring public must be educated as to its character and standing before any business can be obtained, the preliminary expenses are vastly enhanced. The agent

must be compensated by a fixed salary pending the actual beginning of successful effort. Offices of a character suitable to the dignity of the company, which here are unnecessary, must be rented and furnished. Other expenses of installation, in the nature of allowances for advertising, traveling, and miscellaneous outfit, must be incurred, all of which add to the charge which must be refunded by the future continuance of the payments of the insured.

While, therefore, even in our own country a sudden interruption to or stoppage of the business would entail appreciable loss, indeed, in a foreign country such an interruption or stoppage works an enormously increased and, in fact, irreparable injury. It may be asked why do we as a mutual company thus go abroad for our business, when, if average results were to be anticipated, the foreign business, costing more at the beginning, would be less advantageous than that which we do at home. The answer is that, owing to the different social and economic conditions which prevail respectively in old and comparatively new countries, the degree of persistency of payment is greater in the older countries than it is in the relatively new countries, and it is the knowledge of this fact and the reliance upon this trait of the older civilizations which justifies the greater initial outlay. But by so much the more is it essential that the business in the older countries should be unhampered and unrestricted.

By a certain clause in its Prussian concession, the company was required to submit to the Prussian Government, for approval, every alteration which might be made in its charter or by-laws, before acting on such alteration in Prussia.

In obedience to this requirement, the company in 1891 submitted to the Prussian Government for approval two changes which the trustees had made in its by-laws. These changes were, (1) that the appointment of agents of the company was vested in the president instead of, as formerly, in a committee; and (2) that the office of general manager, necessitated by the large increase of the company's business, was created.

It will be observed that these changes were purely administrative and were designed merely to increase the company's efficiency. They in no wise affected its policy or the principles on which it conducted its business. These remained precisely as they were five years previously when the company was licensed to enter Prussia, and in the intervening time the company's business had exhibited that steady and healthful increase which has characterized its whole existence of more than fifty years.

In dealing with these simple administrative amendments of the by-laws, the Prussian authorities first manifested a change of attitude toward the company, and began to make exactions which have been multiplied and hardened till the company now finds itself suddenly threatened with expulsion from Prussia unless it complies with a late requirement which it is impossible for it to perform.

The Prussian Government approved the changes in the by-laws, but only on condition that the company should in the future invest one-half of its receipts in Prussia in Prussian consols, which should be deposited with the Government, and which should not be disposed of without the consent of the minister of the interior.

Had the company been required in 1886 to invest half the receipts of its Prussian business in Prussian consols, which bear low rates of interest, it probably would not have entered Prussia; but, having incurred all the expenses and having devoted so much time, trouble, and applied skill to the establishment of its business there, having entered into binding contracts with agents, solicitors, and inspectors for terms of years running into the future, and having made other obligations, all of which it was bound to fulfill whether it remained in Prussia or not, it was confronted with the alternative of yielding to an unwelcome condition or of abandoning and sacrificing the work of years and its incidental expenditure.

There was no logical connection between the changes made in the company's by-laws and the new requirement on which their approval by the Prussian authorities was made conditional. But, as the result of the connection artificially established between them by the authorities, The Mutual Life Insurance Company was placed in the position of being the only foreign company in Prussia upon which such a requirement was imposed.

To the representations made by our general agent at Berlin as to the injustice of this proceeding, the Prussian Government responded by extending the requirement to all foreign life insurance companies, and by exacting compliance with it on pain of expulsion, though the original terms of the requirement were modified by permitting investments to be made in German Government bonds as well as Prussian consols. But a prayer for permission to invest in mortgages prescribed for the investment of the moneys of minors—the equivalent of what is known in this country as the funds of executors and trustees—was denied; and the foreign companies were thus placed at a disadvantage with the home companies, which are allowed to invest their moneys in such securities as they may consider most desirable and most productive.

While in case an asset should fall in market value below its cost, the company would inevitably and properly be compelled, not only by the Prussian Government but by every other State and national authority, to quote it at its market value, it

seems quite incongruous that where the value rises the company should be denied the credit of it.

Though this company, without any change in its character, or its conduct, was thus subjected to a new and onerous requirement, for the reasons stated, it reluctantly decided to comply with the order, and deposits of Prussian securities were accordingly made, which have been increased from year to year till the sums now invested and thus placed beyond the control of the company amount to more than $500,000, all of which was invested upon the faith of the Prussian Government and as an inducement to it for its continued permission to transact our business in the realm.

On the 8th of March, 1892, the minister of the interior issued a new decree which required all annual statements of life insurance companies to be made in a particular form and in great detail, and which, while it purported to operate on German and foreign companies alike, operated generally to the disadvantage of the foreign companies and in some respects especially to the disadvantage of this company.

In this decree the Prussian Government embodied a rule which permits no item in the assets of a company to be stated above its original cost. No reason for this requirement has ever been presented beyond the fact that it is a Prussian rule. But, though the small German companies can readily comply with it with little or no inconvenience, it operates most unjustly against this company. As I am informed and believe, the German companies invest largely in securities as to which there is rarely any considerable increase in value, owing to the greater plethora of money in financial centers and the more fully developed condition of the countries in which such securities are issued. In case of a moderate advance in value, it is easy for them to sell such securities, realize in income the difference between cost and sale, and by a simple repurchase again enter them upon their books at their enhanced value; and for this they obtain credit in their reports to the Government. But in a country like this, the United States of America, there is a constant output of new securities based upon enterprises and activities in process of development. The enormous extent of the country, and the demand of its people for new railroads and extensions of existing lines; for public improvements, such, for example, as the erection of court-houses, the building of jails, waterworks, schoolhouses, city halls, bridges, railway termini, and electric installation, both for illumination and traction, secured by town, county, corporate, and municipal obligations, create a constant market for money to be used for investment; and these investments, if carefully and judiciously made, rise often very greatly in value and constitute a large proportion of the profit of the investor. There is no parallel to this state of things on the Continent of Europe. And yet, the Prussian Government, because there is no parallel there, deprives this company of the legitimate result of its conservative foresight under conditions peculiar to its own country, and compels it to publish to the world that its assets are worth only their cost, when the daily quotation of every stock exchange disproves the statement.

This company holds securities to the value of many millions of dollars, a large portion of which were purchased years ago at prices much lower than those at which they could be sold to-day in the open market; and neither the extent of the company's business, which necessitates the seeking of new investments for its increasing funds, nor sound business principles would admit of its selling old and approved investments and reinvesting the proceeds merely for the purpose of swelling the cost value of its assets.

The company has now been compelled in three annual reports to comply with this highly unjust and injurious requirement. With the exception of Prussia, there is no state or government within whose jurisdiction this company does business which requires it to make only a partial statement of the actual amount of its assets and thus to publish what is in fact a libel upon itself.

But there is in the decree a paragraph which, though properly not applicable to this company, the authorities have sought to apply to it, but with which the company has not complied because it was impossible to do so; and for its failure in this regard the company is threatened with expulsion from Prussia. To this feature of the case I now beg to invite your attention.

The paragraph in question (paragraph 8, Article IV) is as follows:

"Gewährt eine Gesellschaft ihren Versicherten Antheil an dem Gewinne nach dem sogenannten Tontinensystem—(hierher gehören insbesondere alle diejenigen Systeme der Gewinnvertheilung bei Todesfall-Versicherungen, bei welchen der auf eine bestimmte Versicherungsgruppe fallende Gewinn während einer Periode von mindestens drei Jahren angesammelt wird und am Ende der Periode auf die dann noch bestehenden Versicherungen der betreffenden Gruppe zur Vertheilung gelangt)—so darf sie die verschiedenen Tontinen-Gruppen nicht in einer gemeinsamen Masse verwalten und aus dieser Masse bei der planmässigen Vertheilung der Gewinne aus den Tontinen einen Theil ausscheiden; sie ist vielmehr verpflichtet, in jedem Rechnungsjahre alle diejenigen Tontinen-Versicherungen, welcher einer und derselben Tontinengruppe mit gleicher Gewinnansammlungs-Periode angehören, als eine gesonderte Einrichtung

zu verwalten und für jede solche einzelne Tontinengruppe im Jahresberichte jedes Rechnungsjahres getrennte Nachweise über folgende Punkte zu veröffentlichen," etc.

"If a company secures to its policy holders participation in profits according to the so-called tontine system (to this belong particularly all those systems of participation in profits insurance against death, by which the profits accruing upon any given insurance group are accumulated during a period of not less than three years and belong at the end of the period to the surviving policies of the group in question for division among them), it must not carry on the various tontine groups in one common fund and separate apart from this fund when the time arrives, according to the plan, for the distribution of profits from tontines; but it is, on the other hand, obliged, in each calendar year, to carry on in a separate account all these tontine insurances."

Taking this paragraph simply as it stands, the natural construction of it would be that its object was to compel companies doing a tontine business to keep and publish their accounts in accordance with their system. The Mutual Life Insurance Company, however, is not and never has been a tontine company, and to require it to make reports such as the Prussian authorities have demanded of it, in accordance with the tontine system, is to exact what is impossible, unless the company could convert itself, retroactively as well as prospectively, into a tontine company, which is also obviously impossible.

The tontine system is peculiar and complicated. Under it, all policies issued in a certain year, receiving dividends after ten years, form one group. Those issued in the same year, receiving dividends fifteen years from date, form another group, and so on. The next year a new set of groups is started, and account is in every case taken of each group as if such group composed a separate company. If as to one group there are unusual expenses or an unusually heavy mortality, the surplus arising in that group is greatly diminished, and the dividends to the survivors of the group are correspondingly small. On the other hand, if in any group the expenses are small or the mortality is slight, the dividends in that group become correspondingly great.

This is the tontine system as known to the few German companies which practice it.

The essential peculiarity of this system, which is necessarily disclosed in its bookkeeping, is that a separate set of accounts is all the time kept running against every so-called group in existence.

The system pursued by the Mutual Life Insurance Company is essentially and totally different. No policies are made forfeitable as on the tontine plan, as that plan is understood in this country, and no separate accounts or funds are kept running for any class of policies.

The system pursued by the Mutual Life Insurance Company is that of distributing annually among the policy holders who are entitled to receive dividends an amount of the surplus appropriated for the purpose by the board of trustees. Many of the company's policies issued in its earlier years are entitled to receive dividends annually. Some, issued by special agreement at reduced rates, receive no dividends whatever. Others, again, by special agreement, receive dividends once in five years, while others receive their first dividend at the end of a period of ten, fifteen, or twenty years from the date of the policy, and annually or quinquennially thereafter. Each policy holder on entering has his choice among these different methods, as to which no change has been made since a period prior to the granting of the concession by the Prussian Government.

When the amount of the dividend during the coming calendar year has been fixed by the appropriation of the board of trustees, the actuary ascertains, first, what policies are entitled to participate in that year. This list comprises, first, those receiving annual dividends; secondly, those receiving quinquennial dividends, and dated five years since, or at some earlier period measured by a multiple of five; thirdly, those receiving their first dividend after ten years, dated ten years since, and so on. It is the duty of the actuary to deal with each policy entitled to a dividend in accordance with the well-known contribution plan for the division of the surplus, introduced by this company in 1863 and since adopted substantially by all American companies, as well as by various companies in foreign countries. Under this plan, account is taken of all the circumstances affecting each policy since the last period at which it received a dividend (or since its date if no dividend has yet been received) and an estimate is made of that portion of the company's divisible surplus derived from the premiums of the policy during the period in question. Since in any given year there are many policies which are not entitled at that time to a dividend, there is necessarily at all times in the hands of the company a large volume of undistributed surplus. This is the well-known and long-standing system of dividends pursued by this company.

Under this system the basis of distribution is the individual policy. Each policy issued by the company constitutes a separate contract with the holder, which the company is legally bound and abundantly able to perform, according to its terms. There are no separate groups into which policies are segregated for purposes of

special profit and special risk apart from the other policies of the company, and in respect to which separate accounts must consequently be kept running. It necessarily follows that the company can not formulate a report on the tontine plan.

Indeed, the very terms in which the paragraph in question is couched would exclude this company from its operation if it were not for the peculiar parenthetical clause, which, as it is construed by the Prussian authorities, would seem to have been designed for the specific purpose of making the requirement as to tontine companies applicable to a nontontine company, such as The Mutual Life Insurance Company, merely on the ground that the latter, though it has no tontine groups, issues policies on which dividends are postponed for a period of three years or upward. In other words, so incongruous is the requirement in its application to this company that it has not been possible to express it except in terms which arbitrarily impute to the company a system wholly different from that on which its business is actually conducted.

It should be apprehended that two principal factors enter into the application of the science of life insurance. These are the law of the average duration of human life deduced from tables showing the number of individuals living and dying at each age, and the law of the accumulation of money at compound interest during a long series of years. This company maintains that the best, if not the absolutely and solely true, realization of the workings of the law of the average duration of human life, results from spreading the experience of the company over the largest possible number of lives in being, in which it is in direct antagonism to the tontine practice, which limits the observed lives to the aggregate of the numerically small number forming the separate classes. This company also maintains that the best, if not the absolutely and solely true, realization of the law of the accumulation of money at compound interest, results from such accumulation for the longest periods of time practicable, in which it is also in direct antagonism to the practice of the tontine system sought to be applied, i. e., the distribution of surplus after periods of three years and upward.

It is to be noted, therefore, that the Prussian Government threatens to expel this company, first, for not doing what it can not do, and second, for not doing what, if it could do it, could only be done by a violation of the principles of which it is the most staunch upholder and advocate; while it must be assumed that the Prussian Government in granting its concession fully comprehended both these underlying principles of its business. It is impossible even to suggest that the experts employed by the Government in its long and minute examination did not understand. But, notwithstanding this presumption, the matter has been repeatedly explained to the Prussian authorities, and was fully covered in the company's annual report and balance sheet of 1893.

However, there seemed to be a disposition on the part of the authorities, while admitting that this company could not make such a report as is required of tontine companies, to insist, in spite of all explanations, upon calling some of the forms of policy used by this company "tontine insurance," and the company offered, although for the reasons stated not favoring that class of insurance, from a day to be fixed by the Government, to issue only policies with annual distribution periods. And lastly, the company offered to permit an expert, duly authorized by the Prussian Government for the purpose, to visit its head office, to examine all its books in New York, to submit every record and document to his inspection, to pay all his expenses, and, if the same should be considered admissible by that Government, to pay such expert a suitable compensation for his services.

As these various offers remained unanswered, the company concluded that if it had not finally satisfied the authorities the matter had been dropped and that it would not be subjected to further exactions.

But on the 27th of April last the company was astonished to learn, by a cable from its general manager in Berlin, that the Government had suddenly demanded the resignation of its concession within a fortnight, on pain of expulsion from Prussia.

To this notification the company responded that it would not retire from Prussia voluntarily; that it had not, since entering that country, changed its methods of business; that it had, to the best of its ability, endeavored to comply with every requirement and wish of the Government; and that if the Government desired to drive it out it must itself take the step of canceling its concession.

Since that time, through the kindly intervention of our Government, the Prussian authorities have extended the period of grace till the 15th of July next.

From the facts above detailed there is too much reason to apprehend that the Mutual Life Insurance Company will be expelled from Prussia on the date last mentioned, unless the Government of the United States shall interpose to prevent it. It is not my intention to impute to the high officials of the Prussian Government a conscious unfriendly purpose toward this company as an American institution; but it is clear that the spirit of opposition displayed by home companies, and not infrequently finding expression in the native press, is at least partly responsible for the

difficulties which this company has encountered in its late dealings with the Prussian officials. Indeed, I am informed that persons interested in home companies have counseled the Government, in the character of experts, as to the demands which have been made upon this company; and, while these persons have by no means always concurred in their opinions, it is to the erroneous advice given by some of them that may doubtless be ascribed the insertion in the paragraph which has been quoted, from the decree of 1892, of the parenthetical clause which, as interpreted by the Prussian officials, has the effect, against which this company has always protested and must continue to protest, of placing it in the category of companies that maintain separate groups for which separate accounts are kept running.

In this relation it is proper to advert to the fact that the insurance departments of the various States of this Union have for many years made the following inquiry of each company: "Does your company issue any policies in which the tontine principle is to be applied in making dividends thereon?" To this inquiry this company has responded annually as follows: "No policies are made forfeitable, as on the tontine plan. No separate funds or accounts are kept running for any class. When, at the end of a distribution period, a share of surplus is allotted to any policy, all equities are considered." This response has always by every State been accepted as a correct statement of the company's system, with which the officials are, of course, entirely familiar.

As before set forth, to establish a life-insurance business in a foreign country, requires a large proportion of expenditure at the beginning, a part of which must necessarily prove to be a dead loss unless the business as established is permitted to continue. The contracts of a life-insurance company endure through many years, and facilities must be afforded to policy holders for carrying out all transactions connected with their policies. For this reason, although this company has in force in Germany to-day insurance amounting to about 71,000,000 marks, and is probably doing more business than all the German companies together, yet its business up to the present time can not be considered as ultimately profitable, unless it shall be supplemented by additional business in the future, to be secured by the staff of agents established and trained since the inception of our work in that country.

The Mutual Life Insurance Company has not assumed to question the strict legal right of the Prussian Government to cancel its concession in that country. It thoroughly comprehends the situation. Like other corporations, it can not claim the right to enter into and remain in foreign countries against the will of the Government. But it respectfully urges that there are elements of justice and equity in its cause which can not be disregarded without seriously impairing that comity under which approved and reputable business associations of foreign origin are permitted to continue in business in the United States as well as in other countries. However clear and express may be the strict right of expulsion in such cases, it ought not to be exercised except upon reasonable grounds and with a due regard to the interests of those who have, on the faith of voluntary concessions, been led to invest their means in the full and justifiable expectation that, so long as they should continue properly to conduct the business which they were licensed to engage in, they would not meet with any governmental prohibition.

If for this just and salutary principle there shall be substituted an arbitrary rule of action, promotive of no other object than the exclusion of American life-insurance companies, it is not difficult to foretell that the results will be very far reaching and will not be confined to one branch of business.

Let me also point out another consideration which should, in my judgment, lead the Prussian Government to a more considerate course of action. If this company be forced out of Prussia a stigma will be cast upon its reputation, not in Prussia alone but in all the other countries of the Continent. In Prussia the sole fact of our exclusion will forthwith sow doubt and distrust in the minds of those already holding our policies and these will be surrendered in great numbers wherever they are held by healthy subjects. These will seek new insurance elsewhere, but the impaired lives, which can gain no such indemnity in other companies, will persist. This change in our membership must abnormally increase the death rate, while depriving us of the contributions of the healthy members toward sharing the losses—a participation which is fundamental in all conceptions of the business. Again, it will be still necessary for us to maintain business offices and clerks and agents for the collection of the premiums on these antecedently issued policies and to pay the death claims as they thereafter mature. Our expenses will, therefore, not be materially diminished, and these, added to the greatly enhanced ratio of death losses, may produce a most disastrous and wholly undeserved effect on the general business of the company.

I think it possible, moreover, that there is one view of the case which has not yet received the consideration of the Prussian minister of finance. Under the requirement of 1891, above cited, one-half of all the premiums collected by the company must now be invested in German securities. Since that date the amounts so invested have reached the considerable sum of 2,250,700 marks, and in the natural course of a

continued business the same must go on in an increasing ratio. The Government has thus forced this company to become a constant purchaser in its own markets of its own securities. Is it the policy of the finance minister to drive out of those markets such a purchaser?

The gravamen of our complaint is this: Lured by the granting of a free concession for the transaction of business in Prussia, after the thorough and protracted examination of all our methods, exercised by the Government authorities, we went to great expense and serious expenditure of time, skill, and effort to establish that business on a basis of anticipated permanency, which alone could make it profitable to the membership of the company at large. Lulled into security by the apparent friendliness of the Government, we invested our money on a like anticipation in a costly building in Berlin, which, if we are excluded from Prussia, will be useless for our purposes, and must be disposed of as best we may. Yielding to administrative pressure of an arbitrary and illogical nature, we made large investments in German securities, which we should have refused to make then and there had the Government at that time disclosed any purpose to make further exactions, and have placed those securities in the custody and control of the very authorities which now, in effect, destroy their only value to us by seeking to drive us from the country.

Had the Prussian Government intimated when it was considering our application for a concession that any such exactions would be made, we should have withdrawn our application. We can not believe that that Government fully apprehends or has maturely considered what we hold would be the great and unmerited injury its contemplated course will inflict. We do not believe it to be inconsistent, either with its dignity or with its reputation as one of the most enlightened Governments of the civilized world, to review this whole matter considerately and dispassionately, and to ask itself the question whether there is anything in the conduct of this company since its admission to Prussia to compel resort to so harsh and drastic a measure as some of its officials, unquestionably through an imperfect apprehension of the case, have sought to subject us to.

In conclusion, I beg to say that the specific relief which the Mutual Life Insurance Company desires at the hands of the Prussian authorities is the modification of its decree of 1892 in two particulars, as follows: (1) Either the suppression of the parenthetical clause in paragraph [illegible] of Article IV, or such an interpretation of it as will not ascribe to the company a system of insurance which it does not follow; (2) a modification of the requirement by which the company is compelled to make only a partial statement of the actual value of its assets.

In the hope that our Government may be able efficiently to intervene in the present case in behalf of the important American interest which this company represents, I have the honor to be, sir,

Your obedient servant, RICHARD A. MCCURDY.

Mr. Uhl to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 8, 1895.

The Department is informed that Prussian Government insists upon taking final action as to Mutual Life Insurance Company on June 15. Department had understood action would be deferred until July 15 to afford company further opportunity to be heard. Lengthy instructions were sent to you on June 4. Ask for further delay that promised opportunity may be afforded for making representations as instructed.

UHL, *Acting.*

Mr. Runyon to Mr. Olney.

No. 273.] EMBASSY OF THE UNITED STATES,
Berlin, June 11, 1895. (Received June 28.)

SIR: I have the honor to report that immediately after receipt of your telegram of the 6th day of May last, stating that the State Department was informed that on April 27 the Mutual Life Insurance Company of New York was notified to conform to certain stipulated Prussian methods within a fortnight on pain of cancellation of concession, and

that it was represented that the company's methods in Germany are unchanged since the concession was given, some nine years ago, that they are uniform as to the United States and all foreign countries, and that it is impossible to frame a special system for use in Prussia, and directing me to ascertain unofficially whether the German Government will further investigate the methods of American life insurance companies with a view of modifying the ultimatum, and in the meantime suspend its operation, I gave attention to the subject and was informed that an extension of time until the 15th day of July would be given to the company. It proved, however, that in some way there was said to be some misunderstanding on the subject, and that the Government officials thought the extension given was to the 15th day of June and not to the 15th of July. On being informed of this I at once had a personal interview with the minister on the subject and the result was that he gave me his consent that the matter should stand according to my understanding of it, that is, that the company should have the further time (till the 15th of July) applied for. That consent is in the form of a note from him to me. It therefore has not been necessary for me to take any action in accordance with the direction of the telegram of instruction of the 8th instant on the subject, the necessity therefor having been obviated by my action taken previously to the receipt thereof. The result has been communicated by me to the representative of the company here, and has been or will be communicated to him by the minister also.

I have, etc., THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 15, 1895.

Transmit to McClintock copy memorial of president Mutual Life Insurance Company to the President.

OLNEY.

Mr. Jackson to Mr. Olney.

No. 300.] EMBASSY OF THE UNITED STATES,
Berlin, July 12, 1895. (Received July 30.)

SIR: Referring to Ambassador Runyon's dispatch of the 11th ultimo (No. 273), I have the honor to report on the present condition of the affairs of the Mutual Life Insurance Company of New York in Prussia.

At the time of the ambassador's departure from Berlin a memorandum—which had been prepared with the assistance of Mr. McClintock, the actuary of the company, and which embodied the principal points of the memorial dated May 31 last, addressed to the President by Mr. McCurdy, the company's president, and transmitted as an inclosure in the Department's instruction, No. 313, of the 4th ultimo—was under consideration by the Prussian Government. The ambassador had left this memorandum at the foreign office during an interview which he had had with the acting secretary of state for foreign affairs on or about June 27, and on July 3, when General Runyon called to inform Baron von Rotenhan that he was going on leave, no answer had as yet been received from the Prussian minister of the interior, to whom the memorandum had been referred.

On July 8, no answer having yet been received and as the date for the withdrawal of the concession was only a week off, I accompanied Mr. McClintock, at his request, to the ministry of the interior. There we had an interview with the acting minister, and learned that a reply to the memorandum had been prepared and would be transmitted to the embassy through the foreign office, and that as the United States Government had interested itself in the matter the concession would not be withdrawn on the 15th instant, but that the final decision would be reserved until the minister and the privy councillor having special charge of such matters had returned from their vacations, which would be about the middle of August, and that no steps would be taken toward the expulsion of the company from Prussia without due notice.

Mr. McClintock, however, preferred to make an attempt to obtain an earlier settlement of the case, and the same day addressed a letter to me (a copy of which is inclosed, marked inclosure 1) of which I left a copy with Baron von Rotenhan on the 9th instant, together with a memorandum (inclosure 2 herewith) which I had prepared and of which Mr. McClintock expressed his approval.

Baron von Rotenhan, after reading the memorandum, Mr. McClintock's letter to me, and the "suggestion" (written in German in the original) made by him, asked if he was to consider the request as coming from the United States Government. To this I replied that I did not feel at liberty to say that, but that as the embassy had been instructed to use its good offices in behalf of the company, I was sure that the United States Government would be gratified if the Prussian Government found itself in a position to arrange matters in a manner which should be satisfactory to the company's authorized representative.

It is not, however, to be anticipated that a decision will be reached for several weeks—until the return to their posts of the officers of the ministry of the interior—and during Mr. McClintock's absence, he having left Berlin to-day, I shall take no further step in this matter, unless instructed to do so, until a reply from the foreign office is received.

I have, etc., JOHN B. JACKSON.

[Inclosure 1 in No. 300.]

Mr. McClintock to Mr. Jackson.

BERLIN, *July 8, 1895.*

SIR: Several residents of Berlin who approve the principles of the Government concerning control of surplus held for terms of years tell me that the annexed suggestion would, in their judgment, be satisfactory to the Government. If it is adopted by the Government, the company will be content.

If the company is acknowledged to be strong and honorable (and the company invites and will pay the expense of an examination in New York by any Prussian or other expert whom the Government may send for that purpose), it would seem that restriction to plans of business approved by the Government must be sufficient atonement for its failure to report by groups when it carries on no groups.

Yours, etc.,

EMORY MCCLINTOCK,
Actuary of the Mutual Life Insurance Company of New York.

Proposition for most gracious consideration.

Instead of a withdrawal of the concession, as punishment for noncompliance with Section IV, 8, let it rather be ordered:

That any company which does not comply with the provisions of Section IV, 8—

(1) May issue no policies in Prussia, except with dividends which are payable annually.

(2) Where such a company publishes a statement showing the amount of its surplus, it should always state that only those policies which are in force at the time of striking the balance shall participate in the future dividends from the accrued surplus.

(1) The question of control will be settled per se as each policy receives its dividend annually.

(2) No person taking out a new policy could erroneously be made to think that he could draw benefits from the large surplus from former policies.

[Inclosure 2 in No. 300.—Shown to and approved of by Mr. McClintock and left at Foreign Office with Baron von Rotenhan, July 9, 1895.]

MEMORANDUM.

The inclosed copy of a letter—with annexed suggestion—has been received to-day from Mr. Emory McClintock, actuary of the Mutual Life Insurance Company of New York, who is at present in Berlin with full power to act for and in the name of the above-mentioned company. The "suggestion" is intended to take the place of any previous suggestion or proposal made, and it is Mr. McClintock's desire not to enter into any controversy based upon the memorandum left with his excellency Baron von Rotenhan, etc., by the American ambassador about two weeks ago, to which it is understood a reply has been prepared by the Royal Prussian ministry of the interior. This reply the Mutual Life Insurance Company is willing to accept without further discussion at this time.

At an interview which Mr. McClintock had on July 8, instant, he proposed leaving a copy of the "suggestion" now made with the officer in charge of the Prussian ministry of the interior (Director Hasse), but that officer stated that he would prefer to receive the same through the Imperial foreign office.

The Mutual Life Insurance Company is very desirous of continuing to do business in Prussia, its only building in any European city being situated in Berlin, and it is anxious to conform to the Prussian regulations in so far as its present business system allows, or by making changes in the Prussian business which would not operate to its serious detriment elsewhere.

Mr. Jackson to Mr. Olney.

No. 328.] EMBASSY OF THE UNITED STATES,
Berlin, August 7, 1895. (Received August 26.)

SIR: Respectfully referring to my dispatch, No. 300, of the 12th ultimo, I have the honor to transmit herewith a copy, with translation, of a memorandum to-day received from the foreign office in reply to that left by General Runyon, in compliance with the Department's Instruction, No. 313, of June 4 last. A copy of this memorandum has been sent to Mr. McClintock, of the Mutual Life Insurance Company of New York, but it is understood that no discussion of it is to take place for the present, at least until after a reply to the memorandum left by me with Baron von Rotenhan on the 9th ultimo has been received.

I have, etc.,

JOHN B. JACKSON.

[Inclosure in No. 328.—Foreign Office.]

PRO MEMORIA.

At the commencement of the year 1890, detailed instructions were issued by the Prussian minister of the interior regarding the manner in which the accounts of insurance companies—both domestic and foreign—should be rendered. These regulations have been complied with by all the life insurance companies holding concessions in Prussia, with the exception of the American, Mutual, Equitable, and New York Life Insurance companies. The regulations issued refer, among other things, to the manner in which the accounts are to be rendered regarding tontine business. The assertion of the Mutual that it does no tontine business is contradicted by competent experts. As the Mutual does not think that it is able to comply with the provisions as to the manner of rendering its accounts, the withdrawal of its concession is threatened. On the strength of the memorandum which was presented by his

excellency Ambassador Runyon on June 26 last, the minister of the interior has again had the matter investigated; as the result of this investigation, he does not find himself in a position to revoke the injunction placed upon the Mutual to refrain from issuing new insurance policies in Prussia; in the contrary case the withdrawal of the concession would necessarily ensue.

No reply has as yet been received at the foreign office to the memorandum presented by the chargé d'affaires on the 9th ultimo, which, with its inclosure, has been referred to the minister of the interior.

BERLIN, *August 6, 1895.*

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 20, 1895.

Department informed that the Prussian Government on 16th instant, in advance of expected discussion, revoked concession Mutual Life Insurance Company, to take effect September 1. If this report be correct, you are instructed strongly to represent injustice of proceeding in view of our previous representations and of the willingness of company to confine business in Prussia to plans approved by the Government.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 345.] EMBASSY OF THE UNITED STATES,
Berlin, August 22, 1895. (Received September 4.)

SIR: I have the honor to report the receipt of the following cipher telegram from the Department of State yesterday:

RUNYON, *Ambassador, Berlin:*

Department informed that the Prussian Government on 16th instant, in advance of expected discussion, revoked concession Mutual Life Insurance Company, to take effect September 1. If this report be correct, you are instructed strongly to represent injustice of proceeding in view of our previous representations and of the willingness of company to confine business in Prussia to plans approved by the Government.

ADEE, *Acting.*

In accordance with the instructions thereby given, I without delay asked Baron Marschall von Bieberstein, the Imperial secretary of state for foreign affairs, for an interview in reference to the subject, which he accorded immediately.

In the conversation, which was of considerable length, I made strong representations against the proceedings referred to in the instruction. I had previously—on the day before—taken occasion to bring the subject before him, but at that time was without instructions from the State Department on that particular head. I may remark that in the previous interview which, under instructions, I had at the foreign office as to the company (report of which has already been made), Baron von Marschall was not in charge, but was absent on his vacation. In the conversation yesterday he at once promised to take up the matter, and I have reason to expect that he will without delay examine into and consider it.

On the same day after my interview I sent to Baron von Marschall the note (a copy of which is inclosed) which I had in course of preparation when his reply to my request for an interview was received.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 345.]

Mr. Runyon to Baron Marschall von Bieberstein.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, August 21, 1895.

The undersigned, ambassador, etc., of the United States of America, has the honor to inform his excellency Baron Marschall von Bieberstein, imperial secretary of state for foreign affairs, that on or about June 27 last, acting in accordance with instructions from his Government, he presented to the imperial foreign office the representations of The Mutual Life Insurance Company of New York with regard to certain requirements made of it by the Prussian authorities under penalty, on non-compliance, of withdrawal of the concession granted to the company to do business in Prussia. To the memorandum then left with the foreign office, which contains a statement of the matter, the undersigned begs to refer. Subsequently and on the 9th of July last another communication was made to the foreign office by the embassy on the same subject, to which, also, reference is hereby made.

The undersigned is informed that the representatives of the company, its counsel and actuary, who came from the United States and who were anxious to be heard in behalf of the company in order that they might if possible prevent the withdrawal of the concession, made application to his excellency Mr. von Koller, the Prussian minister of the interior, for such hearing. On the 7th of July last the following reply was sent them:

"His excellency Minister von Koller directs that the following answer to your telegram of yesterday's date be sent: 'Privy Counsellor von Knebel enters upon his leave of absence within a few days and will return to Berlin on the 18th of August next. It rests with you to acquaint Mr. von Knebel during his absence with the necessary facts or to await his return to Berlin.'"

The undersigned is informed that on receipt of this communication the representatives of the company referred to informed the office of the minister of the interior of Prussia, in substance, that they were at the disposition of Mr. von Knebel and would go anywhere to see him. Receiving no reply to this, they waited, expecting to see him after his return on the 18th of August. On the 16th of August they, to their great surprise, received a notice dated the 14th of that month, that the concession was revoked and that the company must do no new business in Prussia after the 1st day of September next. It will be seen that, according to the foregoing statement, the company had a right to believe that the desired opportunity to present this subject to the authorities, which its representatives had anxiously sought, would be accorded and that they would be heard in its behalf in this matter of so great importance to its interests, on the return of Mr. von Knebel to Berlin. On the contrary, however, an order withdrawing the concession was, without hearing them, made two days before the time fixed for his return.

The undersigned, under instructions from his Government, represents to his excellency the injustice of the proceeding complained of, especially in view of the representations heretofore made, above referred to, and of the expressed willingness of the company to confine its business in Prussia to such plans as the Government will approve.

The undersigned respectfully asks his excellency's immediate attention to the subject, to the end that the order revoking the concession may be withdrawn, and avails himself of the occasion to renew to his excellency the assurance of his most distinguished consideration.

THEODORE RUNYON.

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 29, 1895.

Private advices from representative of the Mutual Life Company in Prussia indicate favorable outcome if views of the United States vigorously and persistently put forward. This you are authorized to do with good judgment and discretion.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 352.] EMBASSY OF THE UNITED STATES,
Berlin, August 31, 1895. (Received September 13.)

SIR: Referring to my dispatch of the 22d instant, No. 345, on the subject of the revocation of the concession to the Mutual Life Insurance Company of New York, I beg leave to add in continuance of the history of the matter, which I now regard as closed, that on the 27th instant Mr. McClintock, actuary of the company, addressed and sent to me a communication, a copy of which is herein inclosed, the object of which was to get me to urge upon the authorities the desirability of a decision before the 1st of September next, if the order withdrawing the concession was to be revoked either permanently or temporarily. A copy of this communication was duly sent without delay to the foreign office.

On the evening of the 29th instant the Department's cipher telegram, as follows, was received:

RUNYON, *Ambassador, Berlin:*

Private advices from representative of the Mutual Life Company in Prussia indicate favorable outcome if views of the United States vigorously and persistently put forward. This you are authorized to do with good judgment and discretion.

ADEE, *Acting.*

The instruction therein contained was at once observed by communicating its substance to the foreign office the next day, and to-day I sought and obtained an interview with the secretary of state for foreign affairs on the subject and found that the order in question is not to be withdrawn. Baron von Marschall promised to give me in writing the reasons for the action complained of.

I may say that these reasons are (first) that the company's financial report of assets is not satisfactory, in that securities are set down at market value instead of at the cost price, and that real estate bought in under foreclosure is put down at a valuation of the property of which there is no evidence, and which, therefore, may be too large; and (second) the declaration of the company that it can not comply with the regulation made by the Prussian authorities and which by its terms is applicable to it.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 352.]

Mr. McClintock to Mr. Runyon.

BERLIN, *August 27, 1895.*

SIR: I am not aware of the exact position of the negotiations now going on concerning my company, but desire to set before you, and through you, if possible, before the German Government, the imperative necessity which exists that whatever can be done for the relief of the company should be done now.

The notice to discontinue new business on September 1 was published widely by the Ministerium des Muson on August 16, eleven days ago. As it takes effect next Sunday, we have four more days only. Very great injury has already been done, owing to the distrust produced by the decree. Not only is the high public standing of the company assailed, but that good will, built up by nine years of successful business in Prussia, is getting undermined, which, by the influence of one man's example upon another, enables fresh insurances to be obtained with ever-increasing ease. The very agents themselves, in various parts of Prussia, rae daily receiving and yielding to inducements to engage in other life companies. The company has as yet said nothing to its agents, but must send word to them on Friday at latest to do no more business after Saturday, and must also inform all policy holders of the discontinuance of its concession.

If, therefore, these remaining days pass without at least a temporary recall of his order by his excellency Minister von Köller, it becomes fully and finally effective as

destroying our business in Prussia and injuring it in other countries. Thereafter, should a new concession be granted at any time, it would be necessary to begin de novo under worse conditions than in 1886. I omit on this occasion any further expression of the indignation felt by all connected with the company and by others acquainted with the circumstances, Germans as well as Americans, concerning the decree itself.

Yours, most respectfully,

EMORY MCCLINTOCK,
Actuary of the Mutual Life Insurance Company of New York.

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 5, 1895.

In order to make clear the object of instructions heretofore sent, it is proper to say that the Department understands that hostile action against Mutual Life Company is a royal Prussian matter not cognizable and determinable by imperial authority unless treated as an international question. Conformably with your previous instructions you will continue actively to press the matter on international grounds.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 371.] EMBASSY OF THE UNITED STATES,
September 21, 1895. (Received October 9.)

SIR: Referring to the Department's telegraphic instructions of the 5th instant, I have the honor to transmit herewith a copy of a note to-day addressed by me to the German Government, which constitutes a general answer to the various objections which have been made verbally and in writing to the Mutual Life Insurance Company of New York, and to its business methods, and to be, sir,

Your obedient servant,

THEODORE RUNYON.

[Inclosure in No. 371.]

Mr. Runyon to Baron von Rotenhan.

EMBASSY OF THE UNITED STATES,
Berlin, September 21, 1895.

The undersigned, ambassador, etc., of the United States of America, acting under instructions from his Government, has the honor to present again to his excellency Baron von Rotenhan, acting secretary of state for foreign affairs, the subject of the action of the Prussian authorities in prohibiting the Mutual Life Insurance Company of New York from doing any new insurance business in Prussia after the 1st day of September instant. The object of the undersigned herein is particularly to bring to his excellency's attention the request made by the company to be permitted to do new insurance business under its concession by confining such business to the issuing of policies with annual participation in the profits. The regulation of 1890, paragraph iv, pl. 8, translated into English is as follows:

"If a company secures to its policy holders participation in profits according to the so-called tontine system (to this belong particularly all those systems of participation in profits of life insurance, by which the profits accruing upon any given insurance group are accumulated during a period of not less than three years, and belong at the end of the period to the surviving policies of the group in question

for division among them), it must not carry on the various tontine groups in one common fund, and separate a part from this fund when the time arrives according to the plan for the distribution of profits from tontines, but it is, on the other hand, obliged in each calendar year to carry on in a separate account all those tontine insurances."

The company has declared its inability to comply with that regulation for the reason which is stated at length in the memorandum which the undersigned had the honor to submit to the foreign office heretofore, and to which he now again refers. Briefly stated, the reason is that the company does not do and has not done business on what is called the tontine plan, and that to require it to make reports such as the authorities have by the regulations demanded in accordance with the tontine system is to require that which is impossible unless the company could convert itself retroactively as well as prospectively into a tontine company, which is impossible. The company, in view of such declared inability, stated its readiness either to conform to the regulations so far as its business system would allow or to make such changes in its business in Prussia, in view of the regulation, as would not operate to its serious detriment elsewhere. In accordance with this declaration it submitted, on the 9th of July last, through this embassy, to the imperial foreign office a suggestion of a general regulation, which, while it would in nowise affect the regulation of 1890, would enable the company to have to a certain extent, at least, the benefit of its concession and of its great expenditures on the faith of it. It was in the form of an order that any company which does not comply with the provisions of the above regulation of 1890 should issue no policies in Prussia, except with dividends to be payable annually, and that a company issuing such policies shall in its statements showing the amount of its surplus always state that only those policies which are in force at the time of striking the balance shall participate in the future dividends from the accrued surplus.

The undersigned understands that the request (for the suggestion amounted to that) was regarded by the authorities as objectionable on two grounds, first, that it came too late, and next, that it was merely the formalization of propositions as to how the conduct of the business of the company in Prussia might be arranged so as to comply in the most feasible manner with the regulation in regard to tontine business; and it was therefore rejected, the company being informed by a decree of the minister of the interior, of the 14th of August last, that its concession would be declared canceled on the 1st of September, and that the proposition of July 8 (that just referred to) had not caused the minister to change the decision (the withdrawal of the concession) which had already been communicated. It does not appear to the undersigned that there was any ground for holding that the proposition came too late, especially seeing that it was submitted five days before the expiration of the extension of time (to the 2[illegible] of July) which had been granted; nor does it appear to him to be too late to consider and allow it now. As to the other objection, which is in substance that the proposition was intended as a means of avoiding compliance with the regulation of 1890, the request of the company in making this proposition was not for a modification of the regulation of 1890 to enable it to conduct insurance business on the tontine plan, but was for the adoption of a regulation which in effect would prevent any life insurance company from carrying on its business of insurance in Prussia on the tontine plan except under the regulation of 1890. This, it will be observed, is in nowise in contravention, nor is it even a modification of the regulation of 1890, but it leaves that regulation in full force, and is a general provision applying to all life insurance companies. Under it the company would still be enabled to carry on its business in Prussia, but only in conformity with the regulations of the Government, and on the plan specified. And here it seems quite proper to state that it is alleged by the company that its methods of insurance and of keeping its accounts were all investigated by the authorities before the concession was granted (which was November 16, 1886), and that in the granting of the concession those methods were approved; and it also alleges that there has been no change in those methods from that day to this, a period of nine years or thereabouts. The circumstances under which the concession was granted, the inquiries which were made, and the circumspection which was exercised by the Government before it was granted, the expenditures which were made by the company on the faith of the concession are stated in a brief and general way in the memoradum before referred to.

The company declares that it has in all things complied with every regulation except the particular regulation of 1890 as to the tontine business, with which, as before stated, it declares it impossible to comply, for the reason given. It alleges that under a regulation of 1891, which required that one-half of all premiums collected by the company in its business here be invested in German securities, it has so invested the large sum of 2,250,700 marks. It may well be assured, that in making such investment, as well as in the large expenditures the company has made in and for the establishment of its business in Prussia, and in the building for its offices in the city of Berlin, it acted upon the conviction that there was no ground to appre-

hend that the concession would be withdrawn without due regard to existing equitable considerations in its favor, nor without due regard to the principle of international comity, a principle which, it may be remarked, is well illustrated in the freedom and equality with which foreigners and foreign corporations are permitted to extend their business operations to and carry them on in the United States. The undersigned very respectfully solicits the attention of his excellency to this subject with a view to the repeal of the decree of the 14th of August last, canceling the concession of the company. The undersigned has been informed that, as additional ground for the cancellation, certain objections are made by the authorities to the accounts of the company, to its valuation of its assets, and to some of its expenditures in the conduct of its business. But he is not informed whether these matters have all been brought to the attention of the company or its representatives. He may be permitted to suggest that they should not be regarded as ground for any adverse action against the company, at least until it shall have had notice of the complaint or objections and full opportunity to be heard in reference thereto.

As to the objection that in its statement of its assets its stocks and bonds are put down at their market value, and not at their cost to the company, the undersigned is informed that the company has offered to obviate (and perhaps has already done so) this objection by stating in its reports not only the market value, but the cost of those assets also. And as to the objection that real property bought in by the company at sale under foreclosure of mortgage held by it thereon is put down at a valuation of the justness whereof the Government has no means of judging, the undersigned has been informed that when the application for the concession was under consideration the company tendered itself ready to furnish, and did in fact furnish, all information to the Government which the latter desired, and that the Government requested that the Imperial German minister at Washington examine into and report upon the condition of the company, and he did so, and his report was acted upon favorably by the Prussian authorities, and that the method of valuing such properties was the same at that time as it has been ever since. Moreover, he is further informed that the company has in reference to this, as in regard to every other matter connected with the operation of the company, sought to have the Government examine into them by its own experts, to be sent to the United States for the purpose, or to be appointed there, and has offered to pay not only all the expenses of such experts and of the examination by them, but, if permitted to do so, to pay the experts compensation for their services also, and that this offer, which is still open, has not been accepted. He is also informed that a complete statement or list, in detail, of all of those properties, with a description of the premises and separate appraisals of the land and buildings, with the volume and page of the official record of the deeds for the land, is annually transmitted to the insurance department of the State of New York and to the proper offices of other States where it is required, and is there open to public inspection, and that certified copies thereof may be obtained.

It appears that an official examination of the company, showing its condition at the beginning of this year, has recently been completed by the superintendent of the insurance of the State of New York, and that a certified copy of his report thereon has been transmitted to the Prussian authorities. This examination was, it is said, the work of about eighteen months. It dealt with and passed upon the assets of the company, its loans on real-estate security, its safeguards, its medical examinations, its business in foreign countries, its income and disbursements, its method of keeping its accounts and of doing its business, and the character and standing of the company. On the subject of property bought in by the company at foreclosure sale the superintendent reports as follows: "The company's method of dealing with this class of property illustrates its wise conservatism, and has my approval. The cash value of this real estate is in the aggregate more than it represents on the company's books and statements. While the department in this report can not recognize prospective increase of value as an element of appraisals, it is yet the opinion of the superintendent, founded on the detailed returns of the experts whom he has employed, that the valuation is one which in the aggregate no probable event in the future will reduce, while circumstances are likely to arise which will materially increase it." The undersigned has the honor to send herewith to his excellency a copy of the report. He very respectfully presents the subject of this note to his excellency for consideration in all its aspects by the Prussian Government and by the imperial authorities also, so far as the latter may have jurisdiction or cognizance of the subject in the premises, and suggests in so submitting it that there is ground for the belief that the necessary result of the action complained of would, as the matter stands, be to give to the beneficent principle of comity above alluded to, to which it is the interest of all nations to maintain, a restricted and uncertain operation, which is, of course, to be deprecated.

The undersigned avails himself of this occasion, etc.,

THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

No. 487.] DEPARTMENT OF STATE,
Washington, December 7, 1895.

SIR: Inclosed please find copy of letter to this Department from the governor of New York, together with copy of letter from James F. Pierce, superintendent of insurance of the State of New York, to the minister of the interior of the Kingdom of Prussia, and copy of letter from the superintendent of insurance of the State of Missouri to Theodore W. Letton, manager of the Prussian National Insurance Company of Stettin, Prussia. You are requested to use your best efforts in such manner as you may deem appropriate and expedient to accomplish the purposes stated in the letter of the governor and of the superintendent of insurance of the State of New York, and to report your action from time to time to this Department.

Respectfully, yours, RICHARD OLNEY.

[Inclosure in No. 487.]

Governor Morton to Mr. Olney.

STATE OF NEW YORK, EXECUTIVE CHAMBER,
Albany, December 3, 1895. (Received December 5.)

SIR: It is represented to me by the superintendent of insurance of the State of New York, the officer charged by our laws with supervision of the business of insurance and of the companies transacting that business within this State, that three of the principal life insurance companies of New York, which are among the most important and substantial financial corporations of the United States and of the world, have been, by the department of the interior of the Kingdom of Prussia, unjustly excluded from that Kingdom, after they had been induced to establish agencies and make large investment of funds among its people. A great and growing feeling of irritation upon this subject exists among the vast insurance interests of this country, and is finding daily expression in the press. In several States of the Union notice has already been given to corporations of Prussia that they can not transact business within those States, this action having been taken by the several insurance departments solely as retaliation for arbitrary acts of the Prussian minister toward companies of New York.

The superintendent of this State believes that the shortest way to the reestablishment of reciprocal business relations among these States and corporations is to be found in a candid comparison of views, rather than in a policy of annoyance and exclusion. In this belief the superintendent has prepared a letter, addressed to his excellency the minister of the interior of the Kingdom of Prussia, a copy of which is inclosed herewith. But as the people of no State have diplomatic relations with the Kingdom of Prussia save as they are represented by the General Government, and by its ambassador to the Empire of Germany, and as I am informed that our ambassador has already in several instances, under instructions from your Department, rendered his good offices in the endeavor to solve some of the very questions now involved, I beg respectfully to request that the purpose of the superintendent in this communication be facilitated by the good offices of the ambassador of the United States in Berlin, in such manner and to such extent as shall to you appear useful and proper.

I have, etc.,

LEVI P. MORTON,
Governor of New York.

[Subinclosure 1 in No. 487.]

The Superintendent of Insurance of New York to the Prussian Minister of the Interior.

STATE OF NEW YORK, INSURANCE DEPARTMENT,
Albany, November 27, 1895.

The undersigned, the superintendent of insurance of the State of New York, begs to present to your excellency, in behalf of this State and its people, their respectful protest against the recent orders by which your excellency has required of three life insurance corporations created by this State, that they divide their surplus in accordance with certain imaginary groups, founded upon a theory of tontine insurance which is unknown to the laws of this State and to the practice of its institutions.

This protest seems to me to be required first by the fact that the method of accounting and distributing referred to, and by a decree issued in your excellency's name made, a condition of the continuance by these companies of business in the Kingdom of Prussia, is inconsistent with the principles upon which the companies are founded and conducted, and in violation of the laws of this State; and by the further fact that the authority of the wisest and best recognized actuaries of the world is substantially unanimous in condemnation of the scheme.

No reputable actuary, so far as I am able to learn, has ever advocated such a method as essential, and the large majority of actuaries regard it as unwise and unreasonable.

The complaint of the companies in question is that this requirement has been adopted in pursuance of a fixed purpose to exclude these companies from the Kingdom of Prussia and not from regard for principle nor from a desire to protect insurers. After careful examination of the records in possession of the companies and of all the circumstances of the case, I am forced to the conclusion that this complaint is well founded. It has further been proved to me beyond dispute that reasonable and respectful requests presented by one or more of these companies for a hearing before proper authorities of your department have been refused, or at least rejected without the courtesy of a refusal.

Inasmuch as the policy of the State of New York has always been to treat insurance corporations of every other state or country with the same courtesy and hospitality which are extended by such state or country to our own companies, and inasmuch as the law vests in me without appeal discretionary power to refuse to corporations from any foreign country the privilege of doing business in the State of New York, when such privilege appears inconsistent with the public welfare, it may become my duty to suspend the consideration of applications from companies of the Kingdom of Prussia for the privilege of doing an insurance business in this State, unless the Government of Prussia shall see fit to extend similar privileges to corporations of the highest standing created by this State, or else shall explain its action in refusing such privilege in a manner consistent with the courtesy and liberal policy which have heretofore guided the relations of this State and its business enterprises with the governments and corporations of European States. In the early weeks of the coming year, the companies created by the Kingdom of Prussia, and already doing an insurance business in the State of New York will reach the end of the term for which their concession to do such business has been granted. Unless that concession is renewed by me, their right to do business here will terminate. It may then be impossible for me to continue the privilege they have heretofore enjoyed, or to admit other Prussian companies to do business here until the conditions mentioned above shall be fulfilled.

I beg, however, to assure your excellency that it is only with extreme reluctance that I shall resort to such measures. Observing that my respected friend, Mr. Waddill, commissioner of the State of Missouri, has already taken the decisive step of excluding from that State the Prussian National Insurance Company of Stettin, solely because of the apparent injustice done to the companies of New York in your excellency's name, I can not permit the authority of this State to seem more indifferent to the welfare and honor of American enterprise as represented by its own institutions, than is a sister Commonwealth which has no corporations that are open to attack or injury from foreign Governments. Yet it seems to me most respectful to your excellency, and most likely to conduce to a good understanding among all parties concerned, before proceeding to an extreme step, to ask your excellency's attention to the grave facts which I have stated, and to submit for your information a copy of the letter sent to the Prussian National Insurance Company of Stettin by the superintendent of insurance of Missouri, as an expression of the sentiments which I believe actuate all intelligent Americans upon hearing of the policy of your Government.

I am equally confident they all, in common with myself, will highly appreciate any effort your excellency may make to restore reciprocal feelings of courtesy and promote the mutual enjoyment of reasonable privileges of trade between the citizens of Prussia and those of New York. I beg your excellency to accept the assurance of my distinguished consideration, etc.

JAMES F. PIERCE,
Superintendent of Insurance of the State of New York.

[Subinclosure 2 in No. 487.]

The Superintendent of Insurance of Missouri to the Prussian National Insurance Company of Stettin.

MISSOURI INSURANCE DEPARTMENT,
St. Louis, November 18, 1895.

DEAR SIR: As superintendent of the insurance department of the State of Missouri, in the United States of America, clothed with the power of granting or refusing to

grant insurance companies of other States and foreign Governments authority to do business in the State of Missouri, my attention has been called to the action of the Prussian Government, in the German Empire, in forcing American insurance companies which had been admitted to do business in that country to abandon their business and withdraw from Prussia. I have looked into the matter with much care and with a great desire to find some way by which I could escape the disagreeable duty of refusing to companies of Prussia the right to do business in the State of Missouri. I have carefully gone over the correspondence, orders, rules, requirements, and other obstructive measures had and made by the Prussian Government with one of the great American companies which has been forced to leave Prussia.

After carefully considering all these documents and correspondence, I am forced to the conclusion that the deliberate purpose of the Prussian minister was to force the American life insurance companies doing business in Prussia to withdraw their business from that Government. The correspondence discloses that the minister only made requirements; but it also discloses that as soon as one difficult requirement was complied with another was made upon the company, and when that was met another still more difficult was made; and so on, until it was made manifest and beyond question that the Prussian Government, through its minister, was determined to force the American companies to abandon their business in Prussia. It has succeeded, and the Equitable Life Assurance Society, the Mutual Life Insurance Company, and the New York Life Insurance Company, all American companies, have each successively been compelled to withdraw their business from Prussia at great loss. It is easy to see through the filmy meshes of sophistry with which the Prussian minister seeks to cover up this transaction, and make it appear that the companies refused to comply with the requirements of the Prussian Government. It is equally apparent that the requirements were made successively with the deliberate and fixed purpose of forcing the companies to abandon Prussia.

As an American citizen, and as an official of a sovereign State of the United States, clothed with authority to superintend and supervise all matters of insurance companies doing business in the State of Missouri, including the authority to admit them to this State, and backed up by the retaliatory statutes of the State of Missouri, which require me to mete out to companies of other States and Governments the same treatment that those States or Governments mete out to companies that are foreign to them, I shall be compelled to deal with companies of Prussia as the Prussian Government has dealt with American companies.

I desire to call your attention thus early to this matter and to say to you in all frankness that I shall not be influenced one moment by the diplomatic veneering and sophistry of the Prussian minister, and that unless this action of the Prussian Government is modified and just treatment is accorded to American companies having large interests in Prussia and other parts of the German Empire, it is now my purpose to refuse to insurance companies of Prussia a renewal of their authority to do business in the State of Missouri on the 1st of next February, when their present authority will expire.

I have to express the hope that before that time such action may be had and such reconsideration made as that the Prussian Government will have revoked its harsh orders and extended to American companies such a liberal policy as will enable them to continue to transact their business within its jurisdiction, and that I may thus be saved the disagreeable duty of enforcing the strong measure which I have now in contemplation, and which I have above indicated.

I am, etc.,

JAMES R. WADDILL,
Superintendent.

Mr. THEODORE W. LETTON,
Manager Prussian National Insurance Company of Stettin, Prussia,
Chicago, Ill.

Mr. Olney to Mr. Runyon.

No. 490.] DEPARTMENT OF STATE,
Washington, December 7, 1895.

SIR: Referring to a letter of this date, inclosing a communication from the governor of the State of New York, together with copies of communications from the superintendent of insurance of the State of Missouri, I send you herewith copy of letter to this Department from superintendent of insurance of the State of New York, from which it

appears that he has requested Mr. Poultney Bigelow to act as his representative with the proper officers of the Kingdom of Prussia in reference to the subject-matter of his letter.

Please do anything in your power to facilitate the objects of Mr. Bigelow's mission, by giving him access to the proper Prussian officials or otherwise.

Respectfully, yours, RICHARD OLNEY.

Mr. Runyon to Mr. Olney.

No. 432.] EMBASSY OF THE UNITED STATES,
Berlin, December 18, 1895. (Received January 11, 1896.)

SIR: I have the honor to report that a few days ago I was apprised for the first time by persons acting in the interest of The New York Life Insurance Company that that company, a short time before the withdrawal of its concession, delivered to the proper Prussian authorities certain documents attesting to the soundness of the company and showing conformity (in accounting) on its part with the regulations of the Prussian Government, and that no reply thereto was received. In view of the declaration of the Imperial secretary of state for foreign affairs in his recent speech in the Imperial Parliament, a report of which, with translation, I had the honor to send to you some days ago (see Dispatch No. 422, of December 10, 1895), that if the American insurance companies are desirous of doing business in Prussia, all they have to do is to conform to the regulations, I immediately sent duplicates of the papers above mentioned to the foreign office, and soon after sought and obtained an interview with Baron von Marschall in reference to the matter. As to The New York Life Insurance Company, I received an assurance that the subject would be considered by the new Prussian minister of the interior in view of the papers above referred to.

I have, etc.,

THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

No. 499.] DEPARTMENT OF STATE,
Washington, December 19, 1895.

SIR: Referring to previous correspondence relative to certain action of the German authorities inimical to the interests of American insurance companies doing business in Germany, I inclose for your information a copy of a letter, dated the 16th instant, from Mr. James F. Pierce, superintendent of insurance of the State of New York, inclosing an original communication from the insurance commissioner of the State of Massachusetts to Mr. von Koller, minister of the interior of the Kingdom of Prussia, in relation to the very burdensome restrictions which the German authorities have imposed upon American life insurance companies.

You are instructed to make such use, in your discretion, of the accompanying papers as will, in your judgment, best promote the very important American interests concerned.

I am, etc., RICHARD OLNEY.

[Inclosure 1 in No. 499.]

The Superintendent of Insurance of the State of New York to Mr. Olney.

STATE OF NEW YORK, INSURANCE DEPARTMENT,
Albany, December 16, 1895. (Received December 17.)

SIR: I beg respectfully to ask your attention to the fact that a letter, a copy of which is inclosed, has been sent to the minister of the interior of the Kingdom of Prussia by the commissioner of insurance of the State of Massachusetts. Inasmuch as the views therein expressed are in substantial accord with those given at somewhat greater length in the letter of this Department, dated November 27, 1895, which I had the honor to transmit through the good offices of the ambassador of the United States in Berlin, favored by your kind instructions, I beg respectfully to suggest that if it be consistent with your views the inclosed letter be communicated through the same agency for the information of the foreign office of the German Empire.

It is but one of many indications of the impression made upon public opinion in the United States by the recent action of the Prussian Government toward the life insurance institutions in this country, referred to by the President of the United States in his recent message to Congress.

I have, etc.,

JAMES F. PIERCE,
Superintendent of Insurance of the State of New York.

[Inclosure 2 in No. 499.]

The insurance commissioner of the State of Massachusetts to Mr. Von Koller.

COMMONWEALTH OF MASSACHUSETTS, INSURANCE DEPARTMENT,
Boston, November 25, 1895.

DEAR SIR: As the official of the Commonwealth of Massachusetts charged with the supervision of insurance both domestic and foreign, my attention has been called to the action of your Government in relation to the three largest life insurance companies of the United States of America heretofore transacting business in Prussia; and after consultation with my brother officials of other Commonwealths, I am impelled to write to you that there is a very widespread feeling of indignation among such insurance officials in this country at the manner in which your Government has seen fit to treat the American companies, and a very vigorous demand is being made in this country for the enforcement against the fire and marine insurance companies of Prussia of the retaliatory sections of the laws of the several States of this Union.

In my own judgment it is not altogether so much the very burdensome restrictions which you have seen fit to impose upon the American life-insurance companies as the manner in which those companies and their representatives have apparently been treated by your Government, and it becomes a serious question for the State officials of the United States to consider when by your Government the broad seal of the States of this Union, accompanied by a certificate under seal of the United States of America, is apparently contemptuously cast aside and given no weight or consideration whatever, and the representatives of the American companies denied a fair hearing which they asked before the representatives of your Government, whether the time has not come when the supervisors of insurance in the several States of this Union must not take some action in regard to your own companies, of whatever character, now transacting business in the United States.

I have this morning a letter upon this matter from the Prussian National Insurance Company, now transacting business in Massachusetts, and in reply have written very much in the tenor of this letter, and I feel bound to communicate to you an expression of the feeling which is becoming very widespread in all the States of this Union.

Respectfully, yours,

[SEAL.]

GEO. S. MERRILL,
Insurance Commissioner.

[Subinclosure to inclosure 2 in 499.]

COMMONWEALTH OF MASSACHUSETTS, SECRETARY'S OFFICE,
Boston, December 13, 1895.

I hereby certify that at the date of the attestation hereunto annexed George S. Merrill was the insurance commissioner for the said Commonwealth duly appointed

and qualified, and that to his acts and attestations as such full faith and credit are and ought to be given, in and out of court.

In testimony of which I have hereunto affixed the seal of the Commonwealth the date first above written.

[SEAL.]

WM. M. OLIN,
Secretary of the Commonwealth.

Mr. Olney to Mr. Runyon.

No. 510.] DEPARTMENT OF STATE,
Washington, January 3, 1896.

SIR: Referring to the Department's instruction, No. 499, of the 19th ultimo to you, relative to previous correspondence concerning certain action of the German authorities inimical to the interests of American insurance companies doing business in Germany, I inclose an original communication dated the 23d ultimo from the insurance commissioner of the State of Connecticut, addressed to the Prince von Hohenlohe, chancellor of the German Empire, in relation to the subject in question.

You are instructed to make such use, in your discretion, of the accompanying paper as will, in your judgment, best promote the very important American interests concerned.

I am, sir, etc.,

RICHARD OLNEY.

[Inclosure in No. 510.]

Mr. Betts to Mr. Olney.

STATE OF CONNECTICUT,
OFFICE OF THE INSURANCE COMMISSIONER,
Hartford, December 23, 1895. (Received December 31.)

SIR: Permit me to request that you will have forwarded through the proper channels to Prince von Hohenlohe, chancellor of the German Empire, the accompanying communication from the department of insurance of the State of Connecticut.

Believe me, very truly, yours,

FREDERICK A. BETTS,
Commissioner.

[Subinclosure in No. 510.]

Mr. Betts to Prince von Hohenlohe.

OFFICE OF THE INSURANCE COMMISSIONER,
Hartford, December 23, 1895.

SIR: The undersigned, the commissioner of insurance of the State of Connecticut, desiring to communicate with the proper authorities of the Kingdom of Prussia, and learning that the late minister of the interior of that Kingdom, in whose jurisdiction is the supervision of the insurance business, has resigned his office, begs leave respectfully to address this communication to your excellency, as president of the Prussian ministry, and to ask the attention of your excellency to the following facts:

It has been represented to me by certain corporations chartered by the authority of the State of New York, and doing business in every State of the United States, and in particular in the State of Connecticut, that recent official acts of the department of the interior of the Kingdom of Prussia have been oppressive in their nature and have resulted in great loss and damage to the business of these companies; that in particular the Mutual Life Insurance Company, the New York Life Insurance Company, and the Equitable Life Insurance Society of New York City, have each at different times obtained from that department concessions to transact insurance business within the Kingdom of Prussia, and as soon as their investments in the Kingdom have been made and their success in such business secured, they have been

met by the Department with successive decrees imposing upon them conditions of continuance in such business which were increasingly burdensome, and finding it impossible to comply with such decrees, have either withdrawn under compulsion from Prussia, or have been excluded therefrom.

Convinced that the fundamental principle of all business relations between countries subject to different jurisdictions is one of true reciprocity, I beg respectfully to say that the insurance department of Connecticut will do everything in its power to maintain true principles of reciprocity in such cases. If the facts brought to my attention are correct, it is plain that the action of your department of the interior is not in harmony with the liberty and reciprocity guaranteed by the treaty entered into in 1828 between the United States and the Kingdom of Prussia, wherein the contracting powers granted each to the other "liberty and reciprocity of commerce and of navigation." That reciprocity of commerce includes reciprocity in the insurance business is an accepted doctrine in the interpretation of all such treaties. That this reciprocity has been violated in the measures adopted by the interior department of the Kingdom of Prussia toward the companies in question can not, I think, be successfully disputed, if the representations made to me are true.

As commissioner of insurance of the State of Connecticut, I respectfully call upon your department for a formal statement of the reasons for the alleged unjust treatment of the American companies referred to in this communication. It has seemed to me wise to ask your excellency's attention to these facts, and to request, with respect, that you will direct a reconsideration of the action of the department of the interior, to which reference has been made.

I remain, yours, respectfully, FREDERICK A. BETTS.

Mr. Runyon to Mr. Olney.

No. 445.] EMBASSY OF THE UNITED STATES,
Berlin, January 5, 1896. (Received January 17.)

SIR: Referring to my dispatch No. 432, of December 18 last, relating to the incidents of an interview which I had had a few days before that date with Baron von Marschall, the imperial secretary of state for foreign affairs, in regard to the action of the Prussian authorities in respect to American insurance companies, and the action of the German Government as to the exclusion of American cattle and fresh beef, I would now add that I have to-day had another interview with the same high official upon the same subjects, but principally upon the former. In my dispatch above mentioned I state that the imperial secretary assured me that the subject of the withdrawal of the concessions from the insurance companies would be considered by the new Prussian minister of the interior, Baron von der Recke. To that end I requested him to send the papers which I had furnished him in the matter to the new minister if he had not already done so, and he promised that if the papers had not already gone they would be sent.

In the conversation of to-day, I may remark, opportunity was afforded to make use of the communication from Mr. George S. Merrill, insurance commissioner of the State of Massachusetts, to Mr. von Koeller, the late Prussian minister of the interior, a copy of which was sent me, with your instruction, No. 499, of December 19 last, and to a certain extent of some of the facts furnished me in your instruction, No. 497, of December 18, and I availed myself of the occasion. In the conversation the imperial secretary informed me that the promised reconsideration (referred to in my dispatch) of the matter of the withdrawal of the concessions would take place, and that the subject would be referred by the new Prussian minister to new experts.

I have, etc.,

THEODORE RUNYON.

Mr. Runyon to Mr. Olney.

No. 446.] EMBASSY OF THE UNITED STATES,
Berlin, January 6, 1896. (Received January 17.)

SIR: Referring to your instruction, No. 490, of the 7th of December last, informing me that the superintendent of insurance of the State of New York had requested Mr. Poultney Bigelow to act as his representative with the proper officers of the Kingdom of Prussia in reference to the subject-matter (American insurance companies in Prussia) of a letter from the superintendent to the State Department, and requesting me to do anything in my power to facilitate the objects of Mr. Bigelow's mission by giving him access to the proper Prussian officials or otherwise, I beg leave to say that in accordance with that instruction I have furnished Mr. Bigelow with all desired means of access to the officials referred to and have otherwise given him all the assistance in my power to further the objects of his mission. He informs me that he has called upon all the officials, Imperial as well as Prussian, whom it was thought desirable to see, and he has made full daily reports of his proceedings to his principal, the superintendent of insurance of New York. I may add that his action in discharge of his duty in the premises has been taken after consultation with me, and he has advised with me as to all his steps, and has, I believe, in all things been governed by my judgment.

I have, etc., THEODORE RUNYON.

Mr. Runyon to Mr. Olney.

No. 456.] EMBASSY OF THE UNITED STATES,
Berlin, January 19, 1896. (Received February 1.)

SIR: Referring to my dispatches, No. 432, of December 18 last, and No. 445, of the 5th instant, I have the honor to inform you that I am to-day in receipt of a note from Baron von Marschall, the Imperial secretary for foreign affairs, in which I am informed that certain documents which had been transmitted by me to him on December 14, relating to the case of the New York Life Insurance Company, had been communicated to the new Prussian minister of the interior, and that Baron von der Recke, the minister in question, had in his reply stated that he intended without delay to reconsider the matter of the withdrawal from Prussia of the three American life insurance companies.

Under these circumstances it seems to me to be advisable not to transmit, for the present at least, to Prince Hohenlohe, the chancellor of the Empire, the letter from the insurance commissioner of the State of Connecticut, which was inclosed with your instruction of the 3d instant (No. 510), received yesterday.

I have, etc., THEODORE RUNYON.

ARREST OF LOUIS STERN AT KISSINGEN.

Mr. Adee to Mr. Jackson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 25, 1895.

It is reported that Louis Stern, wealthy and honorable New York merchant, is in trouble at Kissingen, charged with insulting German official. Ascertain facts and do all you properly can.

ADEE, *Acting.*

Mr. Jackson to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, July 28, 1895.

Unless otherwise instructed I shall on Monday authorize consular officer at Bamberg to transmit a petition in case of Stern to Bavarian secretary of state, but not to indorse same officially.

JACKSON, *Chargé.*

Mr. Adee to Mr. Jackson.

No. 368.] DEPARTMENT OF STATE,
Washington, July 30, 1895.

SIR: I append on the overleaf copy of your telegram of the 28th instant concerning the case of Louis Stern, mentioned in my telegram of the 25th.

It is assumed that your statement relates to a petition by Mr. Stern himself. The individual right of petition is inherent and not to be denied by Germany nor interfered with by this Government. Under these circumstances the Department perceives no objection to the consular officer at Bamberg transmitting the petition, as you state, direct to the Bavarian secretary of state without official indorsement.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Jackson to Mr. Olney.

No. 322.] EMBASSY OF THE UNITED STATES,
Berlin, August 1, 1895. (Received Aug. 14.)

SIR: I have the honor to acknowledge the receipt, early in the morning of Friday, the 26th ultimo, of the Department's telegraphic instruction of the 25th.

I at once communicated by telegraph with Mr. Stern at Kissingen, asking him to let the embassy "know details of trouble" and to "suggest how embassy might assist," and on the same day, after receiving his reply, a copy of which will be found included in his letter to me of

the 27th ultimo (inclosure 1), I telegraphed to the United States commercial agent at Bamberg, whose name is also Louis Stern, asking him to inform me of the details of the case, and asking what he had done and what he proposed doing. Through an error, the first of his answering telegrams (inclosure 2, A) did not reach me until Sunday morning, while the second (inclosure 2, B) came at the proper time. After both these telegrams had been received, on Sunday, July 28, I cabled the Department.[1]

At the same time I sent the letter to the U. S. commercial agent at Bamberg, a copy of which is inclosed (No. 3).

On Monday morning, the 29th, I received from Dr. Loewenfeld (Mr. Stern's lawyer at Munich) a letter transmitting a copy of the petition, referred to above (inclosure No. 4, with translation), and its accompaniments consisting of a report on the case, 99 pages long; a letter of apology addressed by Mr. Louis Stern to Baron von Thuengen on July 19, a week after the incident at the Casino; circular letter to diplomatic and consular officers, dated State Department, February 23, 1894; certain depositions and letters as to Mr. Stern's reputation and also showing that it had been his intention to leave Kissingen about July 16, etc.; all these documents being in the German language.

After looking through these papers I telegraphed to the U. S. commercial agent at Bamberg and authorized him to send a copy of them to the Bavarian ministry at once, and at the same time I notified Consul-General Mason, at Frankfurt, that I had done so. The same afternoon I called at the Bavarian legation in this city, and after an interview with the minister, Count Lerchenfeld, in which I showed him the documents sent me by Mr. Stern's lawyer, and mentioned the damage which would be done to the reputation of Kissingen as a place of resort should it become understood that Americans coming before the courts would be treated with such severity, and in which I asked him to inform his Government that this embassy supported the petition which had been sent in from Bamberg, I wrote the letter to Mr. Stern, at Kissingen, a copy of which is also inclosed (inclosure No. 5).

Late on Tuesday evening I received another telegram from Mr. Stern, Kissingen, which, after a second interview at the Bavarian legation, I answered by letter yesterday afternoon, July 31 (inclosures Nos. 6 and 7).

As I told Mr. Stern in my last letter to him, I have not felt at liberty to assume that the Bavarian courts would treat his case in a manner otherwise than that prescribed by law. As far as I have been able to ascertain, everything which has been done so far has been legally correct, although it appears that the law has been applied with more than usual severity. I have purposely refrained from any discussion of the merits of the case, either with Mr. Stern or at the Bavarian legation, as, on account of the independent position of the courts, a discussion of points, a decision upon which rested solely with the court, would not only be purposeless, but, in my opinion, improper. There are, of course, at least two stories about the incident itself, as well as to what happened before and after it, and even with regard to the circumstances connected with the giving of bail there is a dispute. It is admitted, however, that when, on the evening of July 11, Baron von Thuengen told Mr. Stern's son that he must not dance at the ball on account of his not being 15 years of age, and when Baron Thuengen expressed doubt as to the truth of Mrs. Stern's statement that the boy was more than 15, Mr.

[1] See ante, p. 454.

Stern did use threatening language, and upon the strength of this he is charged with a breach of the peace and with interfering with an officer in the performance of his duty; and as the boy was introduced into the Casino upon a ticket for a child under 15 years of age, on account of the subsequent statement that he was more than 15 a further charge of fraud has been made.

It did, however, seem proper to remark upon the unusually large amount of bail which was accepted, and upon the severity shown in requiring Mr. Stern to remain in Kissingen, at or near his hotel, after this large sum (80,000 marks, about $20,000) had been deposited. I felt at liberty also to request that the Bavarian Government use its influence toward having the matter settled at the earliest possible date.

I shall at once report any further developments, and would be much gratified to learn that my action in the matter has met with the approval of the Department.

I have, etc., JOHN B. JACKSON.

[Inclosure 1 in No. 322.]

Mr. Stern to Mr. Jackson.

HOTEL DE RUSSIE,
Kissingen, July 27, 1895.
(Received July 29.)

MY DEAR SIR: I answered your telegram of yesterday as follows:

Many thanks for telegram. Consul Stern, from Bamberg, was here to investigate, and intends to protest in Munich to-morrow or Monday. Kindly put yourself in communication with him, as he is thoroughly familiar with the affair. My lawyer in Munich, Rechtsanwalt Loewenfeld, will forward you to-morrow a full statement of the case.

I hope you will be in possession of the papers from Munich before this reaches you. It affords me much pleasure to add that both Messrs. Carpenter and Stern, respectively, consuls at Fürth and Bamberg, and particularly the latter, were indefatigable in their attention and advice.

Permit me again to thank you for your prompt attention to my case, and believe me,

Yours, very truly, LOUIS STERN,
Of Messrs. Stern Brothers, New York.

[Inclosure 2 in No. 322.—Telegrams.]

Mr. Stern (U. S. commercial agent at Bamberg) to Mr. Jackson.

A. (received at embassy July 28).

DEUTSCHE BOTSCHAFT, *Berlin:*

By order of Consul-General Mason I went to Kissingen; investigated Stern case. Stern, prominent business man, and his wife were offended by assistant "bade commissär" von Thuengen at public ball and Stern offered to slap Thuengen's face. Did not know Thuengen's official capacity. Stern was arrested; gave 80,000 marks bail, but is not allowed to leave Kissingen or even take a ride. Americans at Kissingen, headed by W. W. Astor and other prominent men, will send protest, a copy of which is sent to embassy to-day, to Bavarian minister of justice. Protest gives true history of case. Public sentiment seems

to be entirely on Stern's side. It is a case of cruel prosecution. Will embassy allow me to lodge protest with Bavarian secretary of state? Please wire. According to Stern's desire, I did not notify embassy till that protest was ready.

LOUIS STERN,
U. S. Commercial Agent at Bamberg.

B. (received July 27).

AMERICAN EMBASSY, *Berlin:*

I forgot to wire that I only was informed of the case ten days after it happened. Since then I worked day and night to assist Stern, who first did not want to make the case public.

LOUIS STERN,
U. S. Commercial Agent at Bamberg.

C. (received July 29).

AMERICAN EMBASSY, *Berlin:*

Document sent by Stern's lawyer explains everything, and was drawn with my assistance. Protest of Americans has been filed. Stern wants me to file history of the case with Bavarian secretary of state. Please instruct me if I can do it officially.

LOUIS STERN,
U. S. Commercial Agent at Bamberg.

[Inclosure 3 in No. 322.]

Mr. Jackson to the U. S. commercial agent at Bamberg.

M. No. 7321.] EMBASSY OF THE UNITED STATES,
Berlin, July 28, 1895.

SIR: Yesterday morning I received the second telegram you sent me in the matter of Mr. Louis Stern's trouble at Kissingen. The first one was addressed to the "Deutsche Botschaft," and has only just been received from the Imperial foreign office. Before advising or instructing you in the matter I shall await the receipt of the copy of the petition which is now, I understand, on its way to the embassy. My impression now is that it would be quite proper for you, under the circumstances, to transmit the petition to the Bavarian minister of state, but that you should not officially indorse it.

It has always been the rule here, in the absence of special instructions, not to put the United States Government in the position of asking a favor (or what might be considered one) where the refusal to grant such favor might cause embarrassment.

I shall telegraph you to-morrow on the receipt of your letter.

I am, etc.,

JOHN B. JACKSON,
Chargé d'Affaires.

[Inclosure 4 in No. 322—Translation.]

PETITION.

To the Royal Ministry of State for the Royal Household and for Foreign Affairs:

Relating to the petition of the undersigned for legal protection in the case of an American citizen confined at Kissingen:

The undersigned American citizens and those connected with German-American

interests take the liberty of most respectfully requesting the protection of the Royal Government, in the affair mentioned in the inclosures, for Mr. Louis Stern, of New York, a highly esteemed American citizen, who, according to their conviction, is unjustly and unlawfully deprived of his liberty at Kissingen. They do this not only because the conviction is of great personal value to them and to all others sojourning in Kissingen that they are in a position of disinterested unimpeachable legal security, but also because they consider that Mr. Louis Stern is in every way worthy of the protection requested.

Baths of Kissingen, July 24, 1895.

(Signatures.)

[Inclosure 5 in No. 322.]

Mr. Jackson to Mr. Stern.

M. No. 7326.] EMBASSY OF THE UNITED STATES,
Berlin, July 29, 1895.

SIR: Your letter of the 27th instant was received this morning, and about noon I received Dr. Loewenfeld's full report of the case. Until then I was unable to take any action; my instructions, received Friday morning from the State Department, were to ascertain the facts and to do all I properly could, but before Dr. Loewenfeld's letter was received there was nothing upon which I could base any action.

Just here let me say that no information regarding your case was given by me or anyone connected with this embassy to the newspapers until after the story had appeared in the Frankfort on the Main papers.

As soon as I received my instructions from Washington I telegraphed you, and on the receipt of your first telegram I communicated with the U. S. commercial agent at Bamberg, but his reply, owing to its having through some error been addressed to the "Deutsche Botschaft," did not reach me until Sunday (yesterday) morning.

As soon as I had an opportunity of looking through the inclosures of Dr. Loewenfeld's letter, I telegraphed an authorization to the U. S. commercial agent at Bamberg to send a copy of the petition to the Bavarian ministry at once. This afternoon I have had an interview with the Bavarian minister, Count Lerchenfeld, here and he has telegraphed to his Government that the embassy supports the petition sent in from Bamberg.

Count Lerchenfeld at the same time pointed out to me that in so far as the proceedings against you have been legally taken, the Bavarian Government would not be able to interfere with the judicial authorities, though it might have a certain influence over them.

Please let me hear from you if anything new happens, or if you have any suggestions to make.

I am, etc.,

JOHN B. JACKSON,
Chargé d'Affaires.

[Inclosure 6 in No. 322.—Telegram received July 30, 1895.]

Mr. Stern to Mr. Jackson.

Have your letter. Aside from the merits of the case, I am detained here after giving 80,000 marks bail, and as yet have not been heard before any court.

LOUIS STERN.

[Inclosure 7 in No. 322.]

Mr. Jackson to Mr. Stern.

M. No. 7336.] EMBASSY OF THE UNITED STATES,
Berlin, July 31, 1895.

SIR: Your telegram was received late last night. As you already know, the Bavarian Government has been informed that this embassy supports the petition which has been submitted in your behalf. According to section 120 of the German law of February 1, 1877, an accused person may be arrested, although bail has been given for him, if he makes preparations for flight—that is, for removing himself from the jurisdiction of the court. Under my instructions, I do not feel at liberty to act on an assumption that the Bavarian courts will treat your case in a manner otherwise than that prescribed by law. I can, therefore, only urge that the law may not be applied in its extreme severity, and this I did in my interview with Count Lerchenfeld on Monday.

To-day I have again called at the Bavarian legation and, no reply having as yet been received from Munich, I asked that the Bavarian Government be requested, if it could not direct the court at Kissingen, on account of its independent position, to allow you liberty to travel with your family, etc., to use its influence toward having the matter settled at the earliest possible date.

If you can suggest anything else which you would like me to do I shall gladly consider it.

Your obedient servant, JOHN B. JACKSON,
Chargé d'Affaires.

Mr. Jackson to Mr. Olney.

No. 323.] EMBASSY OF THE UNITED STATES,
Berlin, August 2, 1895. (Received Aug. 14.)

SIR: Respectfully referring to my dispatch, No. 322, of yesterday's date, I have the honor to inform you that the Bavarian minister here, Count Lerchenfeld, called on me this afternoon and showed me a copy of a communication which had yesterday been sent by the Bavarian Government to the United States commercial agent at Bamberg, in reply to the petition which had been submitted in behalf of Mr. Louis Stern.

In this communication it is stated that the action of the Bavarian ministry is confined to narrow limits, partially on account of the independent position of the courts, and partially on account of the grievousness of the offense given by Mr. Stern to Baron Thuengen. In regard to this, however, the ministry has taken measures with a view to bringing about a satisfactory settlement, in order that either the complaint made by Baron Thuengen may be withdrawn, or, if this be not practicable, the public prosecutor may be enabled to have a relatively mild punishment imposed.

As proceedings have already been begun on the charge of resistance to an officer in the discharge of his duties, these must take the usual course in the courts. It has been so arranged, however, in order that the punishment may be as mild as practicable, that these proceedings will be taken in one of the minor courts—the "Schöffengericht" at Kissingen—and not at the "Landgericht" at Schweinfurt.

As Mr. Stern has agreed to refrain from any action which under section 120 of the law of February 1, 1877, might be construed as being an attempt at flight, the restriction as to his taking drives in the neighborhood of Kissingen has been removed.

In this connection I desire particularly to make known to the Department my appreciation of the courtesy shown me by the officials of the Bavarian legation here, of their readiness to comply with the requests made in the name of the embassy, and of the prompt and considerate action taken by them on every occasion.

I have, etc., JOHN B. JACKSON,
Chargé d'Affaires.

Mr. Jackson to Mr. Olney.

[Telegram.]

BERLIN, *August 6, 1895.*

Everything thought proper has been done in behalf of Stern, who was nevertheless sentenced to fine and imprisonment for two weeks. His only recourse, to appeal or to petition for pardon, which, in the absence of instructions, embassy would not feel at liberty to support.

JACKSON, *Chargé.*

Mr. Jackson to Mr. Olney.

No. 329.] EMBASSY OF THE UNITED STATES,
Berlin, August 8, 1895. (Received Aug. 20.)

SIR: Respectfully referring to my dispatch, No. 323, of the 2d instant, relative to the case of Mr. Louis Stern, at Kissingen, I have the honor to inclose herein copies of certain correspondence in the matter, and to report further in regard to it.

On the 2d instant, after the dispatch above referred to had been written, I sent a letter to Mr. Stern, and on the 3d and 4th instant I received letters from him, copies of all of which are herein inclosed (Nos. 1, 2, and 3).

The trial took place on Monday, the 5th, and it appears from a letter from the U. S. commercial agent at Bamberg, of the 7th instant (inclosure No. 7), which I received to-day in reply to my letter to him of the 6th (inclosure No. 5), that Mr. Stern "was found guilty of having resisted the authority of the State, and of having insulted a Royal official; and was sentenced to two weeks' imprisonment and to pay a fine of 600 marks," the charge of fraud having apparently been dropped. Mr. Stern had on the day after the trial sent me a telegram asking advice, to which I replied by telegram (inclosure No. 4) and letter (inclosure No. 6), and after the receipt of which I cabled (on the 6th instant) the Department.

The sentence in the case was a surprise to everybody. It was a foregone conclusion that Mr. Stern would be found guilty, but a fine was all that was expected, and that, it appears, is all that was asked for by the prosecuting officer. The Bavarian Government did all it could to bring about such a result, and only the independence of the judge made a sentence of imprisonment possible.

I saw Count Lerchenfeld again last night, and was told by him that the only way in which Mr. Stern could avoid going to jail would be by pleading for and obtaining a pardon or a commutation of the sentence from the prince regent of Bavaria—advice which I had already given Mr. Stern.

A copy of my letter to the U. S. commercial agent at Bamberg (inclosure No. 5) was transmitted to Consul-General Mason, at Frankfort on the Main, and to-day I received a letter from him (inclosure No. 8) commenting upon it, and to this I have replied that I think it advisable that the U. S. commercial agent at Bamberg, should make a report to the Department of State upon the whole case.

I have, etc., JOHN B. JACKSON.

[Inclosure 1 in No. 329.]

Mr. Jackson to Mr. Stern.

M. No. 7344.] EMBASSY OF THE UNITED STATES,
Berlin, August 2, 1895.

SIR: Respectfully referring to my letter to you of the 31st ultimo, M. No. 7336, I have to inform you that the Bavarian minister here called on me this afternoon and showed me a copy of a letter[1] addressed by his Government to the U. S. commercial agent at Bamberg, in reply to the petition submitted in your behalf. As the U. S. commercial agent has probably already shown you the letter, I need not communicate its contents to you. I venture, however, to express the hope that it may be found possible for you to arrange with Baron Thuengen as indicated in the letter. I am told that other matters will be settled as speedily as possible.

I am, etc., JOHN B. JACKSON,
Chargé d'Affaires.

[Inclosure 2 in No. 329.]

Mr. Stern to Mr. Jackson.

HOTEL DE RUSSIE,
Kissingen, August 2, 1895.

MY DEAR SIR: I have your favor of the 31st ultimo, and taken note of its contents.

The authorities here informed me last Wednesday that I was at liberty to leave Kissingen, but as the trial has been set for next Monday morning I will remain.

The charge that I was making preparations for flight was simply trumped up, for on the day of the occurrence my family had been here three weeks, the usual stay for guests taking the cure; furthermore, the proprietor and parties testify, as you will perceive from the documents sent you from Munich, that I had given them notice on the 10th of July of my intention to leave the following Tuesday. I have asked Consul Carpenter, from Fürth, and the U. S. commercial agent at Bamberg, to be present at the trial Monday morning.

With many thanks for the interest you are taking in my behalf, I remain,

Yours, very truly, LOUIS STERN.

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[1] See p. 465, *post.*

[Inclosure 3 in No. 329.]

Mr. Stern to Mr. Jackson.

HOTEL DE RUSSIE,
Kissingen, August 3, 1895.

MY DEAR SIR: In answer to yours of the 2d, received to-day, I beg to state that the U. S. commercial agent at Bamberg sent me a copy of the letter he received from the Bavarian Government, and my lawyer has been conferring with the authorities here, without any result, for the reason that the retraction demanded by the gentleman was such that, considering the wide publicity the affair has now reached, I could not conscientiously sign the same.

Will inform you of the result of the trial by telegraph Monday.

Most respectfully, yours,

LOUIS STERN.

[Inclosure 4 in No. 329.—Telegrams.]

Mr. Stern to Mr. Jackson (received August 6, 1895).

Verdict a surprise. While even prosecuting attorney proposed fine, judge pronounced two weeks' imprisonment and 600 marks. Do not know at present what further steps I will take. Please advise me how embassy thinks about the matter.

LOUIS STERN.

Embassy to Mr. Stern (sent August 6, 1895).

If appeal to higher court thought useless, your only recourse is to petition for pardon. Sentence has been reported to State Department.

EMBASSY.

[Inclosure 5 in No. 329.]

Mr. Jackson to the U. S. commercial agent at Bamberg.

M. No. 7355.] EMBASSY OF THE UNITED STATES,
Berlin, August 6, 1895.

SIR: Please transmit to the embassy directly and as soon as possible a copy of the letter addressed to you by Baron von Crailsheim on the 1st instant in regard to the case of Mr. Louis Stern, Kissingen. This copy should have been sent through the consulate-general at Frankfort as soon as the letter was received, but in view of the delay which would be occasioned if this, the proper course, were now followed, you are authorized to send the copy to the embassy directly, and at the same time to report on the trial, which it is understood took place yesterday, and upon any decision which may have been given.

Your attention is also called to paragraph 396 of the Consular Regulations of 1888.

I am, etc.,

JOHN B. JACKSON,
Chargé d'Affaires.

[Inclosure 6 in No. 329.]

Mr. Jackson to Mr. Stern.

M. No. 7363.] EMBASSY OF THE UNITED STATES,
Berlin, August 7, 1895.

SIR: I have to acknowledge the receipt of your letters of the 2d and 3d instant and of your telegram of yesterday, to which I at once replied. I am very sorry that you were not able to come to a satisfactory understanding with Baron Thuengen, as, after reading your letter to him of the 19th ultimo, I had anticipated no difficulty on that score. Now, it seems that on his complaint the more severe sentence has been given; at least that is the impression which I receive from the newspaper report—the only report which I have seen as yet. I doubt, moreover, if an appeal to a higher court would be of any advantage. Count Lerchenfeld told me that, on account of the embassy's supporting the petition in your behalf, it had been arranged that the trial should take place in a minor court, in order that the sentence might be a mild one, and it seems doubtful, therefore, whether the sentence would be reduced on appeal, and the delay occasioned by such an appeal would certainly be disagreeable. Certain well-meant but overzealous action on the part of your friends—particularly in the way of sending notices to the newspapers—has, as I am informed, stirred up a feeling of antagonism which can not fail to be prejudicial to your interests. As you have probably seen, the action of the embassy in interesting itself at all in the case has been severely criticised in some quarters.

I have, as it is, done everything which I thought I could properly do in your behalf, and I have at the same time held myself ready for any suggestion from you as to further action; and now, barring an appeal, the only course which in my opinion is open to you with any prospect of advantage to you arising from its adoption is an appeal to the clemency of the prince regent of Bavaria, either that the sentence of imprisonment should be commuted into a fine or for an entire pardon. Should you make such a petition it would be greatly to your interest if your friends or lawyers would refrain from any attempt to influence public opinion through the press.

I am, etc.,

JOHN B. JACKSON,
Chargé d'Affaires.

[Inclosure 7 in No. 329.]

The U. S. commercial agent at Bamberg to Mr. Jackson.

UNITED STATES COMMERCIAL AGENCY,
Bamberg, August 7, 1895.

SIR: In receipt of your favor, dated the 6th instant. I beg leave to include a copy of a communication addressed to me by the Bavarian minister of foreign affairs in response to my protest sent at the authorization of the United States embassy. This copy would have been transmitted previous to this had it not been for the fact that the Stern case at Kissingen occupied all my attention and gave me more work than I could attend to. I regarded it as my duty, not only as an official of the United States Government, but as an American citizen, to aid Mr. Stern by every means in my power, and more especially to

influence public opinion, which at first was opposed to Mr. Stern as a foreigner, in his favor. To this effect I telegraphed to the New York Herald (Paris edition), controverting the entirely incorrect and misleading statements published by it. In so doing I regarded my action as a service in helping an American to secure his rights, but was not conscious of having violated the provisions of paragraph 396 of the Consular Regulations of 1888. With the exception of the instance cited, no communication has been given by me to the press.

The result of the trial which I attended last Monday, August 5, and which lasted uninterruptedly from 8.30 a. m. until 6 p. m., Mr. Louis Stern, of New York, was found guilty of having resisted the authority of the State and of having insulted a Royal official, and was sentenced to two weeks' imprisonment and to pay a fine of 600 marks. The court appeared to consider the circumstance that Baron von Thüngen had first insulted Mr. Stern and his wife by doubting their word as of small moment, in spite of the fact that during the course of the trial Mr. Stern satisfactorily proved his son to be over 15 years of age.

As witnesses for Mr. Stern there appeared, besides myself, Mr. Adams, a member of the New York board of school inspection; Mr. Claussenius, Austrian consul-general in Chicago; Mr. Panizza, hotel proprietor; the porter of the hotel, and the district physician, Dr. Galser. The persons named testified to the honorable character and prominent position of the accused, as well as to the latter's state of health. It should not be forgotten that the State's attorney claimed only damages and no imprisonment; the judge, therefore, gave a heavier sentence than was demanded, remarking, nevertheless, at the same time that he had taken the exceptional moderating circumstances into consideration. Whether Mr. Stern, whom I left yesterday, will appeal from the verdict or petition the Crown to change the punishment by imprisonment to a corresponding fine is still undecided. I desire in this connection to state that in Kissingen itself no verdict calling for imprisonment was anticipated. As soon as the text of the verdict is in my possession I shall transmit the same to the embassy.

I think it advisable to remark in conclusion that in an unofficial as well as my official capacity (as far as I was authorized to proceed by my superiors in office) I made every effort to aid a countryman who, in my opinion and in that of many others, has been maltreated; this aid was appreciated by none more than by Mr. Stern himself. Nevertheless, I should not have proceeded officially in the matter and acted according to the instructions contained in Consular Regulations, if I had not been commissioned to do so, in the first instance by my immediate superior, Consul-General Mason, and, secondly, by the United States embassy. As the embassy refers me, by a statement in its favor of the 6th instant, to paragraph 396 of Consular Regulations, I would like to observe on this point that I am not conscious of having violated that paragraph or any of the other "regulations" in question, but am, on the contrary, convinced of having done my full duty as an officer of the Government and United States citizen, and feel satisfied of having accomplished everything possible under the circumstances.

I respectfully request the embassy to inform me whether I should transmit a copy of the proceedings and report of the case to the Department of State.

I am, etc.,

LOUIS STERN,
Commercial Agent of the United States.

[Subinclosure—Translation.]

Baron Crailsheim to the U. S. commercial agent at Bamberg.

No. 10379.] ROYAL BAVARIAN MINISTRY
OF THE ROYAL HOUSE AND FOREIGN AFFAIRS,
Munich, August 1, 1895.

SIR: In response to your communication bearing date of the 29th ultimo, I have the honor to reply as follows:

With the consideration of the accusation brought against Mr. Louis Stern, of New York, the ministers to whose departments the case can properly be referred have already been occupied. The functions of the ministers in this regard, however, are considerably circumscribed, partly due to the independence under the laws of the courts, partly to the severity of the insult offered by Mr. Louis Stern to the Royal district court assessor, Baron von Thuengen, in the latter's capacity as substitute bath commissioner, and which undoubtedly require corresponding atonement.

The ministers mentioned have, however, ordered that the efforts to bring about a reconciliation in the matter between Baron von Thuengen and Mr. Louis Stern be continued to the end that the accusation on the ground of insult be withdrawn, or, if this prove unfeasible, to have the State's attorney present a claim for a comparatively mild punishment.

As regards the accusation on the ground of resistance to the authority of the State, the only thing that now remains, after the Royal district court has decreed the opening of the case in the premises, is to await the result of the trial before the court and jury at Kissingen.

Concerning that portion of your honor's protest which treats of the refusal to let Mr. Louis Stern leave Kissingen and to take carriage rides, in fact, to avoid all actions which might be interpreted as attempt to escape, according to the sense of paragraph 120 of the criminal laws, I have the honor to inform you that, in conformity with a notice served at the Royal district court in Schweinfurt by the State's attorney, all such restrictions have since been withdrawn by order of court.

As the same recital of the facts in the case as given by your honor has reached me, in conjunction with the declaration of the impartial, i. e., nonparticipant American citizens whose names are likewise attached to your protest, I respectfully request your honor to inform the individuals in question of this communication to yourself.

Please be assured in this connection of my highest esteem.

VON CRAILSHEIM.

[Inclosure 8 in No. 329.]

Mr. Mason to Mr. Jackson.

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort on the Main, August 7, 1895.

SIR: I am duly in receipt of your communication, No. 7356, of yesterday's date, transmitting a copy of your letter of the same date to the commercial agent of the United States at Bamberg.

I have already noticed and called the attention of the U. S. commercial agent at Bamberg to the gross impropriety of his communication to the Paris New York Herald concerning the case of Mr. Stern, and referred him to paragraph 396 of the Regulations.

As the present incident is likely to have some importance I feel it due to the embassy to report that on Sunday, July 28, the morning after the incident at Kissingen, I telegraphed the U. S. commercial agent at Bamberg to go immediately to Kissingen, report to Mr. Stern, who I then understood to be under arrest, and do all in his power to protect him in his rights as a citizen of the United States.

Several days afterwards the U. S. commercial agent forwarded to me from his office in Bamberg copies of some of the documents in the case, all of which were in German. I returned the papers to him, with instructions to prepare a complete report of the entire proceeding, what

he had done in reference thereto, and to forward it, with the documents and translations of the same, through this office to the Department of State.

As you have requested him to furnish such a report to your embassy, I wish to inquire whether such report will be sufficient and will be transmitted by you to the Department, or whether I shall still require a copy of the same to be sent from here to the Department.

It will be of course remembered that the agency at Bamberg is a small office, with no allowance for clerk hire, and as the U. S. commercial agent has probably no assistance in copying, translating, etc., I wish to spare him unnecessary labor in that respect.

I am, etc., FRANK H. MASON,
Consul-General.

Mr. Adee to Mr. Jackson.

No. 378.] DEPARTMENT OF STATE,
Washington, August 8, 1895.

SIR: I append on the overleaf copy of your telegram of the 6th instant,[1] relative to the action of the German Government in sentencing a Mr. Stern to fine and imprisonment.

In the absence of any knowledge of the facts of the case, the Department can not now instruct you touching your support of a petition for the pardon of Mr. Stern. The right of the individual to exhaust legal remedies or to petition the Sovereign is obvious, and it is not to be supposed that the intervention of the embassy could be necessary to secure his enjoyment of either resort.

I am, etc., ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 12, 1895.

Stern's influential friends here invoke your good offices to have imprisonment changed to money fine. You will do what you can in that direction.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 344.] EMBASSY OF THE UNITED STATES,
Berlin, August 21, 1895. (Received Sept. 4.)

SIR: I have the honor to report the receipt of the telegram from the State Department of the 12th instant in regard to the case of Mr. Louis Stern, the facts of which are already known to the Department.

Mr. Stern, by telegraph, requested me to support his petition for a pardon or a commutation to a pecuniary penalty of the sentence of

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[1] See ante, p. 460.

imprisonment. His attorney, Mr. Bernstein, also conveyed, by telegram, Mr. Stern's wish on that subject to me, and in so doing referred to the fact that Mr. Stern had during the controversy—or perhaps during the litigation—offered to give for the poor of Kissingen 5,000 marks. In reply to the telegram I took occasion to say to Mr. Bernstein that I did not gather or understand from Mr. Stern's conversation with me that he was under any obligation to pay the 5,000 marks for the benefit of the poor, and I added that I did not understand to the contrary from him (Mr. Bernstein). I said also that it might be that the Bavarian Government would think that the authority of the law, if there had been an infraction of it, had been sufficiently vindicated by the judgment and sentence without enforcing the latter, and that, therefore, under the circumstances the public interest would be best subserved by a full and unqualified pardon.

To this Mr. Bernstein said, by letter, that Mr. Stern was not bound to such payment, but that by agreement with Mr. Stern he had stated in his petition for pardon or commutation that Mr. Stern was willing to pay the amount for the benefit of the poor in case the petition should be granted. I deem it proper to mention these facts as part of the history of the transaction.

Having been informed by Mr. Bernstein yesterday of the withdrawal of the appeal and the making of an application for pardon or commutation, I, in accordance with my instructions and pursuant to the request of Mr. Stern and Mr. Bernstein, at once, on the same day, saw, in an interview which I sought for the purpose, Baron von der Taun, chargé d'affaires of the Bavarian Government here in Berlin, and through him conveyed to his Government my official support of the application.

I have, etc.,

THEODORE RUNYON.

Mr. Runyon to Mr. Olney.

No. 350.] EMBASSY OF THE UNITED STATES,
Berlin, August 28, 1895. (Received Sept. 13.)

SIR: Referring to my dispatch No. 344, of the 21st instant, I have the honor to inform you that a part of an instruction from the Bavarian Government to its legation here has to-day been communicated to this embassy by that legation. Therein it is stated that on the 19th instant Mr. Louis Stern's lawyer, by his direction and in his name, sent a petition to the Bavarian ministry of justice, in which it was declared that the appeal which had been put in against the sentence of the court of first instance had been withdrawn and the setting aside of the sentence of imprisonment or its commutation to a money fine was requested. What the result of this petition will be, it is said, can not be foretold, as it depends entirely upon the decision which the prince regent of Bavaria will make after hearing reports and expressions of opinion from the court of Bamberg and the ministry of justice, and so far as the latter is concerned it can not be foretold whether it will be able to recommend the granting of the petition or not until a report is received from the State's attorney and after an examination of the documents in the case is made, but that in this connection the support given by me to the petition will receive proper consideration.

I have, etc.,

THEODORE RUNYON.

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 29, 1895.

It is reported that charges against Stern are to be supported in part by allegation that he sailed from New York May 9, Hamburg, *Columbia*, declaring his son under 12. Hon. Isidor Straus sends me certificate that Louis Stern sailed, with wife, four children, two maids, governess, and tutor, on *Majestic* February 27, this year, and adds that one Louis Stern, of New Orleans, sailed by *Columbia* in May.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 351.] EMBASSY OF THE UNITED STATES,
Berlin, August 30, 1895. (Received Sept. 13.)

SIR: I have the honor to acknowledge the receipt this morning of the Department's telegram of the 29th.

Similar information to that contained in this telegram had already been received from Mr. Stern, and had been communicated to the Bavarian legation informally, and to a German press agency. On the receipt of the telegram, however, a memorandum was prepared, a copy of which is inclosed herewith, and left with the Bavarian chargé d'affaires, who promised to communicate it to his Government.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 351.]

Memorandum left by Mr. Jackson with Baron von der Taun, Bavarian chargé d'affaires, August 30, 1895.

The embassy of the United States is informed by its Government that Mr. Louis Stern, of New York, sailed on board the steamer *Majestic*, of the White Star Line, with his wife, four children, two maids, governess, and tutor, on February 27 last, and that the person of the same name who sailed in the steamer *Columbia* from New York on May 9 for Hamburg was a Mr. Louis Stern, of New Orleans, in whose family was included a boy under 12 years of age.

Mr. Adee to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 11, 1895.

Statements by gentlemen personally familiar with Stern case convince Department that he has been most harshly treated. Pardon or commutation being now the only recourse, you will use your utmost efforts to secure remission of sentence of imprisonment.

ADEE, *Acting.*

Mr. Runyon to Mr. Olney.

No. 361.] EMBASSY OF THE UNITED STATES,
Berlin, September 13, 1895. (Received Oct. 1.)

SIR: I have the honor to inform you that on receipt of the Department's instruction, by cable, of the 11th instant I immediately took what I regarded as the best means of carrying out the instruction and called on the chargé d'affaires of Bavaria here and again urged the commutation of the sentence of imprisonment in the case of Mr. Louis Stern. Baron von der Taun promised to communicate to his Government at once the fact of my visit and my representations and wishes as expressed to him for the purpose of such transmission. Both before and after the receipt of the instruction referred to I took such informal action in the matter in the imperial foreign office as I thought judicious in view of the circumstance that the subject is exclusively of State and in no wise of Imperial cognizance and jurisdiction.

I have, etc.,

THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 23, 1895.

Report at once present status Stern case.

OLNEY.

Mr. Runyon to Mr. Olney.

[Telegram.]

BERLIN, *September 24, 1895.*

Stern case rests with Bavarian Government. Not being accredited to that Government I have had to act through Bavarian representative here or through Imperial Government. Everything practicable has been done through the Imperial Government with the exception of formal application, which has been regarded as not advisable in this case, in view of the fact that the matter is not a matter of Imperial but only Bavarian jurisdiction. Instructions twice informally communicated to Imperial Government. Had interviews with Bavarian representative here several times. I have been informed that formal application through Imperial Government may prejudice under the circumstances. Stern writes me full report of the case will not reach pardoning power before the middle of October. I have paid particular attention to the matter and will continue. Will you telegraph immediately any special direction herein.

RUNYON.

Mr. Olney to Baron Thielmann.

No. 42.] DEPARTMENT OF STATE,
Washington, September 26, 1895.

EXCELLENCY: I have the honor to solicit your kind intervention in favor of an estimable American citizen who, as a result of trial before a Bavarian court of justice, has been made the subject of a sentence so severe and so out of proportion to the offense charged as to inevitably

shock the sense of justice of every impartial person to whom the facts are made known.

The case referred to is that of Mr. Louis Stern, who was proceeded against by the authorities of Kissingen, Bavaria, on the charge of insulting a Royal official and resisting public authority. The facts in the case have been very fully elicited by the reports of the United States ambassador at Berlin, who, it appears, has been in communication on the subject with the representative of Bavaria at the Prussian capital. But I find so connected and graphic a recital of all the incidents of the affair in a letter addressed to this Department by Mr. Simon H. Stern, a prominent lawyer of New York, who, although no connection of Mr. Louis Stern, was by chance present in Kissingen at the time of the occurrences and a personal witness to the events he describes, that I send you a copy thereof for your perusal. The statements of this letter are in close conformity with those of Mr. Runyon's dispatches derived, as I have before said, from Bavarian authority for the most part, and I can not permit myself to doubt the substantial accuracy of Mr. Simon Stern's narrative, as I can not but commend his careful and temperate presentment of the case.

The proceedings against Mr. Stern seem to me to have been gratuitously and undeservedly onerous from the beginning—from the imposition of the excessive bail to the final sentence which adds to a fine the humiliation of personal imprisonment. It is only to this last feature of the case, however, that your attention is now invited and in respect of which your interposition is desired. Mr. Stern ought not to be subjected to the crowning indignity of the imprisonment provided for by the sentence. He ought to be relieved from it, primarily, of course, in simple justice to himself, because in no possible view of his offense is any such chastisement justified. But he ought also to be so relieved in the higher and greater interest of the cordial relations between this country and that you so worthily represent. That they will not be seriously impaired, whatever happens to Mr. Stern, is altogether probable and is most devoutly to be wished. Yet estrangements of great nations have not infrequently grown from equally small beginnings and it is not too much to say that if the merits of Mr. Stern's application and the earnest appeal of this Government are not sufficient to secure him the just relief asked for, the most unfavorable impressions are only too likely to be widely entertained by the people of this country both of the justice meted out to American citizens in the States of Germany and of the attitude of the Imperial Government in this regard

On these grounds I request your good offices with the Royal Government of Bavaria through such channel as may be most appropriate to the end that an American citizen of universally reputed worth and standing in the great mercantile community of New York may not unjustly suffer the personal degradation to which the extraordinary action of the Bavarian tribunal has most unwarrantedly condemned him.

Inasmuch as time presses, I have to ask that you will kindly use the telegraph, as far as may be conveniently possible, in furtherance of the request herein made.

Accept, etc., RICHARD OLNEY.

[Inclosure in No. 42.]

Mr. Simon H. Stern to Mr. Adee.

NEW YORK, *September 14, 1895.* (Received Sept. 26.)

SIR: Referring to our interview in the above matter on Thursday last, at which Mr. Isaac Stern, of this city, was present, I now beg to

lay before you, under your kind permission, the details which I then hastily mentioned.

Mr. Louis Stern is a citizen of the United States, residing in the city of New York, and is a member of the well-known firm of Stern Brothers, merchants, carrying on business at No. 34 West Twenty-third street, New York City. Mr. Stern is a member of the Chamber of Commerce of the city of New York, a bank director, a director of one of the largest orphan asylums in the city of New York, and a member of several leading clubs. Mr. Stern ranks very high in the business and social community of this city, and is well known as a dignified, polished, and courteous gentleman.

In the early part of the spring of this year he departed from this country with his family to make a tour of Europe. His party consisted of himself and his wife, four children, a governess, a tutor, and two female servants. For the purpose of taking the cure afforded by the waters and régimé of Kissingen, in Bavaria, Germany, Mr. Stern and his family proceeded to that place about June 20 last.

The springs of water which are used by those taking the cure are situated in a park at Kissingen called the "Kur-Garten." In that park is also a building which is called the "Kursaal," and which is devoted to the use of visitors to Kissingen, and contains a reading room, music room, restaurant, and a ballroom. Visitors remaining longer than a certain number of days are taxed, and required to pay for the benefits of the springs, and for music furnished to the visiting public. This is known as the cure and music tax, which includes also the privilege of attending entertainments offered at the Kursaal. On every Thursday night during the season a ball is given.

On June 27 Mr. and Mrs. Stern, accompanied by their son Melville, a young gentleman then of the age of 15 years and 2 months, attended a ball given at the Kursaal. A servant connected with the establishment accosted Mr. Stern and said that his son would not be permitted to dance, as he was under 15 years of age. Mr. Stern replied that his son was over 15 years of age, and the boy was then permitted to dance without any further interference.

The following Thursday night, July 4, there was another ball. On that occasion Melville attended the ball to meet some young lady relatives, but was unaccompanied by his parents. When the boy entered the ballroom he said "good evening" to the servant who had spoken to his father at the previous ball, and the man answered politely with the same salutation, and Melville danced without interference of any sort.

On the following Thursday evening, July 11, Mr. and Mrs. Stern attended the ball accompanied by their son Melville, and it was on this evening that the unfortunate occurence, which has been the subject of so much unpleasantness, happened. Melville started to dance with a young lady cousin, when one of the Kursaal servants came to him and asked him to leave the room. Melville stated that he did not see why he should do so, inasmuch as he was more than 15 years of age. The servant, however, insisted that he must leave the room and acted as if he were going to compel his exit. Mr. and Mrs. Stern seeing that there was threatened trouble, proceeded from the place where they were standing to the boy, and at the same time another gentleman, at that time entirely unknown to Mr. and Mrs. Stern and Melville, also came to the place where the boy was standing. The gentleman referred to, it subsequently transpired, was Herr von Thuengen, the assistant Badekommissar, who, it appears, was in charge of the ballroom, in the same

capacity as a floor manager would be at a ball in this country. Herr von Thuengen was not in uniform, nor did he carry any insignia of office, nor was there any other indication of his being a person in authority. He is a young gentleman apparently about 28 years of age. Herr von Thuengen stated to Mr. Stern that his son must leave the room. Mr. Stern replied that he could not understand why his son should leave the room, inasmuch as the boy was over 15 years of age, and therefore had a perfect right to be there. Herr von Thuengen vouchsafed, however, no explanation, gave no reason for his direction, but when Mr. Stern had finished, curtly and shortly stated, "He must leave the room." Thereupon Mrs. Stern, believing that the gentleman had not fully understood her husband, and believing that he could not be aware of this proposed infringement of her son's rights, stated to him that her son ought not to be required to leave the room, that he had not been guilty of any misconduct, and that as he was over 15 years of age he had a right to remain. Herr von Thuengen received Mrs. Stern's statements not only very coldly but even most rudely, by his manner, and did not deign to make any explanation of his course to her, but pausing after she had finished, as if to make sure that she had finished entirely, said again, "He must leave the room."

While the words "he must leave the room" are not offensive words in themselves, and the criticism could be made that Herr von Thuengen might have been somewhat more polite to both Mr. and Mrs. Stern in the use of the words he did employ, and while it would strike any disinterested person that an effort should have been made by him to have given this lady and gentleman some sort of satisfaction, nevertheless that is a matter of taste, and for the lack of it alone Mr. Stern might not have been justified in becoming as angry as he did; but an important point right here lies in this, that outside of the short, curt, peremptory words used, was the extremely offensive manner of Herr von Thuengen. While Mr. Stern was addressing him he held himself rather sidewise, stood very rigidly, and looked upon Mr. Stern in a very supercilious and contemptuous manner; and he acted likewise toward Mrs. Stern while she was addressing him. The truth is that his manner toward Mr. and Mrs. Stern was far more offensive than the words he uttered. In homely language, it was such as to make a man's blood boil; and that this is not an isolated instance of such conduct on his part is shown by what happened in the interview between him and Messrs. Adams and Clausenius, hereinafter referred to.

Mr. Stern at the time of this occurrence, it is proper to state, was not quite in a normal condition of health. He had been undergoing a strict and severe treatment under the guidance of a physician at Kissingen for several weeks, and for a day or two previous to this occurrence had actually been in bed suffering from a severe attack of nervousness, which had necessitated visits from his physician several times a day. It is possible that had he been in good health at the time of the occurrence, notwithstanding the great provocation, he might have swallowed all the offensiveness of which he and his wife were the victims, and left the room without remark; but, as it was, Herr von Thuengen's peremptory language and extremely offensive manner to both his wife and himself, and the evident intention on the part of Herr von Thuengen not to accept the word of this lady and gentleman as to their son's age, worked upon Mr. Stern in such a way that he could not resist resenting at once what he considered very gross insults. Mr. Stern became much excited, and said to Herr von Thuengen, "You are a very common person, and if this were in the garden I would box your ears."

Mrs. Stern then took her son and danced with him. Herr von Thuengen then stopped the music and closed the ball. The guests started to leave the room, as did also Mr. and Mrs. Stern and their son. Mr. Stern continued under great excitement, and as he was leaving the room went through a doorway at which Herr von Thuengen was standing and again said to him: "You are a very common person and I ought to box your ears." This second outbreak was because of the excitement under which Mr. Stern was laboring by reason of the insults he and his wife had received, and aggravated by the manner in which Herr von Thuengen looked at him as he was leaving the room. To give some idea of Herr von Thuengen's manner, I beg to quote his own language as taken from what I am informed are the official notes on the trial of the case, hereinafter referred to, at Kissingen: "Darauf hin habe ich ihn einfach von oben bis unten gemessen und ihn stehen lassen," a fair translation of which, I think, would be as follows: "Thereupon, I simply measured him from head to foot and let him stand."

The next morning Mr. and Mrs. Stern went to the Kursaal and complained to Herr von Thuengen's superior of the treatment they had received from Herr von Thuengen. Mr. Stern's attention was then called to a certain declaration which had been made as to the ages of his children. A blank form is filled out at the time of the arrival of guests at hotels and lodging houses at Kissingen, calling for the names of the heads of the families and the number of the party. In Mr. Stern's case the porter of the hotel where he had lodgings had filled up the blank form with the full names of Mr. and Mrs. Stern and the employees accompanying them, and further stated "four children under the age of 15 years." He filled up this blank without consultation with Mr. Stern or any member of the family and simply assumed that the children were of the ages as stated. I was at Kissingen this summer with my family and the blank form referred to was filled up by the porter of the hotel at which I stopped without any consultation with me, and, as I was informed and believe, in most instances this matter of the form is attended to by the porters of the hotels.

When Mr. and Mrs. Stern called on the superior officer above referred to to make a complaint, the form filled up by the porter with the statement therein contained that Mr. Stern's children were all under 15 years of age was presented to him, and he was asked about it. He explained that that was the first time he had seen the form, and that any statement therein to the effect that one of his children, Melville, was under 15 years of age, was erroneous, and that he had never given any such information. Subsequently this matter of the form was made the subject of a judicial inquiry, and Mr. Stern having stated that he was not responsible for the error concerning his son's age, and the porter of the hotel having stated to the judge that he alone was responsible for the error, and that he had filled up the form without consultation with Mr. Stern, it was decided that Mr. Stern's version was correct, and that was the end of the matter so far as any charge against him was concerned on that head.

This matter, however, of the form was very frequently referred to in all the discussions of the subject by the friends of Herr von Thuengen, and was used as a sort of make-weight. Mr. Stern and his friends who knew of the matter supposed, after the discussion with Herr von Thuengen's superior officer, that the matter was ended; but on the following Sunday summonses were served on Mr. and Mrs. Stern, Melville Stern, and the hotel porter, returnable at different hours on the following Tuesday.

Many months before this Mr. Stern had engaged lodgings at a hotel at Bad-Gastein, in Austria, and had intended leaving Kissingen on the very Tuesday on which he was summoned to court. He had notified the landlord of the hotel at Kissingen some time previous that he would vacate his rooms on that Tuesday, and these rooms had been engaged for occupation by some other gentleman with his family, to begin on the same Tuesday.

Under these circumstances Mr. Stern consulted the only lawyer at Kissingen, Mr. Winter, with the view of having the day of inquiry referred to in the summons changed from Tuesday to the day previous, Monday, so that it might be disposed of and he be enabled to carry out his intention of leaving Kissingen on Tuesday. Mr. Winter believed it could be accomplished. I was present during the interview between Mr. Stern and Mr. Winter. The latter-named gentleman, after hearing the entire matter of the controversy that had taken place at the Kursaal and the hotel notice and everything that could be said about it, thought very lightly of the matter, and gave it as his opinion that under the circumstances the court would hear the matter on Monday as a matter of courtesy to Mr. Stern, and thought the court might impose a fine of about 50 marks because Mr. Stern had offended a public official (he having explained that Herr von Thüngen was a public official), and that no matter what order or direction he might have given, whether right or wrong, Mr. Stern had no right to disobey his orders; but the penalty, in his opinion, would not be more than the fine of 50 marks, possibly less; and Mr. Winter promised to see the judge for the purpose of having the hearing on Monday.

On Monday Mr. Winter did not report to Mr. Stern, for the reason that he had some other pressing matter to attend to, and therefore Mr. Stern went personally to the judge to ask him to have the matter taken up immediately and disposed of, as he wanted to leave with his family and had made all arrangements to that end. The judge questioned Mr. Stern in regard to the form that had been filled up by the porter hereinbefore mentioned, and also had the hotel porter sent for and took his statement, and then indicated that he was satisfied that Mr. Stern was not responsible for any error in the filling up of the form. The judge then stated that the Stadt Anwalt (district attorney), Herr von Baumer, wished to see him, and referred him to that gentleman, who was in court. The latter requested Mr. Stern to follow him to his room. Mr. Stern complied. When they were together in the district attorney's room the latter said to Mr. Stern, "Consider yourself under arrest." Mr. Stern replied, "What can I do?" to which question he received no answer. Mr. Stern then said, "Can I give bail?" The district attorney then stated, "I could permit you to give bail, but it would be high, very high." Mr. Stern said, "How high?" After reflection the district attorney replied, "I will take bail in the sum of 80,000 marks." Mr. Stern then said, "May I go to my hotel and get my letter of credit?" to which the district attorney replied, "You may go to your hotel accompanied by a gendarme." Mr. Stern said, "If I go to the hotel accompanied by a gendarme it will alarm my wife very much. May I send for my letter of credit?" and permission was granted that the letter of credit should be sent for. I was present when a messenger from the district attorney's office came to Mrs. Stern with a written request for a letter of credit of Mr. Stern's, and assisted her in getting the same and handing it to the very rude and offensive messenger who brought Mr. Stern's request.

On receipt of the letter of credit Mr. Stern, accompanied by the district attorney, went to the office of a banker at Kissingen who is

mentioned in the letter of credit as a correspondent of the bankers issuing the same, and asked for 80,000 marks. The banker did not have that amount on hand, but arranged, partially by money and partially by securities and by the retention of the letter of credit, to place the 80,000 marks in the hands of the district attorney a day or two afterwards, and as soon as the banker could obtain all the money. That was considered sufficient as bail and Mr. Stern was permitted to go. Before leaving the presence of the district attorney, however, the district attorney said to Mr. Stern, "Remember, you must not leave Kissingen; do you understand that?" Mr. Stern replied, "I understand what you say." The district attorney then said, "Another thing, you must not go to the railway station." Mr. Stern replied, "I understand what you say." The district attorney then said, "You must not drive in a carriage; do you understand that?" to which Mr. Stern replied, "I understand what you say."

Mr. Stern having reported all this to me, I advised him to employ suitable counsel with whom to consult, and who should be requested to take such steps as were necessary for Mr. Stern's protection, and the same was done. A lawyer residing at Munich came to Kissingen and took charge of the matter on Mr. Stern's behalf.

There were so many disagreeable features connected with this matter, such as the public discussion of it by the visitors to and the residents of Kissingen; the necessity of Mr. Stern's giving up the comfortable lodgings which he had been occupying, because of a long prior engagement of the same by another guest, and of being compelled to occupy lodgings which were not agreeable to himself and his family, and the sense of humiliation which Mr. Stern suffered by reason of the enormous amount of bail exacted from him for what was generally considered a comparatively small offense, and the restriction that had been placed upon him of leaving Kissingen although he had given this enormous amount of bail, and the restriction which prevented him from even taking a drive in a carriage, and the restriction which had been imposed upon him of not attending certain places in the Kursaal, and the loss of health, very visible to everybody, which he suffered from all these things, induced me to use my utmost endeavors to extricate Mr. Stern from his unpleasant situation as speedily as possible, and I advised him, as did his counsel, notwithstanding his sense of wrong done him, to write a letter of apology to Herr von Thuengen, in the hope that the latter would magnanimously accept the same and hasten a conclusion of an affair which could not be agreeable to anybody. Mr. Stern accordingly did, on the 19th of July, address a letter and had the same delivered to Herr von Thuengen, of which the following is a copy:

KISSINGEN, *19 Juli, 1895.*

HOCHGEEHRTER HERR BARON: Gestatten Sie mir, mich hiermit an Sie zu wenden und schenken Sie den nachfolgenden ernstgemeinten und aufrichtigen Worten ein gütiges Gehör. Im Custande höchster Erregtheit, ja gänzlicher Selbstvergessenheit zu dessen Erklärung, nicht Entschuldigung, Ich auf meine Krankheit verweisen darf, habe ich schwere Beleidigungen gegen Sie ausgesprochen. Ich nehme diese Aeusserungen mit tiefstem Bedauern zurück und bitte, Sie mir zu verzeihen. Ich selbst werde es mir niemals vergeben, einem Ehrenmann und Beamten in diesir Weise verletz zu haben. Aber ich fühle das Bedürfniss Ihnen, dem ich so grosses Unrecht zugefügt habe Rückhaltlos auszusprechen, wie sehr ich das Geschene bereue. Seien Sie überzeugt, sehr geehrter Herr Baron, dass ich nicht aus Rücksicht auf die gegen mich schewebende Anklage diese Bitte an Sie richte, sondern weil es mich drängt, meine verehlung, wie vor mir Selbst, so auch vor Ihnen und der Oeffentlichkeit ehrlich einzugestehen. Genehmigen Sie deshalb zugleicht mit meiner herzlichen Bitte die Versicherung meiner ausgezeichneten und volkommenen Hochachtung.

Ganz ergebenst,

LOUIS STERN.

A translation of which is about as follows:

KISSINGEN, *19th July, 1895.*

Highly honored Mr. BARON:

Permit me hereby to address you, and accord to the following sincere and candid remarks a favorable hearing.

In a condition of highest excitement—yes, in entire self-forgetfulness—as an explanation of which and not as an excuse for, I may attribute to my illness—I offered you a great insult. I deeply regret the same, and withdraw the remarks I made, and beg of you forgiveness for the same. I shall never forgive myself for having wounded in this manner a gentleman and an official. But I feel the necessity of saying to you to whom I have done this great wrong and without aggravation, how much I regret what has occurred. Be assured, highly honored Mr. Baron, that it is not on account of the pending charge that I make this request of you, but because I am impelled thereto because of the wrong that I wish to admit having committed, in honesty to myself, yourself, and the public. Accept, therefore, at the same time with my heartfelt wish, the assurance of my highest and fullest regard.

Very obediently,

LOUIS STERN.

This letter was handed to Herr von Thuengen by Dr. Bernstein, Mr. Stern's lawyer, who at the same time stated to the former that Mr. Stern had no objection whatever to this letter being published in any newspapers that Herr von Thuengen might designate, and was also entirely willing that a copy of the letter might be posted on a board in the Kur-Garten, which is used for various notices of a public character. At this interview Herr von Thuengen having uttered a disparaging opinion of Mr. Stern's standing in the community in which he lives, many American citizens, then visitors at Kissingen, in the interest of peace, united in certifying to Mr. Stern's high character and reputation, and such certificates were presented to Herr von Thuengen for his consideration. He did not, however, send any reply either to Mr. Stern's letter, or pay any attention, so far as we could learn, to the certificates which had been presented to him.

At this time Richard H. Adams, esq., of the city of New York, and a citizen of the United States, was at Kissingen. Mr. Adams is a retired merchant, a gentleman closely identified with all the German-American interests in New York City, was for many years the president of the Liederkranz Society of the city of New York, one of the largest German social organizations of this country, and a very intellectual man, speaking the German language with extraordinary fluency and in a most choice way, as was universally acknowledged.

At the same time Consul Clausenius, who for thirty years has acted as consul at Chicago for the Prussian Government, the German Empire, and at present for Austria-Hungary, was also at Kissingen. Mr. Clausenius was born in Germany, is a gentleman 70 years of age, has a handsome and imposing appearance, and most gentlemanly and polished manners. He is a gentleman who would inspire respect from everybody.

Messrs. Adams and Clausenius, without any heat whatever, expressed their feelings in regard to Mr. Stern's matter, and declared that they were of the opinion that he had been and was being outrageously treated; and they finally concluded that if they could have a personal interview with Herr von Thuengen they could persuade him to discontinue any further prosecution of Mr. Stern and get his consent to be entirely satisfied with the apology Mr. Stern had offered, and his willingness to have such apology made public in any way that Herr von Thuengen might consider requisite. In that view Dr. Bernstein, Mr. Stern's lawyer, made an appointment with Herr von Thuengen to meet Messrs. Adams and Clausenius. They met Herr von Thuengen, and Mr. Adams

went over the matter from beginning to end, introducing every element in his address to Herr von Thuengen that human ingenuity could devise, as it appeared to some of those who heard him and all of those to whom his address was repeated, and Mr. Clausenius stated his concurrence with all that Mr. Adams had said. While Mr. Adams was speaking to Herr von Thuengen, the latter stood partially sidewise in a doorway and did not utter a word in response. In fact, he scarcely showed any indication of life, except for a moment, and when Mr. Adams said in substance in one part of his speech, "We have all made mistakes at some time in our lives; we are only human beings; I have made mistakes, and probably you, sir, at some time of your life have made one."

At Mr. Adams's suggestion of the possibility of Her von Thuengen's making a mistake, the latter drew himself up slowly and rigidly to his extreme height, dilated his eyes, raised his head slightly, and appeared to be inexpressibly astonished at such a suggestion. He then relaxed his body again and his other features referred to, and continued to listen without any comment of any kind. A few days thereafter Dr. Bernstein received from Her von Thuengen a form of letter which the latter proposed Mr. Stern should sign, not as an apology, but as a prayer for forgiveness. The terms of that letter were so vile and infamous that no man with a spark of manhood in him could have signed it. It required Mr. Stern to make admissions against himself that were not only utterly false, but low and debasing to an extreme degree. It seems almost needless to say that this very mean proposition was promptly rejected, and all further attempts either to placate Herr von Thuengen or to ask for either ordinary, genteel, or humane consideration from him were abandoned.

Thereafter many Americans united in a petition to the minister of justice of Bavaria, requesting some relief to Mr. Stern from the unlawful acts which had been perpetrated against him. This petition was signed by many Americans at Kissingen who knew Mr. Stern and who knew of him, among others Hon. William Waldorf Astor and the United States consuls at Fuerth and Bamberg, and other petitions were presented to the Bavarian authorities. These had the effect of obtaining for Mr. Stern some of the rights which had been denied him. Prominently I may mention that it was directed that inasmuch as Mr. Stern had given bail the law in such cases should be followed and he be permitted to go at will until his trial, it being the purpose for which he had given bail.

In the meantime the trial had been set down for a certain Tuesday, the date of which I have forgotten, and Mr. Stern and his counsel were fully prepared for the trial on that day and were willing and eager that it should proceed. There could not be a better time for the trial than on the day originally fixed for it. All his witnesses, including myself, were at Kissingen. A number of witnesses, including myself, were prepared to leave Kissingen, some of them, having finished a cure, being prepared to follow out the original plans of their tours. Without any notice, however, either to Mr. Stern or his counsel, and not in open court, the trial was postponed for three weeks from the day originally set for it, and, as Mr. Stern was advised, renewed adjournments of the trial could be had for such periods as suited the wishes of the district attorney and the prosecutors, without notice. Under these circumstances, some of the witnesses Mr. Stern intended calling at the trial, among whom was myself, could not wait, and left Kissingen, and thus Mr. Stern was deprived of the benefit of their testimony. He was also advised that the testimony of such witnesses could not be taken by deposition.

I believe that the petitions of the American citizens to the higher authorities of Bavaria, above referred to, prevented postponements of the trial according to the will of the district attorney and the prosecutors, and that uncertainty of the time of trial was disposed of by them.

The trial did take place on August 5 last, and resulted in a judgment of the court that Mr. Stern should be imprisoned for two weeks and pay a fine of 600 marks. From that judgment Mr. Stern appealed, and renewed his bail of 80,000 marks. I believe that subsequently, at the suggestion of General Runyon, ambassador of the United States at Berlin, the appeal was withdrawn and a petition addressed to the authority having power to remit that part of the sentence of the judge requiring imprisonment. Of course Mr. Stern was compelled to withdraw his appeal if he asked for a remission of the imprisonment part of the sentence, so as to be consistent. Such an application, I believe, has been made by our ambassador at Berlin, which is still pending, and, as I am informed, will probably be determined some time during October next.

I did not understand you, sir, to call upon me or intimate that you desired to hear any argument, or my views as to what I consider constituted gross outrages on Mr. Louis Stern, nor as to unlawful measures employed to harrass, annoy, and humiliate him, and therefore I refrain from making any extended comments in those connections. If, however, the foregoing statement of facts does not make it clear that I am correct in my judgment, it would afford me great pleasure to be heard by you, for which purpose I will be happy to proceed to Washington on your suggestion to that effect.

Mr. Louis Stern, so far as I know, has never uttered a complaint against any lawful proceeding that was instituted against him in this unfortunate matter, because he recognizes, as I do, and as every sensible man must, that an American citizen, either at home or abroad, must be law-abiding, and has no reason to complain if, by reason of undue excitement or ignorance or other cause, he infringes upon the laws, but must bear the lawful consequences. It does seem, however, to him and to his numerous friends that have been heard from on the subject, that the extraordinary and unusual amount of bail required from him for comparatively so small an offense was not in the interest of justice and fairness, but was in the nature of a persecution. Very few Americans traveling abroad provide themselves with so large a sum of money, and it was merely by a fortunate accident that Mr. Stern was enabled to furnish the bail and save himself from the mortification as well as discomfort of imprisonment in the common gaol of Kissingen.

The directions of the prosecuting officer to Mr. Stern, after he had given bail, such as the order not to leave Kissingen, or to go to a railway station, or to ride in a carriage, and the order that he should not go to certain parts of the Kursaal, certainly seem not to have been given in the spirit of fairness and justice, but were direct acts of persecution, happily rectified by the higher authorities of Bavaria when their attention was called to the same. The unreasonable postponement of the trial, when Mr. Stern was ready for it, and for a long period whereby he lost the benefit of the attendance of witnesses, is on a par with the unlawful acts above referred to, and in my opinion very clearly shows the animus of the so-called prosecution against him. The very harsh and severe sentence by the judge for a not very grave offense, it seems, also shows an animus which is to be deplored. I do not believe that a citizen of any other country would have been so harshly dealt with, especially after he had made so many efforts to repair the slight wrong he had done.

The reason why I say that a citizen of no other country would have been so harshly dealt with is because I know much of life in Germany, having visited it frequently and resided among the people at one time for a period of about eight months, in a position where I could observe closely. Instead of the liberality of Americans being appreciated at its worth, my experience is that a certain class of people in Germany, in which I count a gentleman like Herr von Thuengen, while gladly accepting the same, looks upon the liberality of Americans with envy and hatred. Most of the generous, kindly impulses of Americans are things they do not understand, nor can they understand the acquirement of wealth by so many Americans—the result of industry and brains; the former, at least, is certainly not exercised by the class to which I refer; nor do the dignity and worth of labor and commerce appeal to them favorably; on the contrary, they arouse their contempt. There is abundant evidence of this.

I arrived at Kissingen the night of July 11, and remained there until a short time before the trial was had. I constantly advised with Mr. Stern in the matter, as well as with his counsel, and knew as much of what was transpiring during the time I was at Kissingen as did Mr. Stern himself. I also discussed the matter with Messrs. Adams and Clausenius, the United States consuls at Fuerth and Bamberg, and also with many other persons, and it is from my own knowledge and on the information I received that I base the statements of facts herein contained.

Very respectfully, SIMON H. STERN.

(Mailing of this matter delayed until September 21, 1895.)

Baron Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Lenox, Mass., October 1, 1895. (Received Oct. 2.)

Mr. SECRETARY OF STATE: I have the honor to respectfully acknowledge the receipt of your note, No. 42, of September 26, ultimo, with regard to the case of the American citizen, Louis Stern, at Kissingen.

In reply to the views contained in your note I hasten to say that I reject (zurückweise) as entirely unjustified your excellency's criticism of the sentence against Stern delivered by the court at Kissingen.

Especially must I decline to see the administration of justice within a state of the German Federal Union, and the right of pardon, which belongs to the princes of the German Federal Union, discussed in this way and treated in the form of a diplomatic claim.

So far as the United States Government desires to approach the Government of His Majesty, the German Emperor, in this matter touching one of its citizens, it must be left to it (United States Government) to make such approach through the United States ambassador at Berlin.

Accept, etc., THIELMANN.

Mr. Runyon to Mr. Olney.

No. 377.] EMBASSY OF THE UNITED STATES,
Berlin, October 2, 1895. (Received Oct. 16.)

SIR: In reference to the application of Mr. Louis Stern, of New York, for a pardon or commutation of sentence of imprisonment to a pecuniary

fine, I have the honor to report that since I sent my telegram of the 24th ultimo, in reply to your inquiry as to the status of the case, I requested Mr. Jackson, secretary of this embassy, to call upon the minister of foreign affairs of Bavaria, at Munich, and to ascertain what else, if anything, the embassy could do besides what it had already done to further the application. Mr. Jackson made the call accordingly, and was informed that what has been done has been done properly, and is, indeed, all that can be done. In the conversation the minister referred to the fact that Mr. Bancroft, who was accredited to Bavaria, still stands officially as the United States representative there, he never having presented any letter of recall, and that therefore the course which the embassy has taken in communicating with the Bavarian Government through its representative in Berlin was correct.

With the above the State Department has the full history of the action of the embassy in the matter. The case rests now with the Bavarian Government, as I said in my telegram above referred to. The final action is with the prince regent, who acts therein independently, at his own discretion, in so far as that he may, if he sees fit, disregard any recommendation which the ministry may make to him on the subject.

I have, etc.,

THEODORE RUNYON.

Mr. Olney to Baron Thielmann.

No. 54.] DEPARTMENT OF STATE,
October 7, 1895.

EXCELLENCY: I have the honor to acknowledge your note of the 1st instant, in relation to the case of Mr. Louis Stern at Kissingen, and note the contents with regret.

You reject as entirely unjustified my criticism of Mr. Stern's sentence, but in doing so you fail to recognize the exigencies of the situation. A miscarriage of justice may occur in any country. When a foreigner is the sufferer all proper efforts for his relief by the Government of the country to which he owes allegiance are both legitimate and obligatory. They necessarily include animadversion upon the legal proceedings in the case, so far as the injustice done is attributable to them. The position that a judicial sentence rendered in one country, however absurd and iniquitous, may not, with a view to the necessary relief from it, be criticised and characterized as it deserves by the Government of the country whose citizen or subject is affected, can not be reasonably assumed by any civilized State.

It is intimated that some request has been made looking to improper interference with the course of justice in one of the constituent States of the German Empire. But the intimation is quite unwarranted. Through what agency can a foreign sovereign present a grievance of its citizen or subject save that which the associated States themselves provide for their outward intercourse with other nations? The Imperial system, like the Federal organization of the United States, affords a single medium of international representation for numerous States which, in most if not all affairs of purely internal concern, are completely independent. Nevertheless, it not infrequently happens that a matter which is ordinarily of exclusive local cognizance and concern has important international bearings. In such case the General Government, charged with the conduct of foreign intercourse, may opportunely be invoked to

point out to the local government the international features of the case, to the end of inducing such considerate action by the latter, in view of possible international complications, as the circumstances will permit. Whether it can and should do more need not be discussed, while it may fairly be insisted that it can properly do no less. Certainly the United States has always acted upon that theory, rightly conceiving that the failure so to act would give any foreign nation concerned just ground of complaint.

It only remains to notice the suggestion, expressed with quite unnecessary curtness, that a diplomatic claim was involved, which therefore should have been presented to the Imperial Government of Germany through the United States ambassador at Berlin. The proposition will not bear examination, unless, indeed, as is wholly improbable, the powers of the representative of that Government at this capital are subject to novel and unknown limitations. Otherwise, all usage and precedent make it entirely competent and proper for this Government to present a diplomatic claim to the German Government, either here through you, as the ambassador thereof, or at Berlin through its own ambassador to Germany, as this Government may elect. Indeed, the former is the less formal and more courteous mode of proceeding. Without elaborating so clear a point, however, which must have been taken through some inadvertence, you will permit me to observe that you were not applied to because you were thought bound to act, nor for the purpose of presenting any diplomatic claim. Mr. Stern was not standing upon any right, but appealing for clemency, and I solicited your intervention in any quarter or by any channel through which you might think it proper to exert the deservedly great influence you were sure to have on a matter of that nature. It was solicited in the hope that the character of the proceedings and sentence as viewed in this country, and their indirect international bearings being authentically pointed out, you might courteously see fit to do something in reenforcement of the efforts being made in Germany for the relief of an American citizen. Such a step, if not strictly obligatory, it was not unreasonably believed both that you were competent to take and that you would welcome the opportunity of taking. If taken, it would have been highly appreciated, and, whether successful or otherwise, would have sensibly promoted those cordial international relations which it is the first and highest function of diplomatic intercourse to subserve.

Accept, etc.,

RICHARD OLNEY.

Mr. Runyon to Mr. Olney.

No. 385.] EMBASSY OF THE UNITED STATES,
Berlin, October 7, 1895. (Received Oct. 25.)

SIR: It seems to me quite proper to report to the Department some of the collateral circumstances in regard to the application of Mr. Louis Stern to the Government of Bavaria for a pardon or commutation. From the time when the application was made, the Bavarian press in general opposed it and the popular expressions indicated that the demand for refusal was based not so much on the feeling that it would be necessary in order to vindicate the law, as to exhibit impartiality in the administration of it. In this latter aspect reference was made not only to the fact of the applicant's reputed wealth, but also to the circumstance that he is a foreigner, and also even to his race. And, further,

reference was made to a somewhat recent case—the Fuchsmühle case—in which the law was enforced with government interference against peasants charged with trespass. Evidence of this feeling is found in the accompanying translation of extracts from speeches recently delivered in the Bavarian Parliament.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 385.]

Translation of extracts from speeches delivered in the Bavarian Parliament (Landtag) on October 3, 4, and 5, in connection with the debate occasioned by an interpellation regarding the Fuchsmühle case.

Member of Parliament Dr. Ratzinger (Bauernbund, "Farmers' Alliance"):

No one attempted to interpose at Fuchsmühle, but when the question was the case of an American Jew one of the highest Bavarian officials, as I am informed, was obliged to give the matter his attention, only because the "ignoble" American Jew had known how to make himself a millionaire. The people will never submit to that. * * * All this is the result of the unhealthy imitation of Prussian views and customs which from upper circles is beginning to be forced upon our South German people. (Berliner Tageblatt, October 5, 1895, a. m.)

Minister of Foreign Affairs, etc., Baron von Crailsheim:

Interposition had been made in behalf of Stern which it was not possible to ignore, and as the president of the government of Unterfranken happened to be near Kissingen at the time, he was instructed, as being the proper person, to look into the matter. * * * That the Government did not take the side of the offender is shown by the rejection, which took place a few days ago, of the application for pardon which had been made by him. (Norddeutsche Allgemeine-Zeitung, October 6, 1825, No. 469.)

Member Beckh, of Weissenburg:

When it was pretended that peasants had opposed the authority of the State they were shot down, but when an American Jew does the same thing in the most outrageous way high Bavarian noblemen endeavor to protect him from the consequences. God be thanked that "Leib Stern" must serve out his sentence. The sentence is moderate enough. If the case had been that of a Christian he would have been punished more severely, and properly, as from a Jew one can not demand so much understanding of and respect for the law. (Berliner Tageblatt, October 5, 1895, No. 507.)

Baron von Crailsheim:

The representations made by the Member Beckh, that the Bavarian minister in Berlin displayed special activity in this matter, is incorrect. The minister merely reported that the American embassy had interested itself in the lot of its countryman. Moreover, no pressure was exerted on the Kissingen official to inspire him to withdraw his complaint. The government president had only been instructed to ascertain whether the offer made was enough of a satisfaction for the offense. Had the Government desired to hush the matter up, means to this end could no doubt have been found.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1895.

Have you authentic information of action on Stern petition? Press telegrams say commutation of imprisonment has been refused. I addressed German ambassador 26th ultimo soliciting his good offices to secure favorable consideration of petition and relieve Stern of degrading humiliation. Ambassador replies, declining. Copies of correspondence will be sent to you. Incident has produced a most painful impression here.

OLNEY.

Mr. Runyon to Mr. Olney.

[Telegram.]

BERLIN, *October 9, 1895.*

I have not authentic information. Sent secretary of embassy 27th ultimo to Bavarian minister for foreign affairs to inquire into what more, if anything, I could do. Minister said what I had done has been done quite right; he said that I am not accredited to that Government; Bancroft presented no letter of recall. Stern's lawyer also seen; he feared further Government action might be prejudicial in view of the popular hostility. I have had a conversation with German minister for foreign affairs upon the subject to-day; he declines to discuss propriety of exercise of pardoning power with adverse expression of opinion on merits.

RUNYON.

Mr. Runyon to Mr. Olney.

No. 386.] EMBASSY OF THE UNITED STATES,
Berlin, October 10, 1895. (Received Oct. 25.)

SIR: Referring to my dispatch No. 377, of the 2d instant, I would add that in the visit of the secretary of this embassy to Munich, therein mentioned, he called upon Dr. Loewenfeld, one of the attorneys of Mr. Louis Stern, to speak with him in reference to the advisability of further action with the Bavarian Government. Dr. Loewenfeld deprecated any further steps in that direction as being inadvisable. I may say that in one of my interviews with the Imperial foreign office on the subject it was suggested by Baron von Rotenhan, then acting secretary of state for foreign affairs, that a personal application by me to the prince regent of Bavaria might, in view of the hostility of the people to the granting of the application, embarrass the regent by giving ground for the imputation that any favorable action he might take had been merely the result of diplomatic influence, without regard to the merits of the application. The adverse feeling above referred to and the jealousy of diplomatic interference in the case are shown in an article from the Cologne Gazette, a very influential journal, a copy of which, with translation, is hereto annexed.

I yesterday again went to the foreign office to speak to Baron Marschall von Bieberstein himself on the subject of the application for pardon. In the conversation which I then had with him, he, after recognizing the right of the United States to look after the interests of their citizen, expressed his unwillingness to discuss the proceedings of the trial or the propriety of the granting by the pardoning power of the application for pardon or commutation. The exercise of this power, he remarked, rests entirely with the prince regent of Bavaria. Baron von Marschall said that, in his own opinion, the sentence was not too harsh or disproportionate to the offense, which in Germany is regarded as one of much gravity. He said a German subject would have been punished in like manner for the same offense—using abusive language to an official on duty and threatening to box his ears—and he asked on what ground pardon or commutation could be asked for Mr. Stern. "Certainly," said he, "not on the ground that he is a wealthy American, for foreigners are quite as much bound to observe the laws of Germany when they come here as are German subjects, and the fact of the great

wealth of the offender is no reason for applying to him a different kind of punishment than would under the same circumstances for the same offense be inflicted upon a poor man."

I replied that it would seem clear that the law has been sufficiently vindicated in the proceedings already taken in Mr. Stern's arrest, with the requirement of the large bail demanded, his trial and conviction and the sentence, and that it appeared to me that the case is one in which clemency, at least so far as to relieve from the ignominy of imprisonment, might well be exhibited with no prejudice to the law or its interests, particularly in view of Mr. Stern's apology and his apologetic conduct—as to the latter, referring to his offer to give a large sum of money to the poor of Kissingen, which is repeated in his petition, and that it seemed to me that the administration of the German law (especially seeing that the application to the pardoning power in no wise impugns the judicial action in the case) could not be prejudiced by favorable action upon the petition, and that, moreover, in view of the fact that the incident was causing a painful feeling in the United States, it is very desirable that Mr. Stern be spared the ignominy of imprisonment.

On the subject of the large amount of bail which was required—80,000 marks—to which I referred above, Baron von Marschall said the judicial action in the matter was quite in accordance with German law, far larger bail being required from a man of wealth than from one of but little means. He further said that the sentiment in the United States to which I had alluded must arise from the difference in the views in the two countries taken in regard to the conduct of individuals toward officials when acting in discharge of their duty; that in Germany due respect to those who are in official position is strictly insisted upon from all persons under such circumstances, and that if the matter be properly viewed the public in America must concede the propriety of the action of the German authorities, which, he said, is merely an insistence that the law of the country be respected and infractions thereof impartially punished. He also spoke of the great feeling in Germany on the subject of this case—a feeling very adverse to the granting of the pardon—and asked whether I had read the speeches in the Bavarian Parliament in reference to the matter, contrasting the action of the Government therein with its action in the Fuchsmühle case.

I replied that I had seen them and had read the expressions to which he alluded. A translation of certain extracts from those speeches I have already sent you.

THEODORE RUNYON.

[Inclosure in No. 386.—Translation.]

Clipping from the evening edition of the Vossische Zeitung of October 7, 1895.

The Köln Ztg. (Cologne Gazette) writes in connection with the affair of the German-American, Stern, who was sentenced in Kissingen for insulting and threatening an official, which [affair] has reached its conclusion through the decision of the prince regent of Bavaria to make no use of his pardoning power, as follows:

The reasons which in any particular case influence the Sovereign or his representative to exercise clemency instead of justice, or to refrain from doing this, do not become public. In this matter one does perhaps not err when he assumes that the attempt which was made at its commencement to influence the decision of the Bavarian Government by a certain diplomatic pressure has not only not been to the advantage of the person sentenced, but rather to his disadvantage. One is very sensitive in Germany with regard to such an attempt by a foreign country to influence the administration of German justice in a particular case, and this sensitiveness has

shown itself the more in the Stern case as it was a question of influencing the pardoning power of the Sovereign. The manner in which the whole affair has been treated by a part of the American press has also been little calculated to inspire the prince regent to a remission of the punishment. Of course the religion of the person sentenced has not in any way been considered. German-Americans will, at all events, understand the peculiarity of this case.

Mr. Runyon to Mr. Olney.

No. 387.] EMBASSY OF THE UNITED STATES,
Berlin, October 11, 1895. (Received Oct. 25.)

SIR: I have the honor to acknowledge the receipt from you this morning of the copy of your note to Baron von Thielmann, German ambassador, in regard to the case of Mr. Louis Stern, with a copy of Mr. Simon Stern's letter to the State Department on the same subject. Soon after they came to my hands I sought, and obtained to-day, an interview with Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, in reference to the matter, although I had only the day before yesterday had a long conversation with him on the topic. I found that he had received to-day your note (or a copy thereof) from Washington and was acquainted with its contents. The subject was again discussed by us with no different result from that of our interview of the day before yesterday.

Baron von Marschall repeated the statement he then made as to the interest felt by the people in this country in regard to the case, and remarked that the German people are, so to speak, fanatical in their views as to the necessity of impartiality in the execution of the laws.

He further said that the punishment of imprisonment in the circumstances (considering that it was the penalty for insulting words merely) could not, in his opinion, properly be regarded as ignominious. I take occasion to refer to Mr. Simon H. Stern's statement, in his letter above mentioned, that he believes that at my suggestion Mr. Louis Stern's appeal from the judgment against him was withdrawn and the petition for pardon or commutation sent in. He is in error in this, but the error is not important. The advice which I gave Mr. Louis Stern on that head was that he act without delay if he intended to withdraw his appeal and apply for pardon.

I am, etc., THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 12, 1895.

Department is advised that Louis Stern, having come to New York to-day to consult friends as to course he is to pursue, receives telegrams to-day that Bavarian Government is about to issue immediate execution of sentence. He asks intervention of the Department to procure from Bavarian Government postponement of execution for not less than sixty days. You will at once endeavor to do what you can to obtain compliance with this reasonable request.

OLNEY.

Mr. Runyon to Mr. Olney.

[Telegram.]

BERLIN, *October 13, 1895.*

I have received a telegram from you about postponement in Stern case. I saw Imperial secretary of state for foreign affairs immediately, who says, under the circumstances named, Stern should at once make application to postpone, either personally by telegraph, or by his Bavarian lawyers, to Bavarian minister of justice, giving reasons for his absence. I think if application is made at once it will be granted.

RUNYON.

Mr. Runyon to Mr. Olney.

No. 390.] EMBASSY OF THE UNITED STATES,
Berlin, October 14, 1895. (Received Oct. 25.)

SIR: I have the honor to append hereto, on the overleaf, a copy of a telegram received by me from the State Department yesterday, 13th instant,[1] in regard to the case of Mr. Louis Stern, and to report that on the receipt thereof I immediately requested and obtained an interview with Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs on the subject.

He expressed the opinion that the proper course to be pursued in the matter would be for Mr. Stern to make application personally by telegram, or through his legal counsel in Bavaria, to the Bavarian minister of justice for the desired postponement or grant of further time to appear for execution of sentence, giving reasons therefor, on which the grant could be based. I judged from his conversation that he was of opinion that such application would probably be successful if made at once. I thereupon telegraphed to you an account of my action. On the same day, and without delay, I wrote to Dr. M. Bernstein, of Munich, one of the legal counsel of Mr. Stern, on the subject of making such application.

I have, etc.,

THEODORE RUNYON.

Baron Thielmann to Mr. Olney.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, October 14, 1895.

Mr. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your excellency's note of the 7th instant (No. 54) relative to the case of the American citizen, Louis Stern.

In reply to the statements therein made, I have the honor to inform your excellency that the Imperial Government receives complaints or suggestions from friendly Governments only when they are presented by the diplomatic representatives of such Governments accredited to it. It does this as a matter of principle, and in accordance with a practice which generally prevails. As to the rest, I can merely refer to the

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[1] See ante, p. 485.

contents of the note which I had the honor to address to your excellency on this subject on the 1st instant, in reply to yours of the 26th ultimo (No. 42).

Be pleased to accept, etc., THIELMANN.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 15, 1895.

Application for postponement sentence Stern case has been made by him through his attorney in Munich.

OLNEY.

Mr. Runyon to Mr. Olney.

[Telegram.]

BERLIN, *October 16, 1895.*

Stern's Munich attorney writes me Bavarian legal authorities will inquire into the necessity for so long postponement through German consul New York.

RUNYON.

Mr. Runyon to Mr. Olney.

No. 391.] EMBASSY OF THE UNITED STATES,
Berlin, October 17, 1895. (Received Oct. 30.)

SIR: I have the honor to send on the overleaf a copy of my telegram of yesterday (16th instant[1]) in regard to the Stern case, touching the postponement of the execution of the sentence of imprisonment. On the same day (13th instant) on which I received your telegram on that subject, I, without delay, wrote to Mr. M. Bernstein, of Munich, one of the attorneys of Mr. Stern, on the subject of an application by him for the postponement, suggesting that perhaps before my letter should have come to his hands he would have received instructions on the matter from Mr. Stern himself, and such appears to have been the case in fact. I yesterday received his reply, a translation of which I send herewith as being of interest in the present stage of the affair.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 391.]

Mr. Bernstein to Mr. Runyon.

[Translation.]

MUNICH, *October 14, 1895.*

ESTEEMED SIR: In response to your esteemed communication I beg to inform you as follows:

I have already, on the 7th instant, applied for Mr. Stern, at his request,

[1] See supra.

for a four-months' postponement of the punishment. In consideration of this request for a postponement, the first States attorney of the Royal "land" court at Schweinfurt has directed the "Amts" attorney at the "Amts" court at Kissingen, Mr. Von Baumer, to make investigations, and Mr. Von Baumer has sent me an order directing me to acquaint him with the facts which make it especially detrimental to Mr. Stern to undergo the punishment at once. The "Amts" attorney informs me that then the consul-general at New York will thereupon be ordered to investigate the facts in the matter.

I thereupon replied that I would be in a position to give him further information by the 12th of November, as Mr. Stern had not given me any further information regarding the affairs in question. The Paris representative of Mr. Stern, Mr. Furschein, who is now on his way to America, assured me before his departure that he would, upon his arrival at New York, at once transmit to me the desired information. According to the statement of the latter it is not to be doubted that Mr. Stern, as the head of his large business establishment, is compelled to make, in his business, in the coming months arrangements which can not be postponed.

With high esteem,

BERNSTEIN,
Attorney at Law.

Mr. Olney to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 29, 1895.

Stern will not return to undergo imprisonment.

OLNEY.

TRIAL FOR AN OFFENSE OTHER THAN THAT FOR WHICH EXTRADITION IS GRANTED.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, August 28, 1894.

SIR: I have the honor to forward to you herewith a duplicate of a note, written in the German language and dated January 25 of this year, relating to the extradition of a certain Jacob David, an American citizen, arrested at Meisenheim, in Prussia, and extradited upon the request of the United States embassy at Berlin on January 10, 1893.

When it was brought to my notice, only a few days ago, that an answer to this note had not been received, I caused the secretary of this embassy to make inquiries at the Department of State, where he was informed at the office of the Solicitor of the State Department that no record could be found of the said note having ever reached the Department.

As the draft of this note in the archives of this embassy bears the mark of the assistant chancellor who copied the note and who moreover remembers well the fact of having made such copy, and as the

register of this embassy contains an entry of the number of the note under date of January 25 of the present year, it can only be presumed that the note has been lost between this embassy and the Department.

According to the prevailing practice letters and documents destined for the Department of State are either forwarded by the embassy's messenger and handed over in the chief clerk's office, or they are transmitted through the United States post-office in this city.

Considering the time which has elapsed since the note in question was ready for transmission, it seems hardly possible to elucidate the facts which caused the loss.

I would, however, be greatly obliged if you would deem it expedient to make further investigations in the matter.

I have, etc., SAURMA.

[Inclosure.]

Baron Saurma to Mr. Gresham.

[Duplicate—Translation.]

WASHINGTON, *January 25, 1894.*

Mr. SECRETARY OF STATE: I have the honor, in pursuance of instructions received, to invite your attention to the following matter:

Jacob David, an American citizen, who had been arrested at Meisenheim, Prussia, was surrendered to the United States Government on the 10th of January last, at the instance of the United States envoy at Berlin, it having been previously decided by the royal district court at Coblenz that there was good ground to suspect that he was guilty of forgery.

According to the statements contained in the American press with regard to the proceedings against David, an indictment was found against him, embracing six counts, for larceny, forgery, and embezzlement, and David, after confessing that he was guilty of embezzling $400, was sentenced on the strength of this confession, no attention being paid to the other charges.

If these statements are correct, David was sentenced by the American court for the embezzlement of funds that were not public funds, and consequently for an act which, according to the treaty of June 16, 1852, which is still in force, furnished no grounds for his extradition and for which his extradition was neither solicited nor granted. The extradition was, as appears from the inclosed copy of a note from the Imperial foreign office to the chargé d'affaires of the United States of America at Berlin, dated January 10, 1893, granted simply on account of the fabrication of the three papers separately mentioned in the note, and on account of the use of these forged papers with fraudulent intent. A sentence, or even a criminal prosecution of the surrendered party on account of any act other than that for which the extradition was granted, would be in violation of international principles and of the treaty rights which have accrued to the Government of His Majesty, the Emperor and King, through the extradition, as regards the United States of America.

I respectfully request your excellency to be pleased to inform me whether David has actually, since his extradition, been criminally prosecuted for any acts other than the forgery of the aforesaid three papers, and for embezzlement.

If this should be the case, the Imperial Government would, to its regret, be compelled to call attention to the fact that the procedure chosen is not reconcilable with international principles or with the treaty rights that have accrued to it, and to ask that the sentence pronounced against the prisoner be not carried out. His Majesty's Government, so far as it is concerned, would not be averse to granting, at the request of the United States, the subsequent extension of the extradition to the other offenses with which David is charged.

As, however, the treaty of extradition which is now in force between the United States and the German Empire makes provision neither for these offenses nor for any such subsequent grant, the Imperial Government would, to its regret, be unable to do this.

Feeling convinced that your excellency and the United States Government will regard the standpoint of the Imperial Government, as stated in the present note, as being in harmony with justice, I avail, etc.,

SAURMA.

[Subinclosure—Translation.]

Baron von Rotenhan to Mr. Coleman.

BERLIN, *January 10, 1891.*

The undersigned has the honor, referring to his note of the 7th instant, to inform Mr. Chapman Coleman that the extradition of Jacob David, who is wanted in Chicago for forgery, has been granted, the evidence adduced having been deemed sufficient, and it having been ascertained that David is not a subject of the Empire.

The acts of which proof has been furnished, and for which the extradition has consequently been granted, consists of the fraudulent fabrication of three documents, and of the use of the forged documents with fraudulent intent. These documents are—

(1) A bond purporting to have been issued by Ester Wolfson, under her sign manual, at Chicago, on the 14th day of June, 1888, with the following title: "Loan No. 76, 12th series, for $500 in favor of the Prairie State Loan and Building Association, Chicago."

(2) A certificate (No. 331), of April 10, 1890, for 20 shares of the stock of the above-named company, belonging to Henry Rahn, for $100 each, bearing the signature of Abraham Diamond, president of the company.

(3) A certificate (No. 448), dated February 14, 1889, for 10 shares of the stock of the same company, belonging to Messrs. Clute & Cragier, for $100 each, bearing the signature of Mayer Guttel, president of the company.

The Government president at Coblenz was instructed by telegraph, on the 7th instant, to send the accused to Bremen without delay, under a strong guard.

The undersigned hopes that it has been possible to accelerate his transportation so that David, in accordance with the desire expressed in the communication of the 4th instant, F. O. 422, may be sent to New York by the steamer which sails from Bremen to-day, and he avails himself of this occasion, etc.,

BARON VON ROTENHAN.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, January 10, 1895.

Mr. SECRETARY OF STATE: In accordance with the instructions of the Imperial Government, I have the honor to state, in reply to your excellency's esteemed note of October 9, 1894, concerning the extradition to the United States authorities of Jacob David who was arrested in Germany, as follows:

In the above-mentioned esteemed note it is stated that it was not the intention of the authorities of the State of Illinois to deprive David of the rights accruing to him under the extradition treaty of June 16, 1852; that, on the contrary, the prisoner himself, by confessing himself guilty of theft, on condition that the charge of forgery should be dropped, renounced the impunity which under the treaty he enjoyed as to the theft.

The Imperial Government regrets that it can not see in this any entirely satisfactory reply to the representations which were made in the note of January 25, 1894, against the extension of the criminal prosecution of Jacob David to other acts than that for which the extradition was granted.

In the opinion of the Imperial Government rights can not in general be derived for an extradited criminal out of the treaty on the ground of which his extradition has taken place. Extradition treaties rather create rights only between the Governments concerned. In the present case the extradition of David was not asked on the ground of theft, nor could it have been granted for that criminal act, as the treaty does not recognize theft as a ground of extradition. It does not seem to be consistent with the wording of the treaty and the treaty rights of Germany that the American authorities should consider themselves entitled to extend the criminal prosecution of an extradited person, without regard to the conditions of the extradition, after they have obtained from the criminal a renunciation of the rights which he is thought to possess under the treaty. The declarations of the criminal can not be taken into consideration in connection with the rights which Germany has acquired in consequence of an extradition executed in accordance with the terms of the extradition treaty, nor can they prejudice those rights. The Imperial Government insists that in order to extend the prosecution of an extradited person to acts which were not included in the request for extradition, unless the extradition treaty contains a provision to the contrary, the express consent of the extraditing Government is required, and thinks itself compelled to enter a protest on the ground that, in the present case, proceedings have been instituted against the extradited person without its consent for acts for which the extradition was not granted.

The sentence passed upon David has, according to your excellency's communication, been already carried out. In view of this the Imperial Government cherishes the hope that the United States Government will exert all its legal powers to bring to account the officials who have been guilty of a violation of the treaty rights of Germany. I would respectfully ask for your kind information as to the measures which may be adopted to this end.

Moreover, the Imperial Government could in future grant an extradition to the United States of America only when it appears certain

that the person to be extradited will not, without the consent of the Imperial Government, be called to account and punished in America for other facts and acts than those for which the extradition shall be asked and granted. Either a full guaranty of this would have to be given by the United States Government in every individual case or this point would have to be settled once for all in a new extradition treaty.

With the hope that you will kindly inform me of the views of your excellency and the United States Government as to the opinions expressed by the Imperial Government, I avail myself, etc.,

SAURMA.

Mr. Gresham to Baron Saurma.

No. 18.] DEPARTMENT OF STATE,
Washington, February 26, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th of January last in relation to the case of Jacob David, a citizen of the United States, who was extradited from Germany to the United States in January, 1893, on charges of forgery and of fraudulent use of forged papers.

In order to present this case in its proper light, I will briefly refer to the prior correspondence. On the 25th of January, 1894, your excellency, acting under the instructions of your Government, addressed to me a note in which you drew attention to certain statements in the American press in which it was represented that David, apparently after his extradition, was indicted for the offenses of larceny, forgery, and embezzlement—all of which were embraced in one indictment, and that when arraigned on this indictment he pleaded guilty and was sentenced on the charge of larceny, the other charges being dismissed or abandoned. It appearing, according to these representations, that David had been arraigned and sentenced on a charge for which his extradition was not, and under the treaty between the United States and Germany could not have been demanded, you requested me to inform you whether he had "actually, since his extradition, been criminally prosecuted for any acts" other than those for which he was surrendered.

Inquiry of the governor of Illinois, against the laws of which State David's offense was committed, elicited the fact that in October, 1892, he was indicted for forging a bond and also a transfer of stock. He had previously been indicted for larceny. When, more than a year afterwards, he was brought back on the charges involving forgery, he offered to plead guilty to the charge of larceny if the other charges against him should be dismissed. This offer, which seems to have been dictated solely by motives of self interest on the part of David, was accepted by the State, and after pleading guilty to the charge of larceny he was sentenced to a term of imprisonment, which expired about five months ago. These facts were duly communicated to your excellency. It appears from them that David was not prosecuted after his surrender on the charge of larceny, but that, having previously been charged with that offense, the indictment for which was still pending, he sought to plead guilty to it in order to avoid a prosecution for the offenses for which he was extradited. The voluntary character of the proceeding on the part of David is shown not only by these circumstances, but also by the fact that it has not been suggested that he

fancied himself to have any ground for complaint. Indeed, it may well be assumed that he owes his liberty to-day to the lenient compliance of the authorities of Illinois with his wishes.

The circumstance that in your note of the 10th of January you refer to "the extension of the criminal prosecution of Jacob David to other acts than that for which the extradition was granted," and protest in behalf of your Government "on the ground that in the present case proceedings have been instituted against the extradited person without its consent for acts for which the extradition was not granted," has led the Department to doubt whether the facts in the case, as they are herein again set forth, have been correctly apprehended by the Imperial Government. It certainly appears that there was no extension of the prosecution of David, and that no new proceedings were instituted against him after his extradition. But whatever may be the understanding of the Imperial Government as to the facts in the case, there are certain propositions of law laid down in the note of your excellency from which this Government is compelled to dissent. It is said to be the opinion of the Imperial Government that rights can not in general be derived by an extradited criminal from the treaty under which his extradition is granted, since extradition treaties "rather create rights only between the Governments concerned." This Department was not aware that such was the law in Germany. It certainly is not the law in the United States. It is true that at one time various courts in this country held the opinion now expressed by your excellency in behalf of the Imperial Government, and, acting upon that opinion, they maintained that an extradited person could, in spite of his protest, be prosecuted for offenses other than that for which he was delivered up, unless the surrendering Government formally objected. But since the decision of the Supreme Court of the United States in the case of Rauscher it has been the settled law of the land that the exemption from such prosecution is so far a personal right that the extradited person may demand and obtain its judicial enforcement.

This Department is not unaware of the fact that it is often loosely said that the exemption from trial for offenses other than that for which extradition was granted is a right belonging to the surrendering Government rather than the person surrendered. When properly interpreted, the meaning of this statement appears to be only that if the surrendering Government waives the right the individual can not set it up. To permit him to do so would be to concede what no State will now admit, viz, that a fugitive from justice can claim, as against the country of refuge, a right of asylum. As the Government of the country of refuge may, in accordance with its own laws and views of policy, deliver up fugitives from justice against their will, so, after their surrender, it may waive the limitations which it may have seen fit to impose in regard to their trial.

But, while the fugitive does not acquire any right as against the surrendering Government by reason of his extradition, it seems equally plain that the surrendering Government does not, by reason of the same transaction, acquire any right as against the person surrendered. For this reason the Department is unable to regard as sound the proposition advanced in the note of your excellency that "the declarations of the criminal can not be taken into consideration."

It is not difficult to show that this proposition, when followed to its logical consequences, carries us beyond any rule ever laid down on the subject of limitations as to trial. The case, with reference to which extradition treaties are made, is that of the recovery and prosecution

of an offender against his will, and it is with reference to such a case that the rules of extradition are usually discussed. The object of the whole system is to punish crime, not to protect it; to compel offenders to submit to prosecution, not to prevent them from doing so.

With the idea of compulsory prosecution in view, it is laid down as a general rule, not merely that a person delivered up shall not be tried for an offense other than that for which he was surrendered, but that he shall not be so tried until he shall have had an opportunity to return to the jurisdiction of the surrendering Government. This is the construction given by writers to the limitation as to trial, whether the limitation be expressed in terms thus comprehensive or in terms more brief.

It needs no argument to show that this rule necessarily presupposes the right and the power of the accused voluntarily to waive his immunity from trial. While it assumes that he is averse to trial, it treats his omission to leave the jurisdiction as an implied waiver of his exemption. It is obvious that such a waiver could not be implied from his conduct if he had not the power to make it by an express declaration. The theory advanced by the Imperial Government would place the accused under a positive disability and convert a rule made for his protection into a means of oppression. It would deprive him of his free volition by denying him, after his surrender, the freedom of action which he enjoyed before, when it was within his power voluntarily to deliver himself up to be tried for any and every offense with which he was charged.

Of the possible practical consequences of such a theory the case under consideration affords an excellent illustration. By the acceptance of his offer to plead guilty to the charge of larceny, David acquired immunity from punishment on graver charges, and soon acquired his liberty. Had he been deprived of his freedom of action, he might have been required not only to undergo trial and probably longer imprisonment on the charges for which he was surrendered, but afterwards to become a fugitive from justice again in order to avoid prosecution for larceny. The proposition he made, and of which he secured an acceptance, was manifestly for his advantage.

Such being the views of this Government, I do not see any ground for attempting to bring to account the officials of the State of Illinois who participated in the transaction to which David was voluntarily a party. Nor can this Government undertake to guarantee in each particular case that a fugitive surrendered for one offense will not voluntarily submit to be tried for another, and that the courts, should he so submit, will refuse to try or punish him.

Accept, etc., W. Q. GRESHAM.

Baron Saurma to Mr. Gresham.

IMPERIAL GERMAN EMBASSY,
Washington, April 9, 1895.

Mr. SECRETARY OF STATE: In reply to your excellency's note of the 26th of February last, relative to the extradition of Jacob David to the United States authorities, I have the honor, in obedience to instructions received, to submit the following remarks to your excellency:

The Imperial Government has taken cognizance, with great interest, of the statements made in the aforesaid note, and is able to agree with some of them entirely.

As is therein remarked, with reference to the Rauscher case, a criminal who has been surrendered to the German authorities may, in the opinion of the Imperial Government, when arraigned before the German courts, appeal to the treaty under which his extradition has been granted and demand that its provisions be executed. This is the case at least when the treaty in question has been ratified by the proper legislative bodies and has been made public in the manner required for laws.

The treaty then is, at the same time, a law, and the accused may demand, as he may in the case of any law, that it be executed, and may oppose its violation by the same means by which he may oppose the violation of other laws. To that extent it is true that an extradited person may derive rights, as regards the country to which the extradition has been granted, from the treaty as from a law of the land. That, however, is a domestic affair of this country, and was consequently not referred to by the Imperial Government in the first statement which it made to your excellency in the note of this embassy of January 10, 1895. For, between the two Governments, the international side only comes into question, and, while the Imperial Government claims that an extradited criminal can derive no rights from a treaty between two States, as being an international instrument, it thinks that the United States Government will not object to this. The two ways of considering the question do not exclude one another. A treaty of extradition has a double character, both as a law of the land and as a standard of international law. The first side of the case has been thoroughly discussed in the note of the Honorable Mr. Gresham, Secretary of State. The second side has, however, in the opinion of the Imperial Government, not received sufficient attention. For, while an extradited person may be authorized to renounce the rights which he may himself derive from the treaty as a law, the rights are not thereby affected which the extraditing State has acquired—as regards the other State—from the international instrument of extradition. Those rights are within the domain of international law and are entirely independent of the will of the extradited person.

Your excellency's note of the 26th of February last seeks, it is true, to show that those rights are, to a certain extent, independent of the will of the extradited person, inasmuch as it states that extradition treaties are concluded for the recovery and prosecution of an offender against his will, that the limitations to which the prosecution is subjected by the treaty form a rule made for his (the offender's) protection, and that he would be deprived of his free volition if the freedom of action were denied him after his extradition which he enjoyed before. The Imperial Government, however, does not think that it can fully share all these views.

Although it may usually be the case that an offender is extradited against his will, this by no means belongs to the conception of extradition. It not infrequently happens that a fugitive criminal declares that he is willing to be surrendered, and it is quite conceivable that such a person should consent before, as David did after, his extradition, to be prosecuted for acts other than those provided for in the treaty.

Would the United States Government suppose that such a declaration was deserving of consideration, and that, for instance, a criminal who should be surrendered by the United States to Germany would, on giving his consent thereto, be sentenced by the German courts for a political or military offense, or for an act which, according to American ideas of law, was not even a criminal offense? The Imperial Govern-

ment would not suppose such a thing if the case were reversed. It holds the opinion, on the contrary, that when an offender does not appear before the courts whose duty it is to try him, and thus furnishes ground to one State to ask legal aid of another, his will, as regards the arrangement to be made by the two States concerning his extradition, can no longer be entitled to consideration. As no American officer whose duty it is to take charge of a criminal who has been surrendered by Germany would set such criminal at liberty on his declaring that he would voluntarily appear before the proper American court, just so the Imperial Government can attach no significance to such a person's declaration that he thus submits to prosecution, as if he had appeared voluntarily; it can do so neither when such declaration is made after extradition nor when it is made before. If an offender has once failed to appear voluntarily, he can not afterwards pretend that he has appeared. An enforced return then takes the place of a voluntary appearance, application therefor being made by one State and granted by another, and, in the view of the Imperial Government, such enforced return is to be considered as an international act, from the point of view of public law. To what extent such legal aid is to be rendered depends upon the agreement that has been made, once *for* all, by means of a treaty of extradition or for that particular case.

The main object to be kept in view in such cases is, as is pertinently remarked in your excellency's note of February 26, to punish crime, not to protect it. When the State to which application is made grants the application, but only on certain conditions, this is to be explained by the fact that, while it is perfectly willing to lend the foreign State the required legal aid, it must, to some extent, consider its own sovereignty and its own interest. Thus is explained the fact that extradition is not granted for acts that are not punishable in the State to which application is made. The latter State, in the opinion of the Imperial Government, will not be likely to aid in the punishment in another State of a person whom it does not itself consider a criminal, and if it requires that the extradited person shall not subsequently be held responsible for such acts, it does so for the purpose of upholding its sovereignty and its views of what is right. It seems evident that this State right is dependent solely upon its (the extraditing State's) will, and that it can be renounced by it only, and not by the person extradited. That person may secure immunity from punishment under the protection of such reservations, but that is only a consequence, not the object of this or of any similar reservation made in connection with the extradition. If, for instance, no provision is made in the treaty in force between Germany and the United States for extradition for embezzlement and theft, the lack of such provision is evidently not to be ascribed to the fact that one of the two parties thinks that a man who has been guilty of one of these offenses deserves to be protected from the other State, but to the fact that when the treaty was concluded these offenses were not considered by the two parties as being of sufficient importance to warrant them in assuming the international obligation to extradite and the burden upon their own sovereignty which is therein involved.

In their own interest the treaty-making parties have thus restricted their obligation to grant extradition, and if a criminal derives any advantage therefrom this is unfortunately not to be avoided while the existing treaty is in force, and must be accepted as an undesirable consequence of that restriction. It would, however, in the opinion of the Imperial Government, be wrong, and would not appear to be in harmony with the principle upheld by the United States Government, viz, that

the object of extradition is to punish crime, not to protect it, if the protection of the criminal were to be regarded as the real object of the restrictions made in connection with extradition, and if the renunciation thereof were to be made dependent upon his will. The State to which application for extradition is made derives from the international act of extradition rights which belong to international law, and which can be renounced by none but the State alone.

The Imperial Government therefore thinks, to its regret, that it must maintain its protest against the action taken in the United States in the case of David. It has considered the procedure in that case exactly as it is rehearsed in your excellency's note of the 26th ultimo [meaning February 26]. In that rehearsal it finds confirmation of the fact that David was sentenced in the United States for an act for which his extradition could not have been demanded according to the treaty, and for which he should not have been punished without the consent of the Imperial Government, so long as he was in the power of the American authorities in consequence of the extradition.

As the United States Government declares that it can not undertake to guarantee, in each particular case, that no repetition of such proceedings shall occur, the only thing that remains to be done, in the opinion of the Imperial Government, is to settle the point by means of a new treaty of extradition, so that such treaty, as a law of the land, may furnish a proper criterion to the American courts.

Begging to be favored with a reply on this subject, I avail, etc.,

SAURMA.

PROHIBITION OF THE IMPORTATION OF AMERICAN CATTLE.[1]

Mr. Runyon to Mr. Gresham.

No. 174.] EMBASSY OF THE UNITED STATES,
Berlin, December 17, 1894. (Received Jan. 5, 1895.)

SIR: Referring to my dispatch, No. 146, of October 29 last, I have the honor to inclose herewith a copy of a note, F. O. No. 171, to-day addressed by me to the foreign office regarding the existing prohibition of the importation into Germany of American cattle and fresh beef. In this connection I deem it proper to inform you that on the 23d ultimo I received from the foreign office a memorandum, dated November 7 last, on the subject of "Texas fever among American cattle imported into Germany at Hamburg," of which I did not send a copy to the Department, as I was informed that one had already been sent through the German embassy at Washington.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 174.]

Mr. Runyon to Baron Marschall.

F. O. No. 171.] EMBASSY OF THE UNITED STATES,
Berlin, December 17, 1894.

The undersigned, ambassador, etc., of the United States of America, referring to his note of October 28 last, F. O. No. 153, and to his conversations with His Excellency Baron Marschall von Bieberstein, Impe-

[1] See Foreign Relations, 1894, pp. 230–233.

rial secretary of state for foreign affairs, on the subject to which that note relates—the prohibition of the importation into Germany of American cattle and American fresh beef—has the honor very respectfully to solicit the attention of his excellency to the fact that experts in the cattle disease known as "Texas fever," however they may differ in theory in reference to it, all agree that it is not contagious in northern climates between the 1st of December and the 1st of May, and some of them hold that it is not contagious in such climates between the 1st of November and the 1st of May; and they all agree that frost puts an end to all chance of contagion from it. The undersigned begs to be permitted to add that this complete concurrence of the views of the experts on the subject would seem to remove all ground whatever for apprehension as to the disease during the winter and the greater part of the spring.

The undersigned begs to solicit his excellency's attention to the fact above stated, with a view to the removal of the existing prohibitions.

The undersigned also begs to say that up to this time he has not been favored with a reply to his request for the removal of the interdict in regard to American fresh beef.

The undersigned avails himself, etc.,

THEODORE RUNYON.

Mr. Jackson to Mr. Olney.

No. 331.] EMBASSY OF THE UNITED STATES,

Berlin, August 9, 1895. (Received Aug. 27.)

SIR: I have the honor to inclose herewith a clipping, with translation, from this morning's issue of the National Gazette of this city, showing what regulations are now in force regarding the importation of cattle and meat products into Germany, and am, sir,

Your obedient servant,

JOHN B. JACKSON.

[Inclosure in No. 331.—Translation.]

Extract from the National Zeitung, Berlin, August 9, 1895.

The following compilation as to the veterinary police measures in order to prevent the introduction of cattle diseases is published at official instigation:

In general, all four-footed animals arriving for importation from foreign countries are, at the time of their crossing the frontier, subjected, at the expense of the importer, to a veterinary inspection, and if at that time they prove to be afflicted with a contagious disease they are sent back.

As regards special measures, the importation and transit from Russia of beef cattle, sheep, hogs, and goats, as well as of fresh beef, mutton, and goat's meat, is forbidden. At certain slaughterhouses in Prussian cities situated on the frontier, hogs may be brought to be butchered immediately.

The importation from Austria-Hungary of beef cattle, sheep, and hogs is forbidden. Beef cattle from districts where pulmonary diseases are not to be found, provided that they do not come from Galicia or the states, with the exception of Salzburg, which border on south Germany, may be imported for butchering at the slaughterhouses of several German cities. The passage of sheep through Germany is allowed. Animals intended to be used as beasts of burden, etc., or for breeding purposes may, as an exception, be allowed to come into the country upon special permission. The importation of horses is confined to certain designated stations.

The importation from Roumania, Servia, and Bulgaria of hogs, sheep, goats, and fresh mutton is forbidden. The presidents of the governments on the coast of the North Sea are authorized to prohibit the transit to the sea of ruminating cattle from Roumania. Fresh beef may not be imported from Roumania.

The importation and transit from Italy of beef cattle, sheep, hogs, and goats is forbidden by those Federal States concerned.

The importation from France, Belgium, Denmark, Sweden, and from Great Britain and Ireland of ruminating cattle and hogs is also forbidden. As regards Denmark specially, the importation of beef cattle and hogs to slaughterhouses situated in ports on the North Sea and Baltic Sea coasts for butchering may be permitted.

Lean cattle from Jutland may, under conditions and after a quarantine of seven days, be admitted, and so may, under conditions, lean sheep from Iceland. Also from England, with special permission, single sheep and hogs may be brought into the country for breeding purposes.

Beef cattle and fresh beef can not be imported from America. Sheep and horses may be subjected to suitable observation by the president of the government at the place of landing. Hog products must be accompanied by a certificate showing that they have undergone the required inspection.

As for Africa, finally, it is ordered that beef cattle are to be subjected to a quarantine of four weeks—in the case of that imported by ships, at the place of landing; in the case of that imported by rail, at the place of destination.

Mr. Adee to Mr. Runyon.

No. 401.] DEPARTMENT OF STATE,
Washington, August 28, 1895.

SIR: I have to inform you that your dispatch, No. 331, of the 9th instant, in regard to the regulations in force in Germany relating to the importation of cattle and meat products from foreign countries, has been received and a copy thereof sent to the Secretary of Agriculture for his information.

In this connection I inclose for your information a copy of my instruction No. 158,[1] of the 26th instant, to the United States minister at Brussels, to bring the matter of the prohibition of the importation of American cattle into Belgium to the attention of the Belgian Government and to ask for the revocation of its restrictive decree on the subject in view of the fact that the present healthful condition of all kinds of live stock in the United States is well established, as is shown by the letter of the Secretary of Agriculture of the 22d instant, a copy of which accompanies that instruction.

You are instructed to avail yourself of a convenient opportunity to bring this subject to the attention of the German Government, and to ask that in view of the present good sanitary condition of our live stock the question of revoking the decree prohibiting the importation of American beef cattle and fresh beef into Germany may be taken into consideration.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Runyon to Mr. Olney.

No. 368.] EMBASSY OF THE UNITED STATES,
Berlin, September 18, 1895. (Received Oct. 1.)

SIR: I have the honor to acknowledge the receipt to-day of the Department's instruction No. 401, of the 30th ultimo, relating to the prohibition of the importation into Germany of American cattle and

[1] See p. 34, ante.

meat products, and to inclose herein a copy of a note I have to-day addressed to the Imperial foreign office in accordance therewith.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 368.]

Mr. Runyon to the Imperial Foreign Office.

F. O. No. 296.] EMBASSY OF THE UNITED STATES,
Berlin, September 18, 1895.

Referring to previous correspondence, in particular to his note of October 28, 1894 (F. O. No. 153), the undersigned, ambassador, etc., of the United States of America, acting under instructions from his Government, has the honor to again bring to the attention of the Imperial German Government the subject of the importation of American cattle and meat products, and to request that, in view of the good sanitary condition of American live stock, the prohibition of the importation into Germany of American beef cattle and fresh beef be discontinued.

The United States Secretary of Agriculture reports that there have been no cases of pleuro-pneumonia in the United States for several years, and the American cattle are now equally free from Texas fever; but even if it were admitted that cattle affected with Texas fever had been found among those exported from the United States, the American Government would still protest against the prohibition of the trade on that account, as the disease is not disseminated by affected cattle. Although from 100,000 to 400,000 head of cattle have been imported annually to Europe from the United States during the past fifteen years, there is no case on record of any disease having been disseminated among European cattle by animals from the United States.

American cattle are not, as a rule, shipped to be placed among breeding herds, where they will mix with native stock, but are generally shipped for immediate slaughter, and consequently they may, it is thought, be surrounded by all precautions necessary to prevent the spread of contagious diseases without a resort to prohibitive measures.

The undersigned again has the honor to bring to the attention of the Imperial foreign office the fact that his request, repeated in his note of December 17, 1894 (F. O. No. 171), for the removal of the interdict in regard to American fresh beef has not been favored with a reply.

THEODORE RUNYON.

TRANSIT OF AMERICAN BEEF THROUGH GERMANY PROHIBITED.

Mr. Runyon to Mr. Gresham.

No. 242.] EMBASSY OF THE UNITED STATES,
Berlin, April 9, 1895.

SIR: Since sending my dispatch of yesterday[1] on the subject of the permissibility of the transportation of fresh meat through Germany to the markets of Austria, I have received (by note verbale) an answer to my inquiry therein referred to, and I herein inclose a copy of such note, with a translation thereof, and have the honor to be, etc.,

THEODORE RUNYON.

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[1] Not printed.

[Inclosure in No. 242.]

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America, with respect to, the communication made to it by memorandum of the 21st of last month of his excellency the ambassador, that the existing prohibition and restriction in regard to the importation into Germany of meat from foreign countries is applicable in principle also to the transportation of meat through Germany. Hence it follows that since the importation of American beef has since the end of last year been prohibited, the transportation of such goods is equally not permissible, and the transportation of pork under the provisions of the Imperial regulation of September, 1891 (Imperial law sheet, p. 385), is only allowed where the goods are accompanied by an official certificate that the meat has in the country of its origin been, according to the regulations of such country in regard to the export to Germany, subjected to the prescribed inspection and found to be free from qualities injurious to health.

Berlin, April 8, 1895.

EXPORTATION OF AMERICAN PORK.[1]

Mr. Runyon to Mr. Gresham.

No. 173.] EMBASSY OF THE UNITED STATES,
Berlin, December 8, 1894. (Received Dec. 22.)

SIR: I find through the press that the minister of finance has, by an order dated the 27th of last month, given notice to customs officers and those interested in the business that American pork packed in hermetically sealed cans must, to be admitted, be accompanied by the certificate of inspection, etc., required in case of pork generally. And this although the pork in the food article referred to in the notice, and which is called brawn, is cooked meat.

I have, etc., THEODORE RUNYON.

Mr. Runyon to Mr. Gresham.

No. 186.] EMBASSY OF THE UNITED STATES,
Berlin, January 7, 1895. (Received Jan. 26.)

SIR: Referring to my dispatch, No. 173, of the 8th ultimo, in which I informed you that I had learned that the certificate of healthfulness must accompany all American pork, even if cooked, imported into Germany, I have the honor to transmit herewith a copy, with the necessary translation, of my correspondence with the Imperial foreign office on the subject, and to be, sir,

Your obedient servant, THEODORE RUNYON.

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[1] See Foreign Relations, 1894, p. 226.

[Inclosure 1 in No. 186.]

Mr. Runyon to Baron Marschall.

F. O. No. 173.] EMBASSY OF THE UNITED STATES,
Berlin, December 21, 1894.

The undersigned, ambassador, etc., of the United States of America, has the honor to ask the attention of His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, to the complaint which is made in regard to the tariff duty imposed by German officials upon the article known in commerce as "brawn," imported from the United States of America. The article is a mixture of cooked beef and cooked pork, and is imported in hermetically sealed cans. The complaint on this head is in particular that the customs officers (at Cologne) impose upon this article a duty of 20 and even 60 marks per 100 kilograms, whereas, according to the tariff laws of Germany, prepared flesh, when imported in hermetically sealed cans, is to pay a duty of 20 marks per 100 kilograms, or, if it comes from "treaty countries," of 17 marks. It will be seen that brawn, which is an article of food inferior to and cheaper than corned beef, instead of being assessed as prepared flesh as above, is assessed at a high rate as a table delicacy, which it certainly is not.

It has also been recently brought to the knowledge of the undersigned that the importation of "brawn" has been forbidden absolutely unless accompanied by certificate of healthfulness, and this although the pork is cooked, and, being cooked, there is therefore no danger from trichinæ in the use thereof.

The undersigned, while inviting the attention of his excellency to these subjects of complaint, to the end that his excellency may investigate them, and if the facts prove to be as stated the proper directions may be given to relieve therefrom, has the honor to avail, etc.,

THEODORE RUNYON.

[Inclosure 2 in No. 186.—Translation.]

Baron Marschall to Mr. Runyon.

FOREIGN OFFICE, *Berlin, January 5, 1895.*

Referring to the note of the 21st ultimo, the undersigned has the honor to send to his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Theodore Runyon, the preliminary answer that the foreign office has thus far received no official information of a regulation under which American pork, termed "corned brawn," must be accompanied by certificate as to its healthfulness when imported into Germany. This office has information on the subject only of a copy of a notice in the nonofficial part of the Imperial Gazette, No. 285, of the 4th ultimo, which states that the Royal Prussian minister of the treasury is said to have issued a decree to the provincial customs authorities on the 27th of November last, according to which the admission of American pork packed in cans would depend on its being accompanied by the certificate as to healthfulness prescribed by law. There is no reason why the authenticity of this notice should be doubted at this office; and from the contents of this decree little ground can be discovered for nonconcurrence with the minister of the treasury in the matter since the decree, if, as is supposed at this office, it was actually issued, would merely be in concordance with lawful existing regulations, and the making of it would only be in accord with

the decision of that part of the ministry which is the superior authority in the Prussian customs. Such decisions are issued regularly by the chief authorities in important questions and questions of principle so as to obtain a uniform action on the part of the inferior authorities.

In explanation, the undersigned begs to state that after the importation of hogs, pork, and sausages of American origin had been prohibited by Imperial decree of March 6, 1883 (Imperial law sheet, p. 31), this prohibition as to hog products was only removed by Imperial decree of September 3, 1891 (Imperial law sheet, p. 385), as to such of these goods which were imported into Germany from America as should be accompanied by an official certificate that the meat had been examined in the country of its origin according to the laws prevailing there, and that it had been found free from properties injurious to the health. It follows, herefrom, that American pork which is not accompanied by a certificate of this nature must be barred from importation into Germany whether it has undergone a process of cooking or not, and consistently with this the notice in the Imperial Gazette of the decree of the Royal Prussian minister of the treasury referred to was confined to establishing this regulation so far as "corned brawn" is concerned.

While the undersigned adds that the proper department has instistituted an investigation as to the dealing with "corned brawn" under the customs tariff, and reserving to himself a further communication in this matter, he avails, etc.,

MARSCHALL.

Mr. Uhl to Mr. Runyon.

No. 237.] DEPARTMENT OF STATE,
Washington, March 11, 1895.

SIR: I have to inform you that, in a letter of the 8th instant, the Secretary of Agriculture states that he has recently learned that pork which had not been microscopically inspected has been shipped to Germany and allowed entry, probably because the officials were not informed as to the difference in the meat inspection stamps and the certificates used by the Department of Agriculture for the two kinds of inspection. He therefore desires that representations be made to the German Government to the effect that all pork slaughtered for the interstate or foreign trade is inspected at the abattoirs by veterinarians, and that which is to be shipped to France, Germany, Denmark, and other countries, requiring the microscopical inspection, is subjected to this inspection in addition to the veterinary inspection at the abattoir. The pork which has been microscopically inspected is distinguished by a purple stamp upon the packages, which bears the word "Export." The stamp upon the pork not microscopically inspected is a white stamp which has the same printed matter, with the exception that it does not contain the word "Export." The certificates issued with the microscopically inspected pork have stamped across their face the words, "Microscopically examined in addition to regular inspection."

You will accordingly lay the matter before the German Government in the sense of Secretary Morton's representations, and for that purpose I inclose samples of the stamps and certificates used for the microscopically examined pork and copies of the regulations recently issued for the inspection of live stock and their products.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

Mr. Runyon to Mr. Gresham.

No. 230.] EMBASSY OF THE UNITED STATES,
Berlin, March 24, 1895. (Received April 5.)

SIR: I have the honor to acknowledge the receipt to-day of the Department's instructions No. 237, of the 11th instant, relating to the kinds of certificates and stamps used by the Department of Agriculture in connection with the microscopic examination of meat intended for export, and to inclose herein a copy of my note addressed to the Imperial foreign office in compliance with the directions therein contained.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 230.]

Mr. Runyon to Baron Marschall.

EMBASSY OF THE UNITED STATES,
Berlin, March 21, 1895.

The undersigned, ambassador, etc., of the United States of America, has the honor to inform His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, that his Government, having recently learned that pork which had not been microscopically inspected has been shipped to Germany, and allowed entry probably because the officials were not informed as to the difference in the meat inspection stamps and the certificates used by the Department of Agriculture for the two kinds of inspection, has instructed the undersigned to inform his excellency that all pork slaughtered in the United States for either interstate or export trade is inspected at the abattoirs by veterinarians, and that that which is to be shipped to Germany, France, Denmark, and other countries which require the microscopical inspection is subjected to such inspection in addition to the veterinary inspection at the abattoirs; that pork which has been inspected microscopically is distinguished by a purple stamp upon the package, which stamp bears the word "Export," and that the stamp upon the package of the pork which has not been microscopically inspected is a white stamp, which has upon it the same printed matter except that it does not contain the word "Export." And further, that the certificates issued with the microscopically inspected pork have the following words stamped across the face thereof: "Microscopically examined in addition to regular inspection."

The undersigned has the honor to inclose herewith to his excellency a copy of the regulations adopted by the Department of Agriculture recently (February 7 last), and also specimens of the certificate required for pork which is to be exported.

The undersigned avails, etc., THEODORE RUNYON.

Mr. Jackson to Mr. Olney.

No. 326.] EMBASSY OF THE UNITED STATES,
Berlin, August 3, 1895. (Received Aug. 20.)

SIR: Respectfully referring to the embassy's dispatch, No. 230, of March 21, 1895, I have the honor to inform you that in yesterday's issue (No. 154) of the official Berliner Correspondenz attention was

called to the American regulations of February 7 last regarding the inspection of meat intended for export, copies of which were transmitted to the foreign office by the embassy in March last. After showing what these regulations are the article goes on to say that "hereafter, in consequence of them, in accordance with the Imperial order of September 3, 1891, and of the regulations of February 7, 1895, referred to, hog products and sausages of American origin will be allowed to be imported into the Empire only when the shipments are accompanied by the designated special certificates."

I have, etc.,

JOHN B. JACKSON.

THE CURRENCY QUESTION.

Mr. Runyon to Mr. Olney.

No. 204.] EMBASSY OF THE UNITED STATES,
Berlin, February 16, 1895. (Received March 2.)

SIR: I have the honor to inform you that the German Parliament was occupied yesterday in the discussion of the proposition to request the Imperial Government to send out invitations at the earliest practicable date for a monetary conference to regulate the currency question by international agreement. The proposition was brought up at the request of 164 members of the Reichstag, representing the National Liberal, Imperial, Center, and Conservative parties.

Count Mirbach, the leader of the Conservatives and a prominent bimetallist, opened the debate in a long speech in favor of the proposition, in which he referred to the currency question as one of the most important industrial and social questions of the day, and one which could be regulated only through international agreement. He was answered by Dr. Barth (Radical), who opposed the project because it would lead to bimetallistic agitation, which would cause disturbance in industrial circles all over the world. His party, he said, saw no reason for Germany to call any such conference. If the United States or England wanted one, Germany could then decide whether she would take part.

Count Herbert Bismarck was in favor of the proposition, assuming that the Government would, of course, before issuing any invitation, consult with the cabinets of other countries. He said that if the proper time for such a conference had not yet arrived, it was bound to come before long. He referred to the efforts of the bimetallists in England and advocated the use of both gold and silver as currency.

The Social Democrats, through Dr. Schonlank, opposed the proposition, as, in their opinion, its acceptance by the Government would result to the benefit of the capitalists alone. Dr. Lieber spoke in behalf of the Center party, referring to the question as more industrial than political, supporting the proposition and expressing the hope that the chancellor would not let the occasion pass without some expression of the views of the Government. He thought that after Germany's conduct in the Brussels conference it was her duty to take the initiative in calling one now.

The debate was closed by Prince Hohenlohe, the Imperial chancellor, in a speech, a copy of which, accompanied by a free translation, I have the honor to transmit herewith.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 204.—Translation.—From the Berliner Correspondenz (official).]

Speech of the Imperial chancellor in the Reichstag on February 15, 1895.

The apprehension expressed by the member, Dr. Lieber, that the views of the Imperial chancellor on the subject under consideration would remain undisclosed in his portfolio in consequence of the speech of the member, Dr. Schonlank, is unfounded.

I will in nowise withhold from you my opinions in the matter. They have been carefully wrought out, and I trust that you will regard them as well meant. It is not my purpose to enter into a discussion of the particularities of the political aspects of the money question, which could neither bring the different views which have been expressed on this point into agreement, nor bring any really new force to bear upon the discussion of the matter. Nevertheless, I think I ought to make to you the following declaration. Without speaking to the prejudice of our Imperial currency system, it must be conceded that the increasing disparity in value between the two mint metals works an injury to our business interests. [Hear! hear! from the Right.] Therefore, in further carrying out the idea which led to the calling together of the "Enquête Commission," I am inclined, on the part of the Government, to enter upon the consideration of the question whether it may not be well to provide for a friendly interchange of views with other Governments interested in the value of silver, as to whether some measure of relief can not be established by common consent. [Bravo! Right and Center.]

Mr. Runyon to Mr. Gresham.

No. 205.] EMBASSY OF THE UNITED STATES,
Berlin, February 18, 1895. (Received March 2.)

SIR: Referring to my dispatch No. 204, I have the honor to inform you that the debate in the German Parliament was continued on Saturday, the 16th instant, members speaking both for and against the proposition "to request the Imperial Government to send out invitations at the earliest practicable date for a monetary conference to regulate the currency question by international agreement." In the meantime 48 more members, making 212 in all, had signed the request to bring up the proposition for debate. The attendance, however, was not great, there being in reality little more than a quorum present at any time.

The declaration of the Imperial chancellor made the day before was severely criticised, the monometallists claiming that he was temporizing, that he showed a leaning toward the Agrarian-bimetallistic party, and that his statement that the Government might consider the subject would cause financial uneasiness everywhere which could not be quieted, as the silver party, while clamoring for relief from the present condition of affairs, had no plan for its improvement ready to bring forward. The bimetallists, on the contrary, claimed that the chancellor had said nothing.

Count Possadowsky, secretary of the Imperial treasury, defended the declaration of the chancellor, stating that any settlement of the silver question could not be otherwise than of advantage to everybody—and this statement was supported by many who are not bimetallists—especially as they thought that the possible good effects of previous monetary conferences had been lessened through German apathy. After a few closing remarks by Herr von Kardorff, in which he attacked the Radical and Social Democrat parties as fighting on the side of plutocrats and against the interests of the people, the proposition came to a vote and was accepted by a large majority of those present.

The vote in favor of the proposition has, however, no binding force, as the Reichstag (Parliament) can only advise the Bundesrath (Federal Council), and any call for a conference must be issued by the Imperial

Government in the name of the Emperor himself; and the only declaration made by the Government during the debate was that it would consider whether it is advisable to consider whether it be not possible to obtain a friendly interchange of views on this matter with other countries interested in the value of silver; but nothing was said as to whether or not a conference would be called.

I have, etc.,

THEODORE RUNYON.

Mr. Runyon to Mr. Gresham.

No. 210.] EMBASSY OF THE UNITED STATES,
Berlin, February 23, 1895. (Received March 8.)

SIR: The events of the past week, while entirely of an unofficial character, are of such importance from their possible influence upon the action of the German Government, that I feel certain that a short narrative account will be of interest to the Department.

The week is currently called the "great agriculturists' week." On Monday morning, February 18, the German Emperor received a delegation from the Agrarian League (Bund der Landwirthe) who presented a loyal address, which was answered by the Emperor. The text, no doubt, of both speeches has been telegraphed to the United States. The Emperor, in short, told the Agrarians that all that was possible would be done to improve their condition, and advised them to refrain from sensational agitation.

In the afternoon the annual convention of the league was held in this city and was attended by more than 5,000 agriculturists from all parts of Germany, among them most of the prominent members of the Conservative party. After various reports and other business the so-called "Antrag Kanitz" (Count Kanitz's proposition that the Government create a grain monopoly) was discussed, and in the discussion the suggestion that its adoption by the Government would lead to the abolishing of the "most favored nation treaties" with America—both North and South (Argentine)—was received with enthusiastic approval. Great satisfaction was also expressed at the vote of the Reichstag on the question of a monetary conference (see my recent dispatches Nos. 204 and 205), and Count Mirbach gave notice that a bimetallist league was about to be formed, and recommended that all Agrarians join it.

On Tuesday, the 19th instant, the annual convention of the Association for Economic Reform (Vereinigung der Steuer- und Wirthschafts-Reformer) was opened and the following resolution was adopted:

> The twentieth general convention of the Association for Economic Reform expresses its thanks to the Imperial chancellor for the declaration made by him in Parliament on the 15th instant, and adds hereto the urgent request that the chancellor will proceed as soon as possible to take such measures as are intended to lead to the solution of the currency question through international action.

That evening a "bimetallist league" was formed under the auspices of Count Mirbach and Herr von Kardorff, who announced the receipt of congratulatory telegrams from the London Bimetallist League and the Société des Agriculteurs de France.

The subject of the discussion at the second session of the Association for Economic Reform (the majority of whose members are also members of the Agrarian League and the new Bimetallist League) on Wednesday, the 20th instant, was "Germany's politico-commercial relations

with America" (the United States), and the session ended with the adoption of the following resolution:

The twentieth general convention, etc., declares that the treaty of commerce made between North America and Prussia in 1828, as well as the treaties made by the North American Union with other German States, which were accepted at the time by the German Empire as a basis for reciprocal commercial relations, are not to be considered as binding upon the German Empire. German interests are to be more carefully guarded in the future regulation of the commercial relations with North America than has been the case since 1891.

The meetings of the agricultural societies have continued during the week, the whole tenor of their proceedings being both bimetallistic and anti-American, as shown above.

Of a different tone have been the proceedings of the various boards of trade which have met during the week. From all parts of the Empire petitions have been sent to the Reichstag against taking measures for the abrogation of the "most favored nation" treaty with the Argentine Republic, and while the discussion, and the commercial uneasiness caused thereby, of the currency question were deprecated, yet, in order that silence might not be construed to mean indifference, the following resolution was unanimously passed at the convention of the representatives of the German chambers of commerce and mercantile corporations and societies, which was held in this city yesterday:

The committee of the convention of the German boards of trade (Deutscher Handelstag) regrets most earnestly that by the acceptance in Parliament of the proposition of the members Friedberg, Count Mirbach, and others—but still more by the direction taken by the debate but not indicated in the wording of the proposition—serious commercial uneasiness has been occasioned and the impression created abroad that Germany contemplates a change in its currency system. Although the Imperial chancellor emphatically stated in the declaration read by him that nothing prejudicial to the German currency system would be done in the negotiations which might eventually be entered into looking toward the taking of measures to increase the price of silver, yet the committee feels itself bound to declare that the convention adheres to the conclusion reached on March 12, 1886, that the German gold standard ought not to be disturbed. The committee would regard such disturbance as a fundamental injury to all German commercial enterprise, against which no protest sufficiently loud or determined could be raised. The committee directs the president to call a special convention on this point of the German boards of trade as soon as practicable, in which the currency question should be considered with special reference to the present conditions.

I have, etc., THEODORE RUNYON.

Mr. Runyon to Mr. Gresham.

No. 227.] EMBASSY OF THE UNITED STATES.
Berlin, March 19, 1895. (Received April 5.)

SIR: Referring to my dispatch No. 224, of yesterday's date, I have the honor to inform you that, according to statements made in last night's official papers, there was an error made in reporting the text of the resolution adopted by the Staatsrath on the 15th instant, the words "ohne unserer Reichswährung zu präjudiziren" (without prejudice to the Imperial currency system) not having been contained therein.

Although the error is one of mere recital of the language of the Imperial chancellor and does not affect or qualify the action of the Staatsrath, I deem it proper to mention it in order that the State Department may have accurate knowledge as to the wording of the resolution.

I have, etc., THEODORE RUNYON.

Mr. Runyon to Mr. Gresham.

No. 224.] EMBASSY OF THE UNITED STATES,
Berlin, March 18, 1895. (Received March 30.)

SIR: On Tuesday last, March 12, the meeting of a select committee of the Prussian Council of State (Staatsrath) for the consideration of agricultural and economic matters was opened by the German Emperor in his capacity of King of Prussia in a speech, in which he referred to the continued unfavorable condition of agriculture, and to the desire that some means be found which, without prejudicing other legitimate interests or violating treaty obligations, might remove so far as possible the burdens weighing upon it; might counteract the existing depression, and might more nearly accommodate to each other the widely different views which prevail as to what is possible or attainable in this direction.

The Council of State is a body introduced into the Prussian governmental system by the decree of March 20, 1817, the character of which was subsequently modified by the decree of January 6, 1848. It is a deliberative body and is composed of the male members of the royal family, the ministers of state, certain of the commanding generals and high civil officials, and others, specially called by the King to participate in its deliberations, and is divided into several special committees. Its decisions and resolutions, etc., passed by it have weight only as being of an advisory character.

The proceedings of the special committee now sitting are secret, but it has been announced that measures for raising the price of grain, the increase of the bounties paid for exported sugar, etc., and also the currency question have been discussed at the daily meetings over which the Emperor has presided, and on Saturday evening, March 16, the official Berliner Correspondenz published the text of a resolution on the subject of the currency question, which had been adopted at the meeting of the day before, a copy of which, with translation, is herewith inclosed.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 224—Translation.]

Clipping from the Berliner Correspondenz, March 16, 1895.

According to the Imperial chancellor's declaration in the Reichstag on February 15 last, the Federal Government, without prejudice to the Imperial currency system, but while recognizing the injurious effect upon industrial enterprise of the increasing difference in value between gold and silver, is about to take into consideration the bringing about of an exchange of views with the governments of other States as to joint remedial measures.

In consequence of this declaration, of which notice has with satisfaction been taken, the Staatsrath is of opinion that no further measures should be taken at this time, but that the result of the proposed steps should be awaited.

Mr. Runyon to Mr. Gresham.

No. 238.] EMBASSY OF THE UNITED STATES,
Berlin, April 5, 1895. (Received April 19.)

SIR: I have the honor to inform you that the special convention of the German Commercial Congress (Handelstag), referred to in the resolution passed at its general convention, reported in the last paragraph of my dispatch, No. 210, of February 23 last, took place yesterday.

On the evening before about seventy prominent members of the German commercial world, following the example of the Agrarians on February 19 last, when the German Bimetallist League was formed, had met and organized an association for the protection of the German gold currency (Verein zum Schutze der deutschen Goldwährung).

At the convention, after several speeches, all in favor of the gold standard, and after a statement that, in reply to a circular, all but four of the chambers of commerce in Germany had voted to maintain the gold currency, a resolution was unanimously adopted, in which the resolution of February 22 last (referred to above) was "confirmed after repeated and exhaustive consideration," and in which confidence was expressed in the declaration made by the Imperial chancellor in Parliament on February 15 last (see my dispatch No. 204) that "the Government would consider no measures which would be prejudicial to the existing currency system."

A resolution declaring the impracticability of Count Kanitz's proposal to create a Government grain monopoly, which was recently quite severely handled in the Prussian Staatsrath and House of Lords, and in the Imperial Parliament, was also unanimously passed.

I have, etc.,

THEODORE RUNYON.

DIFFERENTIAL DUTY ON SUGAR IMPORTED FROM BOUNTY PAYING COUNTRIES.[1]

Mr. Runyon to Mr. Gresham.

No. 185.] EMBASSY OF THE UNITED STATES,
Berlin, January 5, 1895.

SIR: In view of what is already known to the State Department through the public press and otherwise, it may perhaps be quite unnecessary to say anything in regard to the situation here with reference to the danger to the trade between the United States and this country to be apprehended if the legislation of the former, providing for an additional tax on sugar from bounty-paying countries, be not repealed. Nevertheless, I think it proper to speak briefly of the condition of affairs on this head, as it appears to me.

What that condition is is shown by the speech of Count Kanitz, a leader of the Agrarian party, and that of Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, speaking for the Government in the Reichstag at the present session, a report of which speeches I have had the honor to send to you (Dispatch No. 176, December 18, 1894). The dissatisfaction with the action of the United States in imposing the additional special duty referred to is increasing among the Agrarians (their party is the party of the great landed proprietors) by means of agitation. It is their interests which are especially affected by the duty, and obviously so far as they are concerned any measures which will injuriously affect our trade with Germany in agricultural products or in cattle or meat will be to their advantage.

It is not too much to say that there is danger that if the objectionable legislation be not repealed the two countries may drift into a tariff war. Of course such a contest is to be deprecated on both sides, and is to be avoided if possible. The trade between the two countries is, as is well known, very great on each side, and such a strife would be extremely

[1] See Foreign Relations, 1894, p. 234.

injurious to each. The view I have expressed of the danger of retaliation is not based upon any opinion or conviction entertained by me of the existence of unfriendliness on the part of the Government; and on this head I may say that, as has already been stated by me in my dispatches, it is averred by the Government that the existing prohibition in regard to beef and beef cattle, of which we complain, is in nowise attributable to an intention to retaliate or to an unfriendly disposition, but, on the other hand, is to be ascribed and is due to merely sanitary considerations, and that there is no connection between the complaint made by Germany in reference to the additional duty on sugar and the prohibition of which we complain. But without regard to, and speaking wholly apart from that matter, it is quite apparent, from the tone of the speeches above referred to and other equally significant indications, that there is ground for apprehension that unless the cause of complaint on the part of Germany be removed the strife to which I have alluded may, although not now contemplated and notwithstanding and in spite of friendly disposition on the part of the Government toward us, come about. I have deemed it my duty to say this as the result of my observations.

I may add that it is said that it is quite probable that no action will be taken at the present session of the Reichstag affecting the existing provisions for paying bounty to sugar growers.

I have, etc.,

THEODORE RUNYON.

Mr. Uhl to Mr. Runyon.

No. 224.] DEPARTMENT OF STATE,
Washington, February 6, 1895.

SIR: Your dispatch, No. 185, of the 5th ultimo, relative to the apprehended danger to trade between the United States and Germany, if the grounds of complaint of the latter as to the special duty on sugar be not removed, has been received and read with attention.

You have doubtless learned from the public press that the sugar differential repeal bill has passed the House of Representatives.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

PROTEST AGAINST IMMIGRATION AND QUARANTINE LAWS.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, December 17, 1894.

Mr. SECRETARY OF STATE: I have the honor, by order of my Government, to submit the following for your information:

The American quarantine and immigration acts of February 15 and March 3 of last year, respectively, and the regulations issued by the Treasury Department for carrying these into effect, contain certain provisions which, in the opinion of the Imperial Government, are not exactly compatible with the sovereign rights of foreign states. This is especially the case—referring only to the salient points—(1) with the

provision of the quarantine act whereby the American consul of the port of departure, or the American medical officer specially detailed there for that purpose, shall, before he issues a bill of health, in order to verify that the facts therein stated are true, make an inspection of the crew, passengers, and cargo, etc., before the vessel's departure. The officer making the inspection is further authorized by the quarantine regulations, based upon the quarantine act, to order the disinfection of the vessel and such other sanitary measures on board as he considers necessary.

By these and similar provisions American consuls and medical officers at European ports of departure are given authority to act officially toward vessels clearing therefrom, for which no foundation exists either in generally recognized international maxims or even—with respect to Germany—in the consular convention of December 11, 1871. Concerning the inspection of vessels and their equipments, the examination of the crew and passengers, and the supervision of measures for disinfection, German regulations exist in German ports, which are most conscientiously carried out by the German authorities.

While, as is seen from the above statements, the duties of American consuls and medical officers in German ports do not appear to be founded upon international rules, the apprehension, furthermore, is not to be dismissed, that the working, side by side, of the German (official) sanitary authorities with American consuls and physicians might create confusion and apparently unnecessary impediments in intercourse.

(2) In like manner the provision of the American immigration act does not appear reconcilable with the law of nations where it provides that the lists prescribed, in which a number of dates concerning the emigrants are to be given, must be sworn to by the master or an officer or the physician of the vessel before the American consul at the port of departure. In the opinion of the Imperial Government the administering of oaths is an authoritative act which can not be performed without the sanction of the Government of the country in the territory of which the oath is administered by the foreigner.

An American consul, therefore, except with reference to American citizens, is not deemed authorized to perform such an act without first obtaining the sanction of the German authorities.

For the above reasons the Imperial Government considers it its duty to enter a protest against the provisions of the American quarantine and immigration acts of February 15 and March 3, 1893, so far as they encroach upon the [rights of] sovereignty of the German Empire. While the Imperial Government at present restricts itself to a defense in principle of its position, it must in the future reserve the right, on befitting occasions, to oppose American consuls and medical officers on German territory with reference to German ships.

Requesting that your excellency will be good enough to advise me of his views on the subject above set forth, I avail myself also of this occasion, etc.,

SAURMA.

Mr. Gresham to Baron Saurma.

No. 11.] DEPARTMENT OF STATE,
Washington, January 26, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of December 17, 1894, calling attention to certain provisions of the quarantine and immigration laws and regulations of the United

States which, in the opinion of your Government, are not consistent with the principles of international law, nor with any treaty between this Government and the German Empire. The laws and regulations against which your Government's objections are especially directed are:

(1) The provisions of the quarantine act of February 15, 1893, and the regulations made in pursuance of it, which require the consular or medical officer of the United States stationed in a foreign port to inspect vessels of all nationalities departing for the United States, and the crews, passengers, and cargoes.

(2) The provisions of the same act and regulations which empower the consular or medical officer to order the disinfection of such vessels, and in other respects to regulate their internal condition and arrangement, before granting the bill of health required for the entry of the vessel in a port of the United States.

(3) The provisions of the immigration act of March 3, 1893, which require that the master and surgeon of any vessel carrying immigrants to the United States shall present to the American consular officer at the port of departure descriptive lists of the immigrants, verified by the oaths of the master and surgeon taken before such officer.

Your Government regards the exercise of these administrative functions by our consular and medical officers in Germany in connection with ships that are not American as unauthorized and in disregard of its sovereignty.

The United States have an extensive seaboard open on both oceans to the introduction of infectious and contagious diseases from Europe and Asia and Central and South America. To avert this danger a rigid system of maritime sanitation has been provided. It is set forth and explained in a pamphlet published by the Treasury Department. I append a copy for your examination. The regulations to be observed at ports of the United States are printed on pages 24 and following. It will be seen that they provide for the inspection, quarantine, and disinfection of vessels after arrival at American ports, but before entry and discharge of passengers, cargo, and crew.

All vessels are required to be inspected before entry in order that it may be known on arrival whether or not they are in fit sanitary condition to enter our ports. The conditions which require detention in quarantine are specified. It will be noticed that compliance with the regulations to be observed in foreign ports may, and in practice often does, avert or shorten quarantine at the port of arrival; and the same is true in regard to disinfection.

The United States have in operation in their own jurisdiction a complete and adequate system of safeguards against the introduction of disease from foreign countries, and are not dependent upon precautions taken abroad; but it has been our policy to effect this purpose of keeping out disease with as little hindrance as possible to commercial intercourse with foreign countries, and with the least inconvenience and expense to incoming ships. To this end provision has been made for taking measures at the port of departure which will enable a vessel to enter our ports with an authentic sanitary record, and often to escape the more burdensome of our domestic requirements. Failure to comply with these regulations at foreign ports subjects the vessel on arrival here to the full rigor of our domestic quarantine system.

The authority given by the act of March 3, 1893, to consular officers to administer oaths to the masters and surgeons of vessels carrying immigrants to the United States was intended to serve the same beneficial purpose by preventing the embarkation of immigrants prohibited

by law from coming to the United States, and by facilitating the examination at the port of arrival of the immigrants, who are confined at the vessel's expense until their right to land is ascertained. A copy of this act and of the regulations made under it is inclosed for your perusal.

The acts of the United States consular and medical officers, of which your Government now speaks, are performed primarily in the interest of the vessels, many of which are German, and of foreign trade. They have been efficiently aided by the shipowners, who avail themselves of the opportunity offered them to avoid delays and impediments to their business in our ports. This alternative opportunity is offered, and the necessary agencies for taking advantage of it are provided in a spirit of cooperation and comity which it was expected would be appreciated, and in furtherance of mutually beneficial commercial intercourse which we, no less earnestly than any foreign nation, desire to maintain. This Government does not claim that under any treaty or the rules of international law it can authorize its officers to inspect foreign vessels or order their disinfection in German ports, or to administer oaths to officers of foreign ships within the jurisdiction of the German Empire. The operation of the sanitary and immigration system of the United States in a foreign port is conditioned upon the consent of the government having jurisdiction of the port. Prior to the receipt of your protest the consent of your Government was reasonably assumed, because these provisions were beneficial to your carrying trade and commercial interests. If the Imperial Government is unwilling that consular and medical officers of the United States shall continue to execute these laws and regulations in German ports upon vessels which are not American, steps will be taken to comply with its wishes, leaving foreign vessels coming to the United States from German ports subject to the sanitary provisions in force at the port of arrival and the prescribed consequences.

I will add for the information of your Government that no medical officers have been stationed in German ports within the last twelve months for the purpose of executing our quarantine and immigration laws and regulations. These duties have been performed by consular officers alone, and they are forbidden to receive any personal compensation whatever for their services. The actual expense of the inspection or disinfection and a moderate official fee, which goes into the Treasury of the United States, form the total of direct expense thus incurred by vessels in foreign ports.

Accept, etc., W. Q. GRESHAM.

CLAIM BY WURTEMBERG AUTHORITIES OF RIGHT TO REQUIRE OTHER EVIDENCE OF CITIZENSHIP THAN PASSPORTS.

Mr. Runyon to Mr. Gresham.

No. 202.] EMBASSY OF THE UNITED STATES,
Berlin, February 13, 1895. (Received March 2.)

SIR: I have the honor to invite your attention to the case of Karl Friedrich Seifried, which, while it differs but little from other "military cases" and while it has, as is usual, been settled in a manner favorable to the naturalized American citizen, has been made the occasion for the expression of certain opinions on the part of the German Government which may be of interest to the State Department.

Seifried was born in Wurtemberg in 1863, and when about 17 years of age emigrated to the United States, where he became naturalized in 1889, and where he resided continuously from the spring of 1881 until the summer of 1894. Had Seifried remained in Germany he would have been liable to be called on for military service, and as he neither presented himself for examination as to his fitness for such service nor made any explanation of his absence or statement as to his having become an American citizen, the customary order in this case to pay a fine of 600 marks, or in default of payment to be imprisoned for three months, was made in 1889, which in 1891, as the fine had not been paid, and as there was still no explanation of his absence, was changed to an order for his arrest, and an advertisement for his apprehension was published in the Wurtemberg official paper.

In November last Seifried returned on a visit to his native place, and on the 14th of that month he was arrested, and it being necessary to take him from his home at Engberg to Maulbronn and thence to Stuttgart and Heilbronn—the order for his arrest having been made by the court at the last-named place—he remained in arrest until the evening of the 16th. At the court at Heilbronn he protested against the treatment which he had received and claimed exemption from fine or imprisonment through his American naturalization. He had, however, left his certificate of naturalization in the United States, but on the strength of his passport (issued by the Department of State, October 10, 1894) he was given until February 1, 1895, to prove his right to be treated as an American citizen, and was released upon bail to the amount of 700 marks, being furnished for him.

The embassy first heard of the case on December 3 last, two weeks after Seifried had been released on bail. Upon its intervention, which was made after the case had been investigated, on the 11th of that month, the money deposited by Seifried's mother as bail was, on January 14, ordered to be repaid. This was not done, however, until after proof of Seifried's naturalization and continuous residence for thirteen years in the United States had arrived from America and had been submitted to the court.

In commenting upon the case, the foreign office remarks that the only thing which Seifried had in his possession to show that he had become a citizen of the United States was an American passport, which, though the Wurtemberg authorities accepted it (claiming, however, that they were at liberty to decline to recognize it, because it was not certified to by a German consul), did not state that he had resided in the United States for five years. The foreign office claims that no fault can be found with the Wurtemberg authorities for their action in the case, as it is stated in the treaty of 1868 that subjects of the kingdom of Wurtemberg who shall become naturalized citizens of the United States of America and shall have resided uninterruptedly within the United States five years, shall be held by Wurtemberg to be American citizens and shall be treated as such, and no proof of Seifried's residence in the United States was present—the passport simply describing him as an American citizen. The foreign office claims that it was Seifried's duty to bring with him on his return to his native place such papers as would satisfy the court as to his right to have its order against him canceled.

It will be seen (1) that the Wurtemberg authorities claim that they are at liberty to refuse to recognize a passport unless it be certified to by a German consul, and (2) that it is claimed by them (and by the imperial foreign office) that granting that they are bound to recognize the passport, they are still, in such cases as the above, entirely at lib-

erty to ignore the claim of citizenship unless proof of five years' residence in the United States be given, the passport being silent on that subject.

I have, etc., THEODORE RUNYON.

Mr. Uhl to Mr. Runyon.

No. 238.] DEPARTMENT OF STATE,
Washington, March 11, 1895.

SIR: Your No. 202, of the 13th ultimo, has been received. It relates to the contention of the Wurtemberg authorities that they may require German consular visés on foreign passports and proofs of five years' residence in the United States in cases of naturalized citizens of German birth, as exemplified in the military case of Karl Friedrich Seifreid, at Heilbronn.

That case appears to have been disposed of according to the Wurtemberg claim, and Seifried having been bailed until evidence of residence should be obtained, was released after proof of naturalization and continued residence of thirteen years in the United States had been received from America and been submitted to the court. As this period embraced some five years subsequent to Seifried's naturalization in 1889, it is clear that the evidence on that point was not wholly derived from the record of naturalization.

This Government has uniformly insisted that its passports shall be deemed prima facie evidence of lawful citizenship. In the great majority of cases five years' residence is a statutory condition precedent to naturalization of an alien, and the certification of such a person's citizenship by a passport necessarily comprises certification of the full legality of his acquisition of citizenship, including the required term of residence.

There are indeed some few exceptional cases, as of minors acquiring citizenship through the naturalization of the father, discharged soldiers, merchant seamen, and others (Revised Statutes, secs. 2166, 2168, 2172, and 2174), but these exceptions fall under the general rule which permits the fact certified by a passport to be traversed when reasonable ground to question it appears. In such cases this Government is ready to inquire whether the holder of a passport is lawfully entited to it and whether it may rightfully be used in a foreign country under the express stipulations of treaty. This Government can never consent to a course of action by a foreign government virtually amounting to a denial of the validity prima facie of our passports, nor to the recognition of a rule that the burden rests on their possessors to prove lawful possession and use. Such a proposition subverts the sound rules of international law and comity, as well as the elementary principles of municipal jurisprudence.

As Seifried's case has been favorably terminated, it may not be necessary to supplement it by controversy upon the abstract points embraced therein, but it is deemed well to give you the Department's views touching the general principle for your guidance in any future case. You are also referred to correspondence with the Austro-Hungarian Government in regard to the acceptance and recognition of United States passports, which you will find in late issues of the Foreign Relations volume.[1]

I am, etc., EDWIN F. UHL,
Acting Secretary.

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[1] See Foreign Relations 1893, pp. 15, 23; for 1894, p. 36. See also *ante*, p. 8.

Mr. Olney to Mr. Runyon.

No. 445.] DEPARTMENT OF STATE,
Washington, October 14, 1895.

SIR: I inclose herewith copy of a dispatch from the United States consul at Stuttgart, under date of September 18, in which Mr. Johnson invites the attention of American citizens who were by birth subjects of the King of Wurtemberg, and have not served in the German army, to certain important facts respecting the production of evidence of their citizenship and naturalization in the event of their return to that country.

Mr. Johnson's information does not profess to rest upon any regulation or order issued by the authorities of Wurtemberg, but is presumed to represent, in a convenient form, the facts which have come under his observation as indicating the evidence which will suffice to prevent the molestation of any such naturalized American citizens returning to Wurtemberg in good faith and not chargeable with the offense of desertion after actual enrollment in the army.

The position taken by this Government in regard to the prima facie evidence and validity of a United States passport as showing that the bearer is lawfully a citizen of the United States, and as such entitled to all treaty rights, has been frequently set forth and is conveniently summarized in correspondence had with the United States legation in Austria in the case of John Benich, printed in the Foreign Relations for 1893, page 23. You will observe that Mr. Gresham takes the ground that the five years' residence in the United States, which is by treaty made a joint condition with that of lawful naturalization, is covered by the statutory requirement of five years' residence prior to such lawful naturalization, and that, therefore, a duly issued passport is evidence both of the fact of naturalization and of the five years' residence, except in some few exceptional cases, such as minor children of naturalized parents and honorably discharged soldiers of the United States Army, which latter may acquire citizenship in less than five years.

Should circumstances within the knowledge of the German officials indicate that the bearer of a passport comes within one of these exceptional cases, it would be right and proper to require evidence in regard thereto, and the fullest assistance of the consular and diplomatic officers of the United States should be given toward the ascertainment of the fact in question. Otherwise, and in the absence of the reasonable doubt, this Government must hold that the passport itself is prima facie evidence, and that the bearer can not be required to produce independent evidence on his own behalf of five years' continuous residence in this country. As Mr. Johnson intimates in his dispatch, the certificate of naturalization is often found not to express that the citizen has lived five years uninterruptedly in the United States. This is true. In most certificates of this character which have come under the observation of the Department of State it is sufficiently recited that the applicant has complied with the naturalization laws of the United States, and independent certification by the court as to the time of residence would be as unnecessary as similar certification of attachment to the principles of the Constitution or good moral character would be, for these are all comprised in the general statement that the applicant has fulfilled the statutory conditions, and are equally covered by the passport granted to him by this Department.

So far, therefore, as may concern any regulation of a State of Germany requiring the holder of a passport, if he be of German origin, to produce further evidence as to his time of residence in the United States,

it would be your duty to point out that this Government would regard such additional requirement as detracting from the authority of the formal passport issued by the sovereign power and as wanting in the respect due to that instrument. Internationally speaking, it is the exclusive right and duty of every Government to certify to the character of citizenship with which its dependents are invested, and, that being done, it can not pertain to a foreign State to make it the duty of an individual so certified to prove his lawful citizenship, or his right to treaty protection as a citizen, by any other means. Certainly a sworn statement made by two private citizens before a notary, to which the German consul's authentication is added, can not be regarded as evidence of higher or greater value than the passport issued by the Secretary of State and bearing the seal of this Department, and yet such a sworn statement would seem to be demanded in most cases to entitle the holder of a passport to his attested rights as a citizen of the United States.

You may take occasion to inquire whether the report of the consul at Stuttgart rests upon any formal regulation or decree of the Government of Wurtemberg, and should this prove to be the case you will invite attention thereto in the line of the foregoing instruction.

I am, etc.,

RICHARD OLNEY.

[Inclosure in No. 445.]

Mr. Johnson to Mr. Uhl.

No. 64.] CONSULATE OF THE UNITED STATES,
Stuttgart, September 18, 1895.

SIR: Through the Department I would call the attention of all American citizens, who were by their birth subjects of the King of Wurtemberg and have not served in the German army, to the following important facts:

If they think of returning to their native country, even for a few days only, they should be sure to be provided not only with a United States passport, but to bring also their naturalization papers. The naturalization papers should be acknowledged by the nearest German consul to their home. In case the naturalization paper (as is often the case) does not state the citizen has lived five years uninterruptedly in the United States it will be further necessary that they bring a written statement to this effect, signed and sworn to by two of their friends before a notary, and the signature of the notary acknowledged by the German consul.

There is another point to which I would especially call the attention of our fellow-citizens of Wurtemberg birth. In all probability they have received in baptism three or four Christian names, say Heinrich Christof Gottlieb. Now, if they have been naturalized only as "Henry" or their passport reads only "Henry" neither will be of any protection to them. The authorities here will arrest Heinrich Christof Gottlieb, say they have not arrested Henry, and know nothing about him. If the above is the case they must bring still another certificate, namely, a sworn statement made again by two persons before a notary, and the notary's signature acknowledged by the German consul, stating that "Henry ———, who was naturalized on ———, 18—, before the court of ——— at ———, is identical with Heinrich Christof Gottlieb ———,

son of ——— and ———, who was born at ——— on the ——— day of ———, 18—."

If my countrymen will follow the above advice they will spare themselves a night, or possibly longer, in jail, as well as the necessity of depositing 600 or 700 marks with the court awaiting the production of these papers.

Those who have actually been enrolled before leaving their native country, and who are therefore deserters, should never think of returning to Wurtemberg, as they would immediately be arrested, and the consulate could absolutely do nothing for them.

I am, etc.,

ALFRED C. JOHNSON.

Mr. Runyon to Mr. Olney.

No. 440.] EMBASSY OF THE UNITED STATES,
Berlin, December 23, 1895. (Received Jan. 11, 1896.)

SIR: Referring to your instruction, No. 445, of the 14th of October last, also to a former instruction, No. 238, of March 11 last, on the same subject, the result of my investigation, made in accordance with the first-named instruction, is that the action of the Wurtemberg authorities which is called in question does not rest on any formal regulation or decree of the Wurtemberg Government, but, as appears from a statement from the minister of foreign affairs of that kingdom now before me (a copy of which is herewith inclosed), is due to the requirements of the penal code of Germany, under which it is submitted to a court to pass (judicially) upon the value of the proof in the cases in which the action in question takes place. The treaty between the United States and Wurtemberg provides that "citizens of Wurtemberg who have become or shall become naturalized citizens of the United States of America and shall have resided uninterruptedly in the United States five years shall be held by Wurtemberg to be American citizens, and shall be treated as such."

The provision is, first, that the person shall have become naturalized, and, second, that he shall have resided uninterruptedly within the United States for five years; and, it may be observed that the provision is not for a residence of five years previous to naturalization, but for five years' uninterrupted residence in the United States. A United States passport is evidence of citizenship, but it is silent on the subject of the five years' uninterrupted residence. On this latter subject, which is a question of fact, the court, if the certificate of naturalization expressly states that the person naturalized had lived five years in the United States, regard it as sufficiently establishing the five years' residence. But if, as is often the case, it does not expressly state it, then other proof is required. While it is true that in cases where the certificate of naturalization states, in general terms, compliance with the law of naturalization that may be equivalent to saying that (among other things) the party naturalized had lived in the United States five years, it is not necessarily so. But, apart from that, the court may not know the law of the United States on the subject, or if it does, may doubt that the certificate, even in view of that law, is sufficient proof of the five years' uninterrupted residence. It is to be observed that it would appear that the courts do not refuse to give effect to the passport, but accept it as proof of citizenship unless there is reason to suspect fraud either in the naturalization or in the use made of the natural-

ization certificate; as, for example, where it is suspected that the person holding the certificate is not the person who was naturalized.

It is obvious that in view of the fact that the action in question is judicial and not under any formal regulation or decree of the Wurtemberg Government, and that it is conceded that the requirement of extraneous proof is proper in some cases, the remedy must be by a limitation or restriction of the judicial inquiry. It will not be out of place to remark that in Benick's case, to which you refer (Foreign Relations, 1893, p. 23), Secretary Gresham, while admitting that the certificate of naturalization, in the exceptional cases to which he refers, is not conclusive, denies the right of ex parte municipal (in that case Austrian) action, but lays it down that it rests with the Government of the United States to certify the facts on request.

I have thought it my duty to take no action in the premises without your further direction, since your instruction to me as to my action beyond investigation was conditioned upon my finding that the action of the authorities rests on a formal regulation or decree of the Wurtemberg Government.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 440.—Translation.]

Minister of Foreign Affairs of Wurtemberg to Mr. Johnson.

ROYAL WURTEMBERG MINISTRY FOR FOREIGN AFFAIRS,
Stuttgart, December 17, 1895.

SIR: Referring to your esteemed communication of the 5th ultimo, I beg to answer the question whether the courts and state's attorneys may demand of a naturalized citizen of the United States, of Wurtemberg origin, aside from his passport, still other proof as to his five-year uninterrupted residence in America, in the meaning of the treaty between Wurtemberg and the United States of America, of July 27, 1868, and of the protocols of the same day, that this has not been regulated by special law or by any decree.

It is furthermore, according to the regulations of the penal code for the German Empire, a matter for the courts solely to pass on the value of the proof presented, and in the matter in hand it is for the courts to pass in individual cases upon the value of the proof of passports.

The royal ministry of justice is therefore not in a position to give to the courts or state's attorneys any particular order in one direction or the other.

With distinguished consideration, etc.,

MITTNACHT,
Minister for Foreign Affairs.

Mr. Olney to Mr. Jackson.

No. 544.] FEBRUARY 13, 1896.

SIR: The late Mr. Runyon's dispatch, No. 440, of the 24th of December last, in relation to the acceptance in Germany of certificates of naturalization and passports as proof of citizenship and of right to the treaty benefits stipulated in favor of naturalized citizens, has been carefully considered.

In their most general form the propositions involved may be thus stated: That the rights of citizens of the United States abroad are qualified in certain particulars and to some extent by treaties of naturalization with several countries; that those treaties impose distinct conditions upon the recognition of the rights of a naturalized citizen, namely, that the fact of naturalization shall be established and that an uninterrupted residence of five years in the United States shall be shown; that these conjoining conditions are separable; that a passport is not, on its face, evidence of the fact of naturalization nor of the period during which the bearer may have resided in the United States; that while a passport held by a person known to have been originally a subject of another State may be constructive evidence that such alien bearer must have been naturalized in conformity with the laws of the United States, it does not conclusively or even inferentially prove that the bearer has been naturalized under that particular provision of our laws which prescribes five years' residence prior to admission to citizenship; and that consequently a government with which the United States have a naturalization treaty containing a five years' residence condition may rightly take such steps, judicially or otherwise, as will determine whether the holder of an American passport has fulfilled the several conditions prescribed by the treaty. Thus formulated, the propositions contained in Mr. Runyon's dispatch appear to be covered.

While, as stated in the Department's previous instructions, No. 238, of March 11, 1895, and No. 445 of October 14, 1895, the fact of naturalization in conformity with our laws implies, in the great majority of cases, a five years' residence prior to admission to citizenship, the mere statement that the individual has been naturalized in conformity with the laws of the United States does not exclude the exceptional instances in which other statutory provisions are applicable, as, for example, the case of a minor child of alien birth coming to the United States during the father's five years' probationary term and becoming a citizen through the father's subsequent naturalization; the case of a widow and minor children acquiring citizenship under section 2168 Revised Statutes, upon the death of the husband and father, he having declared intention to become a citizen; the case of discharged soldiers and certain classes of merchant seamen whose actual residence within the territory of the United States before naturalization may sometimes be less than five years, and the case of an alien woman marrying a citizen of the United States and becoming herself a citizen ipso facto.

In all these cases the fact of citizenship, both under the municipal law of the United States and international law, may be fully established and the right of such citizenship assertable; but the term of their residence in the United States may remain an unexpressed quantity, and even the treaty condition of naturalization may be opened to question if a nice distinction be attempted between the judicial act of naturalization by decree of a court, upon personal application, and the statutory acquisition of full citizenship through the citizenship of another, as in the cases of minor children, the widow of a declarant, or an alien woman marrying a citizen.

The diversity of the forms of naturalization certificates issued by the various courts of record in this country precludes uniform ascertainment of the period of an alien's residence within the jurisdiction of the United States, even in those cases where the statute makes a five years' residence a preliminary condition to admission to citizenship, and of course they furnish no basis whatever for ascertaining the total time during which an alien naturalized by a decree of court under the

exceptional statutes above adverted to may have resided in the United States. So, too, the period of residence of a minor child or married woman of alien birth who becomes statutably invested with citizenship without formal decree of naturalization is not inferable from any statement now required to be of record in the usual course.

It would not, therefore, be feasible, under existing circumstances, for this Department to note upon a passport the time during which the bearer had lived in the United States prior or subsequently to acquiring citizenship. Further complexity is lent to the question by the circumstance to which Mr. Runyon's dispatch adverted, that even where citizenship may have been acquired within less than five years' residence in the United States, the circumstance is immaterial, provided the individual can show a total residence of five years in the United States, so that a person becoming a citizen in less than five years may, by residing in this country a sufficient time after acquiring citizenship, entirely meet the requirements of the treaty.

Whether it may be practicable by executive regulation to provide for ascertaining the duration of an applicant's residence in the United States and inscribing that fact upon the passport by way of an independent certification may be a subject for consideration, as also may be the question whether greater uniformity in the certificates of naturalization issued by the various courts of this country, with express recital of the term of residence, might not suffice to meet the great majority of the cases liable to arise in Germany and other countries with which the United States have naturalization treaties.

In the absence, however, of disrespect to the passport itself, as prima facie evidence of citizenship, or of any apparent purpose on the part of the governments of Germany to question the fact of naturalization when duly certified to have been performed in accordance with the statutes of the United States, it may not be easy to dispute the claim of those States, under existing naturalization treaties, to ascertain by some separate process whether the conjoint requirement of those treaties in respect to residence has been fulfilled. We can not, of course, admit any impugnment whatever of the validity and sufficiency of a passport as a prima facie certification of the fact of lawful citizenship, nor could we acquiesce in any proceedings in determination of the residential condition which would impose undue hardship upon the individual or exact of him proof of statutory naturalization, for this latter is abundantly covered by this Government's formal certification of the fact of lawful citizenship. We certainly could not question the competency of a German court to admit and pass upon proof of five years' total residence in the United States in the case of those persons acquiring our citizenship in less time and as to whom this Government might not be able to certify to the duration of any other part of their period of residence than that which antedated naturalization, and if thus admissible, and in such a case even necessary as to a part of the five years, the claim as to the whole period can not readily be contestable.

The newspapers recently published a telegraphic item reporting a decision by the imperial supreme court in Saxony which appears to relate to the present subject. If not already done, you will report to the Department the facts and circumstances of that decision. In the meantime, or until otherwise instructed, you may suspend action upon the Department's No. 238 and No. 445, unless it should appear that the courts go behind the passport as prima facie evidence of the fact of citizenship and require the bearer to prove naturalization. As stated

in the instructions to the United States minister at Vienna, to which those dispatches refer, the attestation of citizenship contained in the passport can only be traversed by allegation of unlawful acquisition of citizenship, in which case it is the right and duty of the naturalizing Government to determine whether the party be or be not rightfully one of its citizens.

I am, etc., RICHARD OLNEY.

OPENING OF THE NORTHERN BALTIC CANAL.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, February 22, 1895.

MR. SECRETARY OF STATE: In the latter half of June of this year the Northern Baltic Canal will be solemnly opened by His Majesty the Emperor and King.

His Majesty will be very much pleased if the naval powers would take part in this important ceremony by sending men-of-war to Kiel, and at least one dispatch boat to join the procession through the canal.

In having the honor, by order of the Emperor, to advise your excellency of the above, and at the same time to express the hope that the Government of the United States will participate in the proposed ceremony, may I ask in that event you would be good enough now to acquaint me with the names of the war ships and of their commanders that are to be sent to Kiel.

I beg to reserve for a more definite communication reference to the day of the ceremony and to the programme of the festivities.

Accept, etc.,

SAURMA.

Mr. Gresham to Baron Saurma.

No. 21.] DEPARTMENT OF STATE,
Washington, March 5, 1895.

EXCELLENCY: Referring to your note of the 22d ultimo, and the Department's reply thereto of the 1st instant, relating to the invitation to this Government by His Majesty the Emperor to participate in the ceremonies attending the opening of the Northern Baltic Canal in the latter part of June next, I have now the honor to inform you, in view of a letter addressed to this Department by the Secretary of the Navy, that Rear-Admiral U. A. Kirkland, U. S. N., commander in chief United States naval force on the European station, will be instructed to proceed to Kiel with the U. S. flagship *San Francisco*, under the command of Capt. E. M. Shepard, U. S. N., and the *Marblehead*, under the command of Commander Charles O'Neil, U. S. N., for the purpose of taking part in the proposed ceremony.

Accept, etc., W. Q. GRESHAM.

Mr. Adee to Baron Saurma.

No. 48.] DEPARTMENT OF STATE,
Washington, April 22, 1895.

EXCELLENCY: Referring to this Department's note of the 5th ultimo, in relation to the participation of this Government in the ceremonies attending the opening of the Northern Baltic Canal in June next, I have the honor to apprise you of the receipt of a letter of the 18th instant from the Secretary of the Navy, in which he states that in addition to the *San Francisco* and *Marblehead*, the U. S. ships *New York* and *Columbia* will proceed to Kiel with the squadron, under the command of Rear-Admiral W. A. Kirkland. The *New York* will be under the command of Capt. R. D. Evans, and the *Columbia* of Capt. G. W. Sumner.

Rear-Admiral Kirkland has been instructed to place himself, early in June, in communication with the German Government, through the United States ambassador at Berlin, with a view to his communicating directly with the German admiral in command of the combined fleet and the naval review.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Uhl to Baron Ketteler.

No. 68.] DEPARTMENT OF STATE,
Washington, May 28, 1895.

SIR: Referring to previous correspondence concerning the opening of the Northern Baltic Canal, I have the honor, at the instance of the Secretary of the Navy, to inform you that the commander in chief of the United States naval force on the European station has been instructed to participate personally in the passage of the canal, on the day of its opening, on board of a vessel of the squadron under his command, and take with him upon that occasion such number of the officers attached to the vessels as may be thought proper in his discretion.

Accept, etc.,

EDWIN F. UHL, *Acting Secretary.*

MILITARY SERVICE CASES.

Mr. Runyon to Mr. Olney.

No. 281.] EMBASSY OF THE UNITED STATES,
Berlin, June 29, 1895. (Received July 12.)

SIR: I have the honor to append hereto a memorandum report of certain military cases which have not yet been referred to in my correspondence with the State Department. Special reports have already been made in the cases of (1) Benjamin Millokowski, dispatch No. 190, January 15, 1895; (2) Henry Bermann, dispatch No. 196, January 24, 1895; (3) Karl Fred Seifried, dispatch No. 202, February 13, 1895; (4) Louis and Isaac Liebmann, dispatch No. 213, February 27, 1895; (5) Ferdinand Kehelsen, dispatch No. 233, March 29, 1895; (6) Fred William Wreden, dispatch No. 239, April 6, 1895; (7) Fred Sauer, dispatch No. 248, April 11, 1895; (8) August Jung, dispatch No. 178, December 20, 1894, and dispatch No. 247, April 11, 1895; (9) Florenz and Ludwig Schlewitzaur, dispatch No. 250, April 12, 1895; (10) John F.

Wohlfort, dispatch No. 251, April 12, 1895; (11) Hermann Bischoff, dispatch No. 268, May 27, 1895; and the cases of George P. H. Diehrich, Louis Loos, Ferdinand and Fritz Kort, Paul Carl Barton, Andy Berthson, and Hermann Just are still pending.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 281.]

Memorandum.

1. Carl Burgdorf was born at Echte, province Hanover, September 7, 1861, and emigrated to the United States in December, 1880, where he was naturalized as an American citizen March 13, 1888. He returned to Germany in June, 1894, on a visit to his aged parents, and in the following October was forced to pay a fine of 352.37 marks for failing to appear for military service when he reached the age of 20 years. Upon intervention made in his behalf, November 29, 1894 (F. O., No. 162), the fine and costs were remitted May 2, 1895.

2. Valentine Pfaff was born in the grand duchy of Saxe-Weimar-Eisenach June 24, 1864, and emigrated in October, 1883, to the United States, where he became naturalized as an American citizen October 24, 1892. After an absence of more than ten years he returned to Germany on a visit. On the 18th of January, 1895, he received an order from the State's attorney at Eisenach, for the failure to perform military duty, to pay a fine within ten days, or in default thereof to undergo imprisonment for fifteen days. Upon intervention in his behalf, January 23, 1895 (F. O., No. 191), his American citizenship was recognized and March 18, 1895, proceedings against him stopped.

3. Henry Lenz was born at Brandscheid Regierungs Bezirt Trier, Prussia, June 22, 1865, and emigrated on April 12, 1881, to the United States, where he was naturalized April 27, 1894, and where he has since resided. It appears that pursuant to a judgment of the Royal Landgericht at Trier, dated December 30, 1885, an attachment to secure the payment of a fine of 300 marks on account of nonperformance of military duty was placed on certain property accruing to him. Intervention was made in his behalf August 8, 1894 (F. O., No. 120). The judgment was canceled and the attachment removed March 4, 1895.

4. John H. Löhman was born at New Rounebeck, Amt Blumenthal, January 6, 1869, and emigrated to the United States June 4, 1882, where he was naturalized as a citizen October 9, 1891. He returned to Germany on a visit July 24, 1894, and on August 6 was compelled to deposit at the court-house at Blumenthal $50 in United States money as security for the payment of a fine, which amounted to 200 marks, which had been imposed on him by the Landgericht September 4, 1890, for failure to perform military duty. Upon intervention made in his behalf August 18, 1894 (F. O., No. 124), the fine and costs were remitted April 21, 1895.

Mr. Runyon to Mr. Olney.

No. 442.] EMBASSY OF THE UNITED STATES,
Berlin, December 31, 1895. (Received Jan. 17, 1896.)

SIR: Referring to my dispatch, No. 281, of June 29 last, I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not yet been referred to

in my correspondence with the Department, and to be, sir, your obedient servant,

THEODORE RUNYON.

[Inclosure in No. 442.]

Memorandum.

1. George P. Henry Dietrich was born at Soden, near Frankfort on the Main, July 20, 1865, and emigrated in 1882 to the United States, where he became naturalized as a citizen in Cincinnati, Ohio, on November 2, 1891. In November, 1891, he returned to Germany on a visit, and on the 29th of that month he was arrested and placed in confinement, from which he was released two days later after paying a fine, which, with costs, amounted to 248.96 marks, for his failure to perform military duty. This case was brought to the attention of the embassy by the consul-general at Frankfort, and intervention was made in Mr. Dietrich's behalf on December 7, 1894 (F. O., No. 166), which resulted in the return to him of the money paid as fine and costs.

2. Emil Theodore Muller was born in Saxony in 1867, and emigrated to the United States in 1884, where he became naturalized in the State of Illinois. In August, 1895, he was, as reported by the United States commercial agent at Glauchau, after a short residence at Mylan, in Saxony, notified that he must pay a fine for his failure to perform military service. The embassy's intervention was made on August 6 (F. O., No. 276), and no further proceedings were taken against him.

3. Siegmund Glaser was born in Prussia and emigrated to the United States, where he became duly naturalized as a citizen, subsequently returning to Prussia, from which country he was expelled in 1888. At his request, intervention made in his behalf on October 25, 1895 (F. O., No. 307), resulted in permission being given him to revisit his family at the place of his former residence.

4. Jacob Oberlin and Henry Scherer were born in Alsace and, after obtaining their release from German allegiance, emigrated to the United States, where they became naturalized as citizens. Upon their return to Alsace an order was issued to them to leave the country before October 30, 1895. At their request intervention was made in their behalf on October 26 (F. O., No. 308). A few days later a reply was received from the imperial foreign office in which it was stated that the request addressed to the local authorities by Oberlin and Scherer directly, to be allowed to remain in Alsace until some time in March next, had already been granted.

MILITARY SERVICE CASE OF FREDERICK SAUER.

Mr. Runyon to Mr. Gresham.

No. 248.] EMBASSY OF THE UNITED STATES,
Berlin, April 11, 1895.

SIR: Referring to my dispatch No. 248,[1] of October 31 last, I have the honor to inclose herewith a copy, with translation, of a note to-day received from the imperial foreign office, in the case of Frederick Sauer, a naturalized American citizen, and to be, etc.

THEODORE RUNYON.

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[1] Not printed.

[Inclosure in No. 248.—Translation.]

Baron Holstein to Mr. Runyon.

FOREIGN OFFICE,
Berlin, April 10, 1895.

The undersigned, in reply to the note of September 25 last (F. O., No. 140), relating to the arrest of the American citizen, Frederick Sauer, has the honor to inform his excellency, the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Theodore Runyon, as follows:

Frederick Sauer, born March 12, 1862, at Oberseebach, was sentenced by the landgericht, at Strassburg, on February 20, 1884, for evasion of military duty, to pay a fine of 600 marks, or in default thereof to be imprisoned for forty days, and also to pay the costs of the proceedings, amounting to 75.15 marks. He had emigrated in 1880 with his parents to America, where he later became a resident and where he acquired American citizenship on March 28, 1885. In August, 1894, he returned on a visit to his native place. There, on the strength of the existing warrant, he was arrested, but was, however, set at liberty after four days, after the amount of 600 marks had been paid by his relatives. Of this amount the sum of 540 marks is to be considered as on account of that part of the fine which had not been worked off by the imprisonment, and the remainder as costs.

Sauer has, according to section 21 of the law of June 1, 1870, lost his German nationality since March 12, 1893. Before his emigration he had, in March, 1878, received a shot wound in the upper part of the right thigh. The physician who treated him certified at that time that no permanent injury would be left. Nevertheless, as a matter of fact, as the gendarme observed at the time of the arrest, Sauer still drags one foot, which probably is a consequence of his former injury.

The imperial "Statthalter" of Alsace, Lorraine, in consequence of this, has considered Sauer's statement that he had thought himself unfit for military service as not entirely unworthy of confidence, and has, therefore, although the emigration took place only a short time before his reaching the age for military duty, given on the 18th ultimo a partial pardon, to the extent that the remainder of the costs are to be remitted, and that the amount of 300 marks of the sum considered as fine is to be returned.

While the undersigned returns the inclosure in the note, he avails himself, etc.

HOLSTEIN.

INDEMNITY CLAIM OF F. W. BENQUE ON ACCOUNT OF HIS EXPULSION FROM HAMBURG.

Mr. Runyon to Mr. Gresham.

No. 256.] EMBASSY OF THE UNITED STATES,
Berlin, April 22, 1895. (Received May 11.)

SIR: I have the honor to report that Mr. Fr. W. Benque, an American citizen (now of No. 31 Nordstrasse, Bremen), has made application to me to take steps to obtain for him indemnity for his financial losses through his expulsion from Hamburg by the police of that city in 1889, about six years ago. His complaint was, it seems, laid by him before the State Department on or about May 1, 1889, but I can not find that any action in the matter was ordered by the Department.

The history of the affair since then is shown by the following extract from a letter (of the 11th instant) written by Mr. Benque to me:

The United States Administration took this case and finally, after numerous negotiations, the Hamburg senate offered its courts to be open to me in order to settle this matter by a trial. According to this agreement I returned to Germany about half a year ago and endeavored to bring suit in the Hamburg courts, but without avail up to this date. I submitted my claim to different prominent Hamburg lawyers. They decline, however, to conduct a trial because of their opinion [that] any prosecution in this way would positively result in failure. I herewith inclose a copy [of a] letter to me of those lawyers showing the views of them. Further, in reference to my precarious financial condition, originally caused by the expulsion and the fact that a regular trial would be a very expensive matter, beyond my ability, I attempted to get a free trial, but was informed by the courts that this could not be admitted [allowed] to me as an alien.

This decision that he was not entitled to sue *in forma pauperis* appears to have been put upon two grounds—one that there was not in the United States a law permitting persons to sue *in forma pauperis*, and the other that Mr. Benque was not able to produce the certificate of pecuniary inability to pay costs required by the German law to warrant an order to sue *in forma pauperis* Although this judgment appears to have been on Mr. Benque's application reconsidered by the court, it was affirmed. He could have appealed from it to a higher court, but it seems he did not do so.

Under the facts as above stated I have not thought it proper to take any diplomatic action without directions from the State Department.

I have, etc.,

THEODORE RUNYON.

Mr. Uhl to Mr. Runyon.

No. 296.] DEPARTMENT OF STATE,
Washington, May 11, 1895.

SIR: I have to inform you that your dispatch, No. 256, of the 22d ultimo, relative to the application of Mr. F. W. Benque to your embassy to obtain indemnity for losses alleged to have been sustained by him through his expulsion from Hamburg, has been received and read with interest.

The Department is satisfied that the judicial authorities of Germany have given Mr. Benque's case the most considerate attention. He shows no good ground now for reopening the case, which the Department has repeatedly declined to present to the German Government.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

PATENTS FOR INVENTIONS.[1]

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, April 3, 1895. (Received April 5.)

Mr. SECRETARY OF STATE: In accordance with instructions which I have received, I have the honor to call your excellency's attention to the following subject:

In a memorandum handed to the Imperial Government by the United

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[1] See Foreign Relations, 1894, p. 243.

States ambassador at Berlin October 19, 1894, a copy of which is inclosed, the wish is expressed to conclude a special agreement with the Imperial Government to the effect that American citizens be granted the benefit of certain provisions of the German patent law of April 7, 1891, which are not in themselves applicable to aliens.

The opinion repeatedly expressed therein, that the American patent legislation already grants to German inventors that which is asked of Germany by America, rests, in the judgment of the Imperial Government, upon a not quite correct view of the legal situation. The points to be considered in the matter were communicated to the then United States Secretary of State, Mr. J. W. Foster, in the German note of September 15, 1892. As they were mentioned in the memorandum of October 19, 1894, without a reply being made to them, the Imperial Government thinks itself called upon to refer to them again, and to add that if the three months' limitation were withdrawn from American patent documents in Germany the Americans would obtain an advantage over the Germans which the Germans do not enjoy in America.

The draft of an agreement for the conclusion of a patent, sample, and trade-mark convention between the United States and Germany, transmitted to your excellency with the German note of November 10, 1893, which, according to the kind note of Acting Secretary of State Uhl of November 30, 1893, was handed to the proper authorities for examination and approbation, contains, in article 3, a provision which, in the opinion of the Imperial Government, is calculated to satisfy fully the wishes of the United States Government. The Imperial Government cherishes the opinion that by the speedy conclusion of a convention upon the basis of the above-mentioned draft the matter would be settled in the most satisfactory manner, and in that most conducive to the interests of both parties.

With the request that I may soon be favored with a reply, I avail, etc.,

SAURMA.

[Inclosure.]

Memorandum handed to the German Government by the United States Ambassador.

EMBASSY OF THE UNITED STATES,
Berlin, October 19, 1894.

An American patent may be applied for by a foreign inventor whose invention has been patented abroad at any time during the life of his foreign patent unless his invention has been introduced into public use in the United States for more than two years prior to the application, the American patent, if granted, to expire the same time as the foreign patent.

All that can be secured for an American inventor under the German law is the right to obtain a patent in Germany if the application be made within three months from the date of the publication of the American patent. This benefit of the German law extends only to those States which warrant reciprocity, according to a publication in the Reichsgesetzblatt. The benefit, then, is not granted until the publication of a notification that such reciprocity exists.

Now, under American law the German inventor has more than the German law would give an American inventor if it were declared that reciprocity exists; for a German inventor may apply in America for a

patent for his invention at any time during the life of his German patent unless he has permitted his invention to be in public use in the United States for more than two years prior to his application, so that he has in any event two years in which to apply, while the American inventor could only get a patent in Germany by applying within three months from the time of getting his American patent.

The claim that reciprocity does not exist is, according to Baron von Ketteler's note of September 15, 1892, based on two grounds.

First. That to obtain a patent in the United States the German applicant must swear that he is the inventor, while in Germany patent is granted to the inventor or anyone who has legally come into possession of the invention.

Second. That the right of caveat is confined to American citizens and not granted to German subjects.

When this subject was previously under discussion here it was suggested by the Imperial Government that it be left for adjustment under the proposed new treaty between the United States and Germany in regard to patents and trade-marks. That treaty has not yet been agreed upon, and my instructions are to endeavor to reach an understanding with the German Government separately and apart from that treaty (which involves other things) whereby American citizens may enjoy the benefit of the German law before referred to.

STATUTE OF LIMITATION IN DESERTION CASES.

Mr. Runyon to Mr. Gresham.

No. 178.] EMBASSY OF THE UNITED STATES,
Berlin, December 20, 1894. (Received Jan. 14, 1895.)

SIR: I have the honor to report to the Department the case of August Junge and my action therein.

It appears that Mr. Junge left Germany under circumstances such as to constitute the offense of desertion, and went to the United States, where he became naturalized. After his naturalization he returned to Germany and was arrested and tried for and convicted of that offense. From the first information I received in the case, which proved to be imperfect, I deemed it proper to intervene in his behalf, and having been informed that the authorities intended to compel him to do military service, I, in my note to the foreign office (F. O. No. 154) dated October 30, 1894, of which a copy is herewith inclosed, made reference to the reported intention so to impress him, and, so far as seemed advisable under the circumstances (the fact not being established), used deprecatory language in regard to it, as will be seen by the note.

It appears that he was not impressed, but has been sentenced to imprisonment for a term of eighteen months, upon which he has entered. There seems to be no question that he was a deserter when he went to the United States. According to his brother's statement on the subject, made to this embassy in his behalf, Mr. Junge was born at Celle, in the province of Hanover, May 28, 1867, and in 1887 he was taken as a recruit for the military service. He was permitted to go on leave till November 2, 1887, with orders to report for duty at that time. He did not obey, but emigrated to America to avoid the service. That he was a deserter is not denied or disputed.

It has been so frequently and uniformly held that the treaty does not

protect such deserters against trial and punishment on their return to Germany, although they have become naturalized as citizens of the United States,-that I have not thought it advisable, though urged to do so, to intervene to claim immunity for him. It is, perhaps, quite unnecessary to make any reference to cases on this point; nevertheless I venture to cite Hans Jacobson's case (Foreign Relations, 1888, Vol. I, p. 586, Minister Pendleton, and p. 589, Secretary Bayard), in which, under similar circumstances, the action of the minister in declining to make application in the absence of instructions was approved.

I have, etc.,

THEODORE RUNYON.

[Inclosure 1 in No. 178.]

Mr. Runyon to Baron Marschall.

EMBASSY OF THE UNITED STATES,
Berlin, October 30, 1891.

The undersigned, ambassador, etc., of the United States of America, begs very respectfully to solicit the attention of His Excellency Baron Marschall von Bieberstein, imperial secretary of state for foreign affairs, to the case of August Junge, a naturalized American citizen of German birth. Junge was born at Celle, in Hanover, May 28, 1867, and emigrated in 1887 to the United States, where he became naturalized as an American citizen on the 11th day of September last, as shown by the certificate, which is herewith inclosed, with the request that it be ultimately returned. It appears that Junge left the United States on the 13th of September last and came to Hamburg on a visit; that after his arrival he was arrested and held in custody under sentence to pay a fine of 200 marks, which had been adjudged against him after his emigration for alleged desertion from military service. The undersigned is informed that the record of the sentence shows a condemnation merely to pay the fine mentioned.

After his arrest and while he was in custody, Junge's brother, in order to obtain his discharge, offered to pay the fine and deposit the amount with the United States consul at Hamburg accordingly, and the consul made application for the discharge, offering to pay the money; but the application was denied on the ground, it is said, that Junge was to be held in custody for an investigation by the military authorities at Altona (to which place he is to be sent) into his alleged desertion, and he is so held accordingly.

It would appear from this statement that it is designed to try him a second time for the same alleged offense for which he has already been tried and sentenced. It is also given out that it is intended to compel him, notwithstanding his American citizenship, to enter into the German military service. Inasmuch as the undersigned can not think that such intention is entertained by the German military authorities to compel an American citizen to forced service in the German army, and as no evidence which the undersigned deems sufficiently trustworthy to warrant action on his part in that direction is before him, he refrains from troubling his excellency on that head.

The undersigned very respectfully asks that his excellency will cause the subject to be investigated, and if the facts are found to be as stated, will direct that the necessary steps be taken to release Mr. Junge from his imprisonment.

The undersigned avails, etc., THEODORE RUNYON.

[Inclosure 2 in No. 178—Translation.]

Baron Rotenhan to Mr. Runyon.

FOREIGN OFFICE, *Berlin, December 10, 1894.*

In response to the note of October 30 last (F. O., No. 154), the undersigned has the honor to state the following to his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Theodore Runyon, regarding the arrest of the American citizen, August Junge.

Junge, born at Celle on May 28, 1867, was accepted in 1887 at Harburg by the main recruiting commission (Ersatz Kommission), and was ordered to report on November 1 of the same year. He did not appear, however, at the date fixed for him to report, and the investigations which were instituted showed that he had left for America. In consequence thereof he was, on September 24, 1887, by sentence of military court, declared a deserter, and *in contumaciam* legally sentenced to pay a fine of 200 marks.

On October 27 last Junge was arrested at Hamburg by order of the military authorities, and was tried by a military court. At the trial Junge acknowledged that he emigrated to America for the purpose of permanently escaping the fulfillment of his lawful duty of military service. His desertion had actually taken place before his emigration—when he left Harburg in October, 1887—and as prosecution was not barred by limitation, article 2 of the treaty with the United States of America of February 22, 1868, is applied to him.

Junge knew, by the way, that he would be tried and punished for his desertion, as he, according to his own statement, did not on his return go to live with his mother, because he was afraid that he might be found there more easily.

While the undersigned returns the inclosure of the note referred to, he avails himself, etc.

ROTENHAN.

Mr. Uhl to Mr. Runyon.

No. 231.] DEPARTMENT OF STATE,
Washington, February 26, 1895.

SIR: In connection with your No. 178, of December 20, 1894, concerning the case of August Junge, who is now undergoing imprisonment at Hameln, Germany, for desertion, I inclose copies of two letters from his brother Henry, dated New York, the 22d ultimo and 13th instant, and copy of the Department's reply of the 25th instant.[1] Mr. Junge contends that the offense of desertion was not committed prior to his brother's departure from Germany, but consisted exclusively in the fact of his emigration.

Although the Department, as you will perceive, was unable to accept the distinction made by Mr. Henry Junge, it promised, in view of his allegation that in any case the prosecution was barred by the statute of limitations, to instruct you to inquire whether that statute was raised or passed upon at his brother's trial, and whether anything could be accomplished by now raising the point in August Junge's behalf.

A report of this feature of the case is awaited.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

[1] Inclosures not printed.

Mr. Runyon to Mr. Gresham.

No. 247. EMBASSY OF THE UNITED STATES,
Berlin, April 11, 1895. (Received April 27.)

SIR: In accordance with the direction of your instruction (No. 231) of February 26 last, I have made inquiry whether the statute of limitation was raised or passed upon at the trial of August Junge, and whether anything could be accomplished by now raising the point in behalf of the defendant, and I have the honor to report that I am credibly informed that that defense was not presented at the trial. It further appears that while in such cases as that of Mr. Junge (trial for desertion) the accused is permitted to defend himself, he is not allowed to have counsel for his defense. The limitation in the prosecution of the offense of desertion (Fahnenflucht) in such a case as that of Mr. Junge is five years, and the period of limitation begins from the time at which the deserted would have finished his term of military service had the offense not been committed, but the law provides that any action in the case on account of the offense committed taken by the judge against the absent defendant interrupts the running of the statute (Preussische Gesetz-Sammlung, vol. 5, pp. 29, 68): "Jede Handlung des Richters, welche wegen der begangenen That gegen den Thäter gerichtet ist, unterbricht die Verjahrung."

Whether such dealing (Handlung) with the case by the judge took place in the present instance I do not know. It is said, however, that the practice is to keep such claims alive—to prevent the barring by the statute—by some judicial act from time to time, looking to the punishment of the alleged offender. I may add that I do not see how it could be of any advantage to the accused in this case to raise the question of limitation diplomatically, he having had an opportunity of defending himself on the ground of limitation (if it existed) on his trial.

I have, etc.,

THEODORE RUNYON.

CITIZENSHIP OF DORA SCHULTZ.

Mr. Runyon to Mr. Gresham.

No. 235.] EMBASSY OF THE UNITED STATES,
Berlin, April 2, 1895. (Received April 19.)

SIR: Miss Dora Schultz, a young lady of about 24 years of age, whose home is in Chicago, where she has lived nearly all her life (she appears to have been taken there in her infancy by her father and mother), being here temporarily (she arrived last November) to study music, applied to me for a passport. She was born in Germany, but has resided in the United States from her infancy. Her father was not a citizen of the United States, but was a German. He died soon after his emigration to America and his widow married his brother, who was a naturalized citizen. I regarded the applicant as being a citizen of the United States, and as such entitled to a passport on the grounds set forth in that behalf in the presentation of the State Department of the Haberacker case. (Foreign Relations, 1891, p. 522.) I deem it, however, proper to report the matter specially to invite attention to it, and have the honor, etc.,

THEODORE RUNYON.

[Inclosure in No. 235.]

EMPIRE OF GERMANY, *City of Berlin.*

Dora Schultz, being duly sworn according to law, on her oath says that she is now over twenty-one years of age and about twenty-four years old; that she was born in Berlin, Prussia; that her father, David A. Schultz, emigrated from Berlin to the United States of America about 1870 (and she believes after the war between Germany and France, about that date), taking with him this deponent's mother (his wife) and deponent, who was then about two months old; that he lived in America from the time of his arrival there on such emigration until his death, which took place in about two years afterwards; that within a year after his death his widow, deponent's mother, married his brother, Henry Schultz, who was then living in the United States, to which country he had emigrated from Germany before his brother, deponent's father, went there; that said Henry Schultz was in 1873, as appears by his certificate of naturalization in possession of deponent and now shown (in which it is certified that he had lived in the United States for five years before his naturalization), naturalized and became a citizen of the United States; that he then, when the marriage took place, lived and ever since has lived in the United States (Chicago, Milwaukee, and St. Paul), where he now lives, and this deponent has lived there ever since she was taken there as aforesaid by her father and mother until November last (1894), when she came to Germany to study music, and that she intends to return to the United States to live, as her home, within two years.

She further says, at the time of said marriage of her mother she was only about three years old, and that she is advised that she is, through the citizenship of her said stepfather by reason of the facts aforesaid, a citizen of the United States of America, and as such is entitled to the passport for which she now applies.

DORA SCHULTZ.

Sworn to and subscribed before me, at Berlin, this 2nd day of April, 1895.

[SEAL.] H. G. SQUIERS,
Second Secretary of Embassy.

Mr. Adee to Mr. Runyon.

No. 273.] DEPARTMENT OF STATE,
Washington, April 22, 1895.

SIR: I have to inform you that your dispatch, No. 235, of the 2d instant, setting forth the grounds upon which you issued a passport to Miss Dora Schultz, of Chicago, has been received.

In reply, I have to say that your course in regard to the matter is approved by the Department, as being in accord with the principle established by the Haberacker case (F. R., 1891, p. 521).

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CITIZENSHIP OF CHARLIE EHRLICH.

Mr. Runyon to Mr. Gresham.

No. 232.] EMBASSY OF THE UNITED STATES,
Berlin, March 28, 1895. (Received April 13.)

SIR: I have the honor to inform you that I have to-day issued a passport to one Charlie Ehrlich upon the application, a copy of which is herewith inclosed.

It appears that Ehrlich was born in the United States in 1879 (he is now about 16 years old), and after the death there of his father he was brought to Germany in 1886. Here he has since resided (his mother is also dead), presumably without molestation, as until a short time ago

nothing was known of him by the embassy. On the 5th instant he made application at the consulate at Breslau for a passport, having been notified that he must either produce some paper in which his nationality was officially recognized or else leave Prussia before April 1 next. He is unable to furnish any information concerning his father; he only knows that he lived and died in the United States, but he does not know in what country his father was born. He is also unable to produce a certificate of his father's naturalization, but he made oath in his application for a passport that his father was a naturalized American citizen.

As he was born in the United States and does not appear to be subject to any foreign power (the German Government, it appears, makes no claim that he is a German subject), I regarded him as being a citizen of the United States and entitled to a passport accordingly, and one was therefore issued to him as desired.

Under the circumstances I have thought best to report the facts specially in order to bring the case particularly to the attention of the Department.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 232.]

NATIVE.

No. 808.] MARCH 28, 1895.

I, Charlie Ehrlich, a native and loyal citizen of the United States, hereby apply to the legation of the United States at Berlin for a passport for myself.

I solemnly swear that I was born at Gloversville, in the State of New York, on or about the 12th day of January, 1879; that my father was a naturalized citizen of the United States; that I am domiciled in the United States, my permanent residence being at Gloversville, in the State of New York, where I follow the occupation of ———; that I left the United States on the —— day of March, 1886, and am now temporarily sojourning at Zawadzia-bei Kattwitz; that I am the bearer of passport No. ——, issued by ——— ——— on the —— day of———, 18—; that I intend to return to the United States within two years with the purpose of residing and performing the duties of citizenship therein; and that I desire the passport for the purpose of protection and identification.

Oath of allegiance.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion: So help me God.

CHARLIE EHRLICH.

CONSULATE OF THE UNITED STATES, *Breslau, Germany.*

Sworn to before me this 27th day of March, 1895.

[L. S.] FREDERICK OPP, *U. S. Consul.*

Description of applicant.

Age, 16 years; stature, 5 feet 9 inches (Eng.); forehead, large and round; eyes, brown; nose, medium; mouth, medium; chin, small; hair, brown; complexion, dark; face, slightly long.

Identification.

BRESLAU, *March 7, 1895.*

I hereby certify that I know the above-named Charlie Ehrlich personally, and know him to be a native-born citizen of the United States, and that the facts stated in his affidavit are true to the best of my knowledge and belief.

ADOLF SCHARLANEG.

Address of witness: Breslau, Lessingstreet 11.

Mr. Gresham to Mr. Runyon.

No. 270.] DEPARTMENT OF STATE,
Washington, April 19, 1895.

SIR: Your No 232, of the 28th ultimo, in relation to the citizenship of one Charlie Ehrlich, a minor, born in the United States, has been received.

After reciting the facts, you say:

As he was born in the United States, and does not appear to be subject to any foreign power (the German Government, it appears, makes no claim that he is a German subject), I regarded him as being a citizen of the United States and entitled to a passport accordingly, and one was therefore issued to him as desired.

This implies that you had in mind section 1992, Revised Statutes, which reads:

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

This section is taken literally from section 1 of the civil rights act of April 9, 1866, portions of which were embodied in the fourteenth amendment to the Constitution, which reads:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

In delivering the opinion of the circuit court of the United States in California, in re Look Tin Sing (21 Fed. Rep., 905), Justice Field said:

A person born in the United States of Chinese parents not engaged in the diplomatic service of any foreign government, is born subject to the jurisdiction of the United States and is a citizen thereof, under the provisions of the fourteenth amendment to the national Constitution.

This ruling was followed in re Wong Gan (36 Fed. Rep., 554).

Ehrlich is a citizen of the United States irrespective of any claim of any other Government to his allegiance, and you correctly issued a passport to him.

I am, etc. W. Q. GRESHAM.

CONSULAR CERTIFICATES AS TO VALIDITY OF MARRIAGES.

Mr. Runyon to Mr. Olney.

No. 408.] EMBASSY OF THE UNITED STATES,
Berlin, November 15, 1895. (Received Nov. 30.)

SIR: Application is made to me by the United States consul at Munich for advice as to whether a consul may certify that a marriage valid in Germany will be valid in the United States. The forms of certificate which have been submitted to me are such as certify that the marriage between the parties, designating them by name, if valid in Germany will also be valid in the United States. The form of the certificate, however, is not in particular the subject of this present consideration. It is very important to an American who intends to marry a German here that it be made known by certificate to the authorities by whom the marriage is to be solemnized that the proposed marriage will be valid in the United States if valid here. Such certificates were made under the instruction of Secretary Bayard of February 8, 1887, in which he said:

To the position that it is not competent for diplomatic or consular officers to state the law of the United States as to marriage, there is, however, one important exception

to which your attention has been heretofore directed. Throughout the United States is recognized the principle of international law that a solemnization of marriage valid by the law of the place of solemnization will be regarded as valid everywhere.

This has been understood to warrant the making of a certificate accordingly as to the recognition in the United States of the principle of international law referred to. It is to be observed, however, that the instruction does not provide that a certificate may be made, but (in terms) that it is competent for diplomatic agents or consular officers to state that the principle mentioned is recognized, etc.

Section 390 of the Consular Regulations is as follows:

It is not competent without special authority from the Department for diplomatic agents, consuls, or consular agents to certify officially as to the status of persons domiciled in the United States and proposing to be married abroad, or as to the law in the United States or any part thereof relating to the solemnization of marriage.

See, also, the note thereto which refers to a MSS. instruction of Secretary Bayard to Mr. Walker, of April 7, 1887 (about two months later than the instruction above mentioned and quoted from), and MSS. instructions to consuls. I have not in my possession, nor have I been able to find, the instructions to consuls. It will be seen by paragraph 390 of the Consular Regulations, diplomatic agents, consuls, and consular agents are forbidden to certify "as to the law in the United States, or any part thereof, relating to the solemnization of marriages."

It is said that recently the United States consul at Nuremberg asked permission of the State Department to issue a certificate "that a marriage solemnized in Bavaria will hold good and binding in the United States," and he was instructed by the State Department that a consul is not permitted to make such a certificate, and that he could not safely do so for want of knowledge, and he was referred to section 390 of the Consular Regulations and the note thereto before mentioned. Neither the instruction of February 8, 1887, nor paragraph 390 of the Consular Regulations prohibits the statement of the condition of the law as the diplomatic agent or consul or consular agent may know it. The note to paragraph 390 expressly says that that section is intended to restrain the official action of consuls, but in no degree to prohibit unofficial advice and counsel to individuals, or giving personal opinions or testimony as to laws or facts with which the consuls themselves may be familiar. It also says they are not authorized to certify "as to the condition of law throughout the United States."

The only matter to be considered is whether, under the instructions, they may certify as to the prevalence in the United States of the principle of international law in regard to the solemnization of marriage referred to in the instruction of February 8, 1887, and above quoted. It would seem that they may not; for in the expression "the law in the United States * * * relating to the solemnization of marriage," used in paragraph 390, the fact of the prevalence of the principle of international law above mentioned may well be considered to be included. Under the circumstances—being asked for advice—I have deemed it proper to decline to advise the making of a certificate even in the above-quoted language of the instruction of February 8, 1887, and have thought it advisable to state the matter to the State Department for directions on the subject.

I have, etc., THEODORE RUNYON.

Mr. Olney to Mr. Runyon.

DEPARTMENT OF STATE,
No. 493.] *Washington, December 9, 1895.*

SIR: Your No. 408, of the 15th ultimo, has been received. You therein examine the various rulings of the Department, so far as accessible to you, touching the regularity or propriety of permitting consuls to certify to, or state for the information of whom it may concern, the announcement found in Mr. Bayard's circular instruction to diplomatic and consular officers of February 8, 1887, that—

> Throughout the United States is recognized the principle of international law that a solemnization of marriage valid by the law of the place of solemnization will be regarded as valid everywhere.

The language of this instruction appears to be guardedly confined to the question of the form and manner in which a marriage may be solemnized under the laws of the State where it is performed. It does not touch the question of the status of the individuals as a condition to the validity of the marriage, as to which important exceptions are found in the legislation of many countries. Consequently your suggestion is confined merely to certifying to the fact that if parties, citizens of a State or States of this Union, are competent under the laws thereof to contract matrimony, their marriage abroad according to the laws of the country of their temporary sojourn would be held valid as to form in the State or States of which they are citizens.

The value of such a conditional certification may be doubtful, as it leaves untouched the essential factor of the question, namely, the lawful ability of the parties to contract matrimony according to the statutes of the State or States of their residence. As to this latter point the rule of the Department prohibiting certification is clear and necessary.

There is another reason why a diplomatic or consular officer should decline to certify as to the legal requisites of marriage in the United States. The power to make such a certificate is not conferred on him by the laws of the United States, nor by international law, and he has no official powers which are not derived from one of these sources. Therefore, whatever private knowledge a diplomatic or consular officer may have respecting the laws of marriage, he is not authorized to certify them upon that knowledge. It is not a question of individual knowledge, but of official competency.

I have pleasure, therefore, in approving your judgment that it was proper to decline to advise the making of a certificate, even in the quoted language of Mr. Bayard's circular instruction of February 8, 1887.

As you mention your inability to find the instruction to Consul-General Walker, at Paris, referred to in a footnote to section 390 of the Consular Regulations of 1888, I inclose a copy thereof for your information.[1] The phrase "MSS. instructions to consuls" does not refer to a separate instruction on the same subject, but to the manuscript volume of the recorded instructions to consuls, in which the paper in question is found.

I am, etc., RICHARD OLNEY.

[1] Printed in Foreign Relations, 1887, p. 359.

RELATIONS BETWEEN PRUSSIA AND WALDECK.

Mr. Jackson to Mr. Olney.

No. 301.] EMBASSY OF THE UNITED STATES,
Berlin, July 13, 1895. (Received July 30.)

SIR: In December last Mr. S. C. Scott, of Lyons, Clinton County, Iowa, after some previous correspondence with the Department at Washington, addressed this embassy on the subject of the relations between Prussia and Waldeck.

By virtue of the laws of Iowa a nonresident alien is prohibited from inheriting real estate in that State, but by the terms of the treaty of 1828 between the United States and Prussia, which, of course, supersedes the State law, a Prussian is capable of inheriting real estate in the United States, and it was Mr. Scott's desire to ascertain whether, in view of the special relations existing between Prussia and Waldeck, residents of Waldeck were subjects of Prussia in the sense of the treaty of 1828. As this question had not been raised by the Department, it was considered best to treat the matter in an informal manner, and soon after Mr. Scott's letter was received, acting under the ambassador's instructions, I had a conversation with one of the law officers of the German foreign office on the subject, and an answer was promised me in a few days.

The foreign office, however, upon consideration, decided to give the matter its formal attention, and so informed the embassy in February last, and recently, after communicating with the authorities of Waldeck, an official reply has been received.

In this reply it is stated that, although the so-called "treaty of accession" concluded between Prussia and Waldeck in 1867 and continued in 1887, affected neither the political independence of Waldeck as one of the Federal States included in the German Empire, nor, in consequence, the continuation of the special local allegiance of the natives, the inhabitants of Waldeck, as well as all other subjects of the Empire, are, according to article 3 of the Imperial constitution, to be treated as natives in Prussia, so that they are placed upon the same footing as Prussians in regard to the acquisition of real estate and in all matters of legal protection. Under the rules (Grundsatze) now in force in Waldeck, as to the acquisition of real property, no special restrictions are placed upon foreigners, and, "therefore, if this question should, in the State of Iowa, be decided to the advantage of a subject of Waldeck, reciprocity would undoubtedly be practiced in Waldeck."

I have communicated this reply to Mr. Scott, and now make this report to the Department as it may find the matter of interest.

I have, etc.,

JOHN B. JACKSON.

INDORSEMENTS ON UNITED STATES PASSPORTS BY GERMAN OFFICERS.

Mr. Runyon to Mr. Olney.

No. 355.] EMBASSY OF THE UNITED STATES,
Berlin, September 2, 1895. (Received Sept. 18.)

SIR: I have the honor to inclose herewith a copy of a note to-day addressed by me to the Imperial foreign office, relative to an indorse-

ment made on a passport issued by the Department of State to one Jacob Malin Weiler, by the local police officials of Sorau, Prussia, stating that Mr. Weiler had been expelled from Prussian territory in March, 1894. Our consul at Leipsic, at which place Mr. Weiler now is, states that the cause of the expulsion was that Mr. Weiler was a Mormon, but of the expulsion no complaint has been made. The value of the passport has, however, been so impaired by this indorsement—Mr. Weiler stating that on account of it he has met with continual difficulties—that he deemed it expedient to apply for a new one, although the one held had not expired.

Under the circumstances, I felt it my duty to bring the matter to the attention of the German Government in order, if possible, to prevent for the future the making, by any German official, of similar indorsements upon other American passports.

I have, etc., THEODORE RUNYON.

[Inclosure in No. 355.]

Mr. Runyon to Baron Marschall.

EMBASSY OF THE UNITED STATES,
Berlin, September 2, 1895.

The undersigned, ambassador, etc., of the United States of America, has the honor to inclose herewith, with the request that it be ultimately returned, to His Excellency Baron Marschall von Bieberstein, Imperial secretary of state for foreign affairs, a passport issued by the Department of State at Washington, to Mr. Jacob Malin Weiler, a citizen of the United States of America. As will appear by inspection, there has been indorsed on it by a German official a statement, under seal, of the expulsion from Prussian territory of Mr. Weiler. It may be remarked that the cause or ground of expulsion does not appear, but it is said to be on account of his religion. No question, however, is now raised on that head.

The indorsement referred to has so impaired the value of the passport, not only in other parts of Germany, but everywhere else, that Mr. Weiler has been compelled to take out a new one.

The undersigned respectfully requests that his excellency will cause such directions to be given as to prevent in the future the making by any German official upon an American passport of any indorsement or statement except a visé, and avails himself, etc.,

THEODORE RUNYON.

[Subinclosure in No. 355.]

Passport No. 6289, issued by the Department of State, Washington, D. C., on January 2, 1894, to Jacob Malin Weiler, upon which was indorsed:

[Translation.]

"Expelled from Prussian territory by direction of the Royal Government president at Frankfort on the Oder, of March 27, 1894.

"Sorau, April 4, 1894."

Mr. Runyon to Mr. Olney.

No. 420.] EMBASSY OF THE UNITED STATES,
Berlin, December 4, 1895. (Received Dec. 20.)

SIR: Referring to my dispatch, No. 355, of September 2 last, reporting my action in regard to the indorsement by a German official on the passport issued by the State Department to Mr. Jacob Malin Weiler, and held by him, of a statement that the latter had been expelled from Prussian territory, I have the honor to inclose herewith a copy of a note, with translation of the same, received by me to-day from the Imperial foreign office on the subject, from which it appears that the act complained of was without any authority and is wholly disapproved, and that steps have been taken to prevent such action in the future.

I have, etc.,

THEODORE RUNYON.

[Inclosure in No. 420.—Translation.]

Baron Rotenhan to Mr. Runyon.

Referring to the note of September 2 last (F. O. No. 294), the undersigned has the honor to inform his excellency the ambassador extraordinary and plenipotentiary of the United States of America, Mr. Theodore Runyon, that the expulsion from Prussian territory of the citizen of the United States of America, Jacob Malin Weiler, has been brought to the attention of the Royal Prussian minister of the interior, and by him has been made the subject of careful investigation. It has been shown that by his attempt to gain supporters for the Mormon sect amongst the native population Weiler has carried on an agitation which is not in harmony with the laws of the country, and that he has been expelled for this reason.

Though the order of expulsion must therefore be maintained, the procedure of the police authorities of Sorau, however, who have made a statement on the passport of Weiler, which is herewith returned, can not be approved.

Authority for Prussian officials to make statements of such a nature on passports of foreigners who have been expelled does not exist; the police authorities have acted of their own accord on this point.

While adding that the Royal Prussian minister of the interior has taken steps to prevent for the future the making of such unallowable statements on passports, he avails himself of this occasion to renew to the ambassador the assurance of his most distinguished consideration.

ROTENHAN.

AFFAIRS IN SAMOA.

(See Samoa.)

GREAT BRITAIN:

VENEZUELA BOUNDARY CONTROVERSY.*

Message of the President.

To the Congress:

In my annual message addressed to the Congress on the third instant I called attention to the pending boundary controversy between Great Britain and the Republic of Venezuela and recited the substance of a representation made by this Government to Her Britannic Majesty's Government suggesting reasons why such dispute should be submitted to arbitration for settlement, and inquiring whether it would be so submitted.

The answer of the British Government, which was then awaited, has since been received and, together with the dispatch to which it is a reply, is hereto appended.

Such reply is embodied in two communications addressed by the British Prime Minister to Sir Julian Pauncefote, the British Ambassador at this Capital. It will be seen that one of these communications is devoted exclusively to observations upon the Monroe doctrine, and claims that in the present instance a new and strange extension and development of this doctrine is insisted on by the United States, that the reasons justifying an appeal to the doctrine enunciated by President Monroe are generally inapplicable "to the state of things in which we live at the present day," and especially inapplicable to a controversy involving the boundary line between Great Britain and Venezuela.

Without attempting extended argument in reply to these positions it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and can not become obsolete while our Republic endures. If the

* Reprinted from Senate Doc. No. 31, Fifty-fourth Congress, first session.

balance of power is justly a cause for jealous anxiety among the governments of the old world, and a subject for our absolute noninterference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.

Assuming, therefore, that we may properly insist upon this doctrine without regard to "the state of things in which we live," or any changed conditions here or elsewhere, it is not apparent why its application may not be invoked in the present controversy.

If a European power, by an extension of its boundaries, takes possession of the territory of one of our neighboring Republics against its will and in derogation of its rights, it is difficult to see why to that extent such European power does not thereby attempt to extend its system of government to that portion of this continent which is thus taken. This is the precise action which President Monroe declared to be "dangerous to our peace and safety," and it can make no difference whether the European system is extended by an advance of frontier or otherwise.

It is also suggested in the British reply that we should not seek to apply the Monroe doctrine to the pending dispute because it does not embody any principle of international law which "is founded on the general consent of nations," and that "no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country."

Practically the principle for which we contend has peculiar if not exclusive relation to the United States. It may not have been admitted in so many words to the code of international law, but since in international councils every nation is entitled to the rights belonging to it, if the enforcement of the Monroe doctrine is something we may justly claim it has its place in the code of international law as certainly and as securely as if it were specifically mentioned, and where the United States is a suitor before the high tribunal that administers international law the question to be determined is whether or not we present claims which the justice of that code of law can find to be right and valid.

The Monroe doctrine finds its recognition in those principles of international law which are based upon the theory that every nation shall have its rights protected and its just claims enforced.

Of course this Government is entirely confident that under the sanction of this doctrine we have clear rights and undoubted claims. Nor is this ignored in the British reply. The Prime Minister, while not admitting that the Monroe doctrine is applicable to present conditions, states: "In declaring that the United States would resist any such enterprise if it was contemplated, President Monroe adopted a policy which received the entire sympathy of the English Government of that

date." He further declares: "Though the language of President Monroe is directed to the attainment of objects which most Englishmen would agree to be salutary, it is impossible to admit that they have been inscribed by any adequate authority in the code of international law." Again he says: "They (Her Majesty's Government) fully concur with the view which President Monroe apparently entertained, that any disturbance of the existing territorial distribution in the hemisphere by any fresh acquisitions on the part of any European State, would be a highly inexpedient change."

In the belief that the doctrine for which we contend was clear and definite, that it was founded upon substantial considerations and involved our safety and welfare, that it was fully applicable to our present conditions and to the state of the world's progress and that it was directly related to the pending controversy and without any conviction as to the final merits of the dispute, but anxious to learn in a satisfactory and conclusive manner whether Great Britain sought, under a claim of boundary, to extend her possessions on this continent without right, or whether she merely sought possession of territory fairly included within her lines of ownership, this Government proposed to the Government of Great Britain a resort to arbitration as the proper means of settling the question to the end that a vexatious boundary dispute between the two contestants might be determined and our exact standing and relation in respect to the controversy might be made clear.

It will be seen from the correspondence herewith submitted that this proposition has been declined by the British Government, upon grounds which in the circumstances seem to me to be far from satisfactory. It is deeply disappointing that such an appeal actuated by the most friendly feelings towards both nations directly concerned, addressed to the sense of justice and to the magnanimity of one of the great powers of the world and touching its relations to one comparatively weak and small, should have produced no better results.

The course to be pursued by this Government in view of the present condition does not appear to admit of serious doubt. Having labored faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprized of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements and deal with it accordingly. Great Britain's present proposition has never thus far been regarded as admissible by Venezuela, though any adjustment of the boundary which that country may deem for her advantage and may enter into of her own free will cannot of course be objected to by the United States.

Assuming, however, that the attitude of Venezuela will remain unchanged, the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana. The inquiry

to that end should of course be conducted carefully and judicially and due weight should be given to all available evidence records and facts in support of the claims of both parties.

In order that such an examination should be prosecuted in a thorough and satisfactory manner I suggest that the Congress make an adequate appropriation for the expenses of a Commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted it will in my opinion be the duty of the United States to resist by every means in its power as a willful aggression upon its rights and interests the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.

In making these recommendations I am fully alive to the responsibility incurred, and keenly realize all the consequences that may follow.

I am nevertheless firm in my conviction that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization, and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self respect and honor beneath which are shielded and defended a people's safety and greatness.

GROVER CLEVELAND.

EXECUTIVE MANSION,
December 17, 1895.

Mr. Olney to Mr. Bayard.

No. 804.] DEPARTMENT OF STATE,
Washington, July 20, 1895.

His Excellency THOMAS F. BAYARD,
Etc., etc., etc., London.

SIR: I am directed by the President to communicate to you his views upon a subject to which he has given much anxious thought and respecting which he has not reached a conclusion without a lively sense of its great importance as well as of the serious responsibility involved in any action now to be taken.

It is not proposed, and for present purposes is not necessary, to enter into any detailed account of the controversy between Great Britain and Venezuela respecting the western frontier of the colony of British Guiana. The dispute is of ancient date and began at least as early as the time when Great Britain acquired by the treaty with the Netherlands of 1814 "the establishments of Demerara, Essequibo, and Berbice." From that time to the present the dividing line between these "establishments" (now called British Guiana) and Venezuela has never ceased to be a subject of contention. The claims of both parties, it

must be conceded, are of a somewhat indefinite nature. On the one hand Venezuela, in every constitution of government since she became an independent State, has declared her territorial limits to be those of the Captaincy General of Venezuela in 1810. Yet, out of "moderation and prudence," it is said, she has contented herself with claiming the Essequibo line—the line of the Essequibo River, that is—to be the true boundary between Venezuela and British Guiana. On the other hand, at least an equal degree of indefiniteness distinguishes the claim of Great Britain.

It does not seem to be asserted, for instance, that in 1814 the "establishments" then acquired by Great Britain had any clearly defined western limits which can now be identified and which are either the limits insisted upon to-day, or, being the original limits, have been the basis of legitimate territorial extensions. On the contrary, having the actual possession of a district called the Pomaron district, she apparently remained indifferent as to the exact area of the colony until 1840, when she commissioned an engineer, Sir Robert Schomburgk, to examine and lay down its boundaries. The result was the Schomburgk line which was fixed by metes and bounds, was delineated on maps, and was at first indicated on the face of the country itself by posts, monograms, and other like symbols. If it was expected that Venezuela would acquiesce in this line, the expectation was doomed to speedy disappointment. Venezuela at once protested and with such vigor and to such purpose that the line was explained to be only tentative—part of a general boundary scheme concerning Brazil and the Netherlands as well as Venezuela—and the monuments of the line set up by Schomburgk were removed by the express order of Lord Aberdeen. Under these circumstances, it seems impossible to treat the Schomburgk line as being the boundary claimed by Great Britain as matter of right, or as anything but a line originating in considerations of convenience and expediency. Since 1840 various other boundary lines have from time to time been indicated by Great Britain, but all as conventional lines—lines to which Venezuela's assent has been desired but which in no instance, it is believed, have been demanded as matter of right. Thus neither of the parties is to-day standing for the boundary line predicated upon strict legal right—Great Britain having formulated no such claim at all, while Venezuela insists upon the Essequibo line only as a liberal concession to her antagonist.

Several other features of the situation remain to be briefly noticed—the continuous growth of the undefined British claim, the fate of the various attempts at arbitration of the controversy, and the part in the matter heretofore taken by the United States. As already seen, the exploitation of the Schomburgk line in 1840 was at once followed by the protest of Venezuela and by proceedings on the part of Great Britain which could fairly be interpreted only as a disavowal of that line. Indeed—in addition to the facts already noticed—Lord Aberdeen himself in 1844 proposed a line beginning at the River Moroco, a distinct abandonment of the Schomburgk line. Notwithstanding this, however, every change in the British claim since that time has moved the frontier of British Guiana farther and farther to the westward of the line thus proposed. The Granville line of 1881 placed the starting point at a distance of twenty-nine miles from the Moroco in the direction of Punta Barima. The Rosebery line of 1886 placed it west of the Guaima River, and about that time, if the British authority known as the Statesman's Year Book is to be relied upon, the area of British Guiana was suddenly enlarged by some 33,000 square miles—being

stated as 76,000 square miles in 1885 and 109,000 square miles in 1887. The Salisbury line of 1890 fixed the starting point of the line in the mouth of the Amacuro west of the Punta Barima on the Orinoco. And finally, in 1893, a second Rosebery line carried the boundary from a point to the west of the Amacuro as far as the source of the Cumano River and the Sierra of Usupamo. Nor have the various claims thus enumerated been claims on paper merely. An exercise of jurisdiction corresponding more or less to such claims has accompanied or followed closely upon each and has been the more irritating and unjustifiable if, as is alleged, an agreement made in the year 1850 bound both parties to refrain from such occupation pending the settlement of the dispute.

While the British claim has been developing in the manner above described, Venezuela has made earnest and repeated efforts to have the question of boundary settled. Indeed, allowance being made for the distractions of a war of independence and for frequent internal revolutions, it may be fairly said that Venezuela has never ceased to strive for its adjustment. It could, of course, do so only through peaceful methods, any resort to force as against its powerful adversary being out of the question. Accordingly, shortly after the drawing of the Schomburgk line, an effort was made to settle the boundary by treaty and was apparently progressing towards a successful issue when the negotiations were brought to an end in 1844 by the death of the Venezuelan plenipotentiary.

In 1848 Venezuela entered upon a period of civil commotions which lasted for more than a quarter of a century, and the negotiations thus interrupted in 1844 were not resumed until 1876. In that year Venezuela offered to close the dispute by accepting the Moroco line proposed by Lord Aberdeen. But, without giving reasons for his refusal, Lord Granville rejected the proposal and suggested a new line comprehending a large tract of territory all pretension to which seemed to have been abandoned by the previous action of Lord Aberdeen. Venezuela refused to assent to it, and negotiations dragged along without result until 1882, when Venezuela concluded that the only course open to her was arbitration of the controversy. Before she had made any definite proposition, however, Great Britain took the initiative by suggesting the making of a treaty which should determine various other questions as well as that of the disputed boundary. The result was that a treaty was practically agreed upon with the Gladstone government in 1886 containing a general arbitration clause under which the parties might have submitted the boundary dispute to the decision of a third power or of several powers in amity with both.

Before the actual signing of the treaty, however, the administration of Mr. Gladstone was superseded by that of Lord Salisbury, which declined to accede to the arbitration clause of the treaty notwithstanding the reasonable expectations of Venezuela to the contrary based upon the Premier's emphatic declaration in the House of Lords that no serious government would think of not respecting the engagements of its predecessor. Since then Venezuela on the one side has been offering and calling for arbitration, while Great Britain on the other has responded by insisting upon the condition that any arbitration should relate only to such of the disputed territory as lies west of a line designated by herself. As this condition seemed inadmissible to Venezuela and as, while the negotiations were pending, new appropriations of what is claimed to be Venezuelan territory continued to be made, Venezuela in 1887 suspended diplomatic relations with Great

Britain, protesting "before Her British Majesty's Government, before all civilized nations and before the world in general, against the acts of spoliation committed to her detriment by the Government of Great Britain, which she at no time and on no account will recognize as capable of altering in the least the rights which she has inherited from Spain and respecting which she will ever be willing to submit to the decision of a third power."

Diplomatic relations have not since been restored, though what is claimed to be new and flagrant British aggressions forced Venezuela to resume negotiations on the boundary question—in 1890, through its Minister in Paris and a special envoy on that subject—and in 1893, through a confidential agent, Señor Michelena. These negotiations, however, met with the fate of other like previous negotiations—Great Britain refusing to arbitrate except as to territory west of an arbitrary line drawn by herself. All attempts in that direction definitely terminated in October, 1893, when Señor Michelena filed with the Foreign Office the following declaration:

I perform a most strict duty in raising again in the name of the Government of Venezuela a most solemn protest against the proceedings of the Colony of British Guiana, constituting encroachments upon the territory of the Republic, and against the declaration contained in Your Excellency's communication that Her Britannic Majesty's Government considers that part of the territory as pertaining to British Guiana and admits no claim to it on the part of Venezuela. In support of this protest I reproduce all the arguments presented to Your Excellency in my note of 29 of last September and those which have been exhibited by the Government of Venezuela on the various occasions they have raised the same protest.

I lay on Her Britannic Majesty's Government the entire responsibility of the incidents that may arise in the future from the necessity to which Venezuela has been driven to oppose by all possible means the dispossession of a part of her territory, for by disregarding her just representation to put an end to this violent state of affairs through the decision of arbiters, Her Majesty's Government ignores her rights and imposes upon her the painful though peremptory duty of providing for her own legitimate defense.

To the territorial controversy between Great Britain and the Republic of Venezuela, thus briefly outlined, the United States has not been and, indeed, in view of its traditional policy, could not be indifferent. The note to the British Foreign Office by which Venezuela opened negotiations in 1876 was at once communicated to this Government. In January, 1881, a letter of the Venezuelan Minister at Washington, respecting certain alleged demonstrations at the mouth of the Orinoco, was thus answered by Mr. Evarts, then Secretary of State:

In reply I have to inform you that in view of the deep interest which the Government of the United States takes in all transactions tending to attempted encroachments of foreign powers upon the territory of any of the Republics of this continent, this Government could not look with indifference to the forcible acquisition of such territory by England if the mission of the vessels now at the mouth of the Orinoco should be found to be for that end. This Government awaits, therefore, with natural concern the more particular statements promised by the Government of Venezuela, which it hopes will not be long delayed.

In the February following, Mr. Evarts wrote again on the same subject as follows:

Referring to your note of the 21st of December last, touching the operations of certain British war vessels in and near the mouth of the Orinoco River and to my reply thereto of the 31st ultimo as well as to the recent occasions in which the subject has been mentioned in our conferences concerning the business of your mission, I take it to be fitting now at the close of my incumbency of the office I hold to advert to the interest with which the Government of the United States cannot fail to regard any such purpose with respect to the control of American territory as is stated to be contemplated by the Government of Great Britain and to express my regret that the further information promised in your note with regard to such designs had not reached me in season to receive the attention which, notwithstanding the severe pressure of

public business at the end of an administrative term, I should have taken pleasure in bestowing upon it. I doubt not, however, that your representations in fulfillment of the awaited additional orders of your Government will have like earnest and solicitous consideration at the hands of my successor.

In November, 1882, the then state of negotiations with Great Britain together with a copy of an intended note suggesting recourse to arbitration was communicated to the Secretary of State by the President of Venezuela with the expression of the hope that the United States would give him its opinion and advice and such support as it deemed possible to offer Venezuela in order that justice should be done her. Mr. Frelinghuysen replied in a dispatch to the United States Minister at Caraças as follows:

This Government has already expressed its view that arbitration of such disputes is a convenient resort in the case of failure to come to a mutual understanding, and intimated its willingness, if Venezuela should so desire, to propose to Great Britain such a mode of settlement. It is felt that the tender of good offices would not be so profitable if the United States were to approach Great Britain as the advocate of any prejudged solution in favor of Venezuela. So far as the United States can counsel and assist Venezuela it believes it best to confine its reply to the renewal of the suggestion of arbitration and the offer of all its good offices in that direction. This suggestion is the more easily made, since it appears, from the instruction sent by Señor Seijas to the Venezuelan Minister in London on the same 15th of July, 1882, that the President of Venezuela proposed to the British Government the submission of the dispute to arbitration by a third power.

You will take an early occasion to present the foregoing considerations to Señor Seijas, saying to him that, while trusting that the direct proposal for arbitration already made to Great Britain may bear good fruit (if, indeed, it has not already done so by its acceptance in principle), the Government of the United States will cheerfully lend any needful aid to press upon Great Britain in a friendly way the proposition so made, and at the same time you will say to Señor Seijas (in personal conference, and not with the formality of a written communication) that the United States, while advocating strongly the recourse of arbitration for the adjustment of international disputes affecting the states of America, does not seek to put itself forward as their arbiter; that, viewing all such questions impartially and with no intent or desire to prejudge their merits, the United States will not refuse its arbitration if asked by both parties, and that, regarding all such questions as essentially and distinctively American, the United States would always prefer to see such contentions adjusted through the arbitrament of an American rather than an European power.

In 1884 General Guzman Blanco, the Venezuelan Minister to England appointed with special reference to pending negotiations for a general treaty with Great Britain, visited Washington on his way to London and, after several conferences with the Secretary of State respecting the objects of his mission, was thus commended to the good offices of Mr. Lowell, our Minister at St. James':

It will necessarily be somewhat within your discretion how far your good offices may be profitably employed with Her Majesty's Government to these ends, and at any rate you may take proper occasion to let Lord Granville know that we are not without concern as to whatever may affect the interests of a sister Republic of the American continent and its position in the family of nations.

If General Guzman should apply to you for advice or assistance in realizing the purposes of his mission you will show him proper consideration, and without committing the United States to any determinate political solution you will endeavor to carry out the views of this instruction.

The progress of Gen. Guzman's negotiations did not fail to be observed by this Government and in December, 1886, with a view to preventing the rupture of diplomatic relations—which actually took place in February following—the then Secretary of State, Mr. Bayard, instructed our Minister to Great Britain to tender the arbitration of the United States, in the following terms:

It does not appear that at any time heretofore the good offices of this Government have been actually tendered to avert a rupture between Great Britain and Venezuela. As intimated in my No. 58, our inaction in this regard would seem to be due

to the reluctance of Venezuela to have the Government of the United States take any steps having relation to the action of the British Government which might, in appearance even, prejudice the resort to further arbitration or mediation which Venezuela desired. Nevertheless, the records abundantly testify our friendly concern in the adjustment of the dispute; and the intelligence now received warrants me in tendering through you to Her Majesty's Government the good offices of the United States to promote an amicable settlement of the respective claims of Great Britain and Venezuela in the premises.

As proof of the impartiality with which we view the question, we offer our arbitration, if acceptable to both countries. We do this with the less hesitancy as the dispute turns upon simple and readily ascertainable historical facts.

Her Majesty's Government will readily understand that this attitude of friendly neutrality and entire impartiality touching the merits of the controversy, consisting wholly in a difference of facts between our friends and neighbors, is entirely consistent and compatible with the sense of responsibility that rests upon the United States in relation to the South American republics. The doctrines we announced two generations ago, at the instance and with the moral support and approval of the British Government, have lost none of their force or importance in the progress of time and the Governments of Great Britain and the United States are equally interested in conserving a status, the wisdom of which has been demonstrated by the experience of more than half a century.

It is proper, therefore, that you should convey to Lord Iddesleigh, in such sufficiently guarded terms as your discretion may dictate, the satisfaction that would be felt by the Government of the United States in perceiving that its wishes in this regard were permitted to have influence with Her Majesty's Government.

This offer of mediation was declined by Great Britain, with the statement that a similar offer had already been received from another quarter, and that the Queen's Government were still not without hope of a settlement by direct diplomatic negotiations. In February, 1888, having been informed that the Governor of British Guiana had by formal decree laid claim to the territory traversed by the route of a proposed railway from Ciudad Bolivar to Guacipati, Mr. Bayard addressed a note to our Minister to England, from which the following extracts are taken:

The claim now stated to have been put forth by the authorities of British Guiana necessarily gives rise to grave disquietude, and creates an apprehension that the territorial claim does not follow historical traditions or evidence, but is apparently indefinite. At no time hitherto does it appear that the district, of which Guacipati is the center, has been claimed as British territory or that such jurisdiction has ever been asserted over its inhabitants, and if the reported decree of the Governor of British Guiana be indeed genuine it is not apparent how any line of railway from Ciudad Bolivar to Guacipati could enter or traverse territory within the control of Great Britain.

It is true that the line claimed by Great Britain as the western boundary of British Guiana is uncertain and vague. It is only necessary to examine the British Colonial Office List for a few years back to perceive this. In the issue for 1877, for instance, the line runs nearly southwardly from the mouth of the Amacuro to the junction of the Cotinga and Takutu rivers. In the issue of 1887, ten years later, it makes a wide detour to the westward, following the Yurnari. Guacipati lies considerably to the westward of the line officially claimed in 1887, and it may perhaps be instructive to compare with it the map which doubtless will be found in the Colonial Office List for the present year.

It may be well for you to express anew to Lord Salisbury the great gratification it would afford this Government to see the Venezuelan dispute amicably and honorably settled by arbitration or otherwise and our readiness to do anything we properly can to assist to that end.

In the course of your conversation you may refer to the publication in the London Financier of January 24 (a copy of which you can procure and exhibit to Lord Salisbury) and express apprehension lest the widening pretensions of British Guiana to possess territory over which Venezuela's jurisdiction has never heretofore been disputed may not diminish the chances for a practical settlement.

If, indeed, it should appear that there is no fixed limit to the British boundary claim, our good disposition to aid in a settlement might not only be defeated, but be obliged to give place to a feeling of grave concern.

In 1889, information having been received that Barima, at the mouth of the Orinoco, had been declared a British port, Mr. Blaine, then Secretary of State, authorized Mr. White to confer with Lord Salisbury

for the re-establishment of diplomatic relations between Great Britain and Venezuela on the basis of a temporary restoration of the *status quo*, and May 1 and May 6, 1890, sent the following telegrams to our Minister to England, Mr. Lincoln: (May 1, 1890)

Mr. Lincoln is instructed to use his good offices with Lord Salisbury to bring about the resumption of diplomatic intercourse between Great Britain and Venezuela as a preliminary step towards the settlement of the boundary dispute by arbitration. The joint proposals of Great Britain and the United States towards Portugal which have just been brought about would seem to make the present time propitious for submitting this question to an international arbitration. He is requested to propose to Lord Salisbury, with a view to an accommodation, that an informal conference be had in Washington or in London of representatives of the three Powers. In such conference the position of the United States is one solely of impartial friendship toward both litigants.

(May 6, 1890)—

It is, nevertheless desired that you shall do all you can consistently with our attitude of impartial friendship to induce some accord between the contestants by which the merits of the controversy may be fairly ascertained and the rights of each party justly confirmed. The neutral position of this Government does not comport with any expression of opinion on the part of this Department as to what these rights are, but it is confident that the shifting footing on which the British boundary question has rested for several years past is an obstacle to such a correct appreciation of the nature and grounds of her claim as would alone warrant the formation of any opinion.

In the course of the same year, 1890, Venezuela sent to London a special envoy to bring about the resumption of diplomatic relations with Great Britain through the good offices of the United States Minister. But the mission failed because a condition of such resumption, steadily adhered to by Venezuela, was the reference of the boundary dispute to arbitration. Since the close of the negotiations initiated by Señor Michelena in 1893, Venezuela has repeatedly brought the controversy to the notice of the United States, has insisted upon its importance to the United States as well as to Venezuela, has represented it to have reached an acute stage—making definite action by the United States imperative—and has not ceased to solicit the services and support of the United States in aid of its final adjustment. These appeals have not been received with indifference and our Ambassador to Great Britain has been uniformly instructed to exert all his influence in the direction of the re-establishment of diplomatic relations between Great Britain and Venezuela and in favor of arbitration of the boundary controversy. The Secretary of State in a communication to Mr. Bayard, bearing date July 13, 1894, used the following language:

The President is inspired by a desire for a peaceable and honorable settlement of the existing difficulties between an American state and a powerful transatlantic nation, and would be glad to see the re-establishment of such diplomatic relations between them as would promote that end.

I can discern but two equitable solutions of the present controversy. One is the arbitral determination of the rights of the disputants as the respective successors to the historical rights of Holland and Spain over the region in question. The other is to create a new boundary line in accordance with the dictates of mutual expediency and consideration. The two Governments having so far been unable to agree on a conventional line, the consistent and conspicuous advocacy by the United States and England of the principle of arbitration and their recourse thereto in settlement of important questions arising between them, makes such a mode of adjustment especially appropriate in the present instance, and this Government will gladly do what it can to further a determination in that sense.

Subsequent communications to Mr. Bayard direct him to ascertain whether a Minister from Venezuela would be received by Great Britain. In the annual Message to Congress of December 3d last, the President used the following language:

The boundary of British Guiana still remains in dispute between Great Britain and Venezuela. Believing that its early settlement on some just basis alike honor-

able to both parties, is in the line of our established policy to remove from this hemisphere all causes of difference with powers beyond the sea, I shall renew the efforts heretofore made to bring about a restoration of diplomatic relations between the disputants and to induce a reference to arbitration, a resort which Great Britain so conspicuously favors in principle and respects in practice and which is earnestly sought by her weaker adversary.

And February 22, 1895, a joint resolution of Congress declared

That the President's suggestion * * * that Great Britain and Venezuela refer their dispute as to boundaries to friendly arbitration be earnestly recommended to the favorable consideration of both parties in interest.

The important features of the existing situation, as shown by the foregoing recital, may be briefly stated.

1. The title to territory of indefinite but confessedly very large extent is in dispute between Great Britain on the one hand and the South American Republic of Venezuela on the other.

2. The disparity in the strength of the claimants is such that Venezuela can hope to establish her claim only through peaceful methods—through an agreement with her adversary either upon the subject itself or upon an arbitration.

3. The controversy, with varying claims on the part of Great Britain, has existed for more than half a century, during which period many earnest and persistent efforts of Venezuela to establish a boundary by agreement have proved unsuccessful.

4. The futility of the endeavor to obtain a conventional line being recognized, Venezuela for a quarter of a century has asked and striven for arbitration.

5. Great Britain, however, has always and continuously refused to arbitrate, except upon the condition of a renunciation of a large part of the Venezuelan claim and of a concession to herself of a large share of the territory in controversy.

6. By the frequent interposition of its good offices at the instance of Venezuela, by constantly urging and promoting the restoration of diplomatic relations between the two countries, by pressing for arbitration of the disputed boundary, by offering to act as arbitrator, by expressing its grave concern whenever new alleged instances of British aggression upon Venezuelan territory have been brought to its notice, the Government of the United States has made it clear to Great Britain and to the world that the controversy is one in which both its honor and its interests are involved and the continuance of which it can not regard with indifference.

The accuracy of the foregoing analysis of the existing status cannot, it is believed, be challenged. It shows that status to be such that those charged with the interests of the United States are now forced to determine exactly what those interests are and what course of action they require. It compels them to decide to what extent, if any, the United States may and should intervene in a controversy between and primarily concerning only Great Britain and Venezuela and to decide how far it is bound to see that the integrity of Venezuelan territory is not impaired by the pretensions of its powerful antagonist. Are any such right and duty devolved upon the United States? If not, the United States has already done all, if not more than all, that a purely sentimental interest in the affairs of the two countries justifies, and to push its interposition further would be unbecoming and undignified and might well subject it to the charge of impertinent intermeddling with affairs with which it has no rightful concern. On the other hand, if any such right and duty exist, their due exercise and discharge will

not permit of any action that shall not be efficient and that, if the power of the United States is adequate, shall not result in the accomplishment of the end in view. The question thus presented, as matter of principle and regard being had to the settled national policy, does not seem difficult of solution. Yet the momentous practical consequences dependent upon its determination require that it should be carefully considered and that the grounds of the conclusion arrived at should be fully and frankly stated.

That there are circumstances under which a nation may justly interpose in a controversy to which two or more other nations are the direct and immediate parties is an admitted canon of international law. The doctrine is ordinarily expressed in terms of the most general character and is perhaps incapable of more specific statement. It is declared in substance that a nation may avail itself of this right whenever what is done or proposed by any of the parties primarily concerned is a serious and direct menace to its own integrity, tranquillity, or welfare. The propriety of the rule when applied in good faith will not be questioned in any quarter. On the other hand, it is an inevitable though unfortunate consequence of the wide scope of the rule that it has only too often been made a cloak for schemes of wanton spoliation and aggrandizement. We are concerned at this time, however, not so much with the general rule as with a form of it which is peculiarly and distinctively American. Washington, in the solemn admonitions of the Farewell Address, explicitly warned his countrymen against entanglements with the politics or the controversies of European powers.

> Europe, [he said,] has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities. Our detached and distant situation invites and enables us to pursue a different course.

During the administration of President Monroe this doctrine of the Farewell Address was first considered in all its aspects and with a view to all its practical consequences. The Farewell Address, while it took America out of the field of European politics, was silent as to the part Europe might be permitted to play in America. Doubtless it was thought the latest addition to the family of nations should not make haste to prescribe rules for the guidance of its older members, and the expediency and propriety of serving the powers of Europe with notice of a complete and distinctive American policy excluding them from interference with American political affairs might well seem dubious to a generation to whom the French alliance, with its manifold advantages to the cause of American independence, was fresh in mind.

Twenty years later, however, the situation had changed. The lately born nation had greatly increased in power and resources, had demonstrated its strength on land and sea and as well in the conflicts of arms as in the pursuits of peace, and had begun to realize the commanding position on this continent which the character of its people, their free institutions, and their remoteness from the chief scene of European contentions combined to give to it. The Monroe administration therefore did not hesitate to accept and apply the logic of the Farewell Address by declaring in effect that American non-intervention in European affairs necessarily implied and meant European non-intervention in American affairs. Conceiving unquestionably that complete European non-interference in American concerns would be cheaply purchased by complete American non-interference in European concerns, President

Monroe, in the celebrated Message of December 2, 1823, used the following language:

In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy to do so. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparations for our defense. With the movements in this hemisphere, we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective governments. And to the defense of our own, which has been achieved by the loss of so much blood and treasure and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety.

With the existing colonies or dependencies of any European power, we have not interfered and shall not interfere. But with the governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition towards the United States. * * * Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting, in all instances, the just claims of every power, submitting to injuries from none. But in regard to these continents, circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference.

The Monroe administration, however, did not content itself with formulating a correct rule for the regulation of the relations between Europe and America. It aimed at also securing the practical benefits to result from the application of the rule. Hence the message just quoted declared that the American continents were fully occupied and were not the subjects for future colonization by European powers. To this spirit and this purpose, also, are to be attributed the passages of the same message which treat any infringement of the rule against interference in American affairs on the part of the powers of Europe as an act of unfriendliness to the United States. It was realized that it was futile to lay down such a rule unless its observance could be enforced. It was manifest that the United States was the only power in this hemisphere capable of enforcing it. It was therefore courageously declared not merely that Europe ought not to interfere in American affairs, but that any European power doing so would be regarded as antagonizing the interests and inviting the opposition of the United States.

That America is in no part open to colonization, though the proposition was not universally admitted at the time of its first enunciation, has long been universally conceded. We are now concerned, therefore, only with that other practical application of the Monroe doctrine the disregard of which by an European power is to be deemed an act of unfriendliness towards the United States. The precise scope and limitations of this rule cannot be too clearly apprehended. It does not establish any general protectorate by the United States over other American states. It does not relieve any American state from its obligations as fixed by international law nor prevent any European power directly interested from enforcing such obligations or from inflicting merited punishment for the breach of them. It does not contemplate

any interference in the internal affairs of any American state or in the relations between it and other American states. It does not justify any attempt on our part to change the established form of government of any American state or to prevent the people of such state from altering that form according to their own will and pleasure. The rule in question has but a single purpose and object. It is that no European power or combination of European powers shall forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies.

That the rule thus defined has been the accepted public law of this country ever since its promulgation cannot fairly be denied. Its pronouncement by the Monroe administration at that particular time was unquestionably due to the inspiration of Great Britain, who at once gave to it an open and unqualified adhesion which has never been withdrawn. But the rule was decided upon and formulated by the Monroe administration as a distinctively American doctrine of great import to the safety and welfare of the United States after the most careful consideration by a Cabinet which numbered among its members John Quincy Adams, Calhoun, Crawford, and Wirt, and which before acting took both Jefferson and Madison into its counsels. Its promulgation was received with acclaim by the entire people of the country irrespective of party. Three years after, Webster declared that the doctrine involved the honor of the country. "I look upon it," he said, "as part of its treasures of reputation, and for one I intend to guard it," and he added,

> I look on the message of December, 1823, as forming a bright page in our history. I will help neither to erase it nor to tear it out; nor shall it be by any act of mine blurred or blotted. It did honor to the sagacity of the Government, and I will not diminish that honor.

Though the rule thus highly eulogized by Webster has never been formally affirmed by Congress, the House in 1864 declared against the Mexican monarchy sought to be set up by the French as not in accord with the policy of the United States, and in 1889 the Senate expressed its disapproval of the connection of any European power with a canal across the Isthmus of Darien or Central America. It is manifest that, if a rule has been openly and uniformly declared and acted upon by the executive branch of the Government for more than seventy years without express repudiation by Congress, it must be conclusively presumed to have its sanction. Yet it is certainly no more than the exact truth to say that every administration since President Monroe's has had occasion, and sometimes more occasions than one, to examine and consider the Monroe doctrine and has in each instance given it emphatic endorsement. Presidents have dwelt upon it in messages to Congress and Secretaries of State have time after time made it the theme of diplomatic representation. Nor, if the practical results of the rule be sought for, is the record either meager or obscure. Its first and immediate effect was indeed most momentous and far reaching. It was the controlling factor in the emancipation of South America and to it the independent states which now divide that region between them are largely indebted for their very existence. Since then the most striking single achievement to be credited to the rule is the evacuation of Mexico by the French upon the termination of the civil war. But we are also indebted to it for the provisions of the Clayton-Bulwer treaty, which both neutralized any interoceanic canal across Central America and expressly excluded Great Britain from occupying or exercising any dominion over any part of Central America.

It has been used in the case of Cuba as if justifying the position that, while the sovereignty of Spain will be respected, the island will not be permitted to become the possession of any other European power. It has been influential in bringing about the definite relinquishment of any supposed protectorate by Great Britain over the Mosquito Coast.

President Polk, in the case of Yucatan and the proposed voluntary transfer of that country to Great Britain or Spain, relied upon the Monroe doctrine, though perhaps erroneously, when he declared in a special message to Congress on the subject that the United States could not consent to any such transfer. Yet, in somewhat the same spirit, Secretary Fish affirmed in 1870 that President Grant had but followed "the teachings of all our history" in declaring in his annual message of that year that existing dependencies were no longer regarded as subject to transfer from one European power to another, and that when the present relation of colonies ceases they are to become independent powers. Another development of the rule, though apparently not necessarily required by either its letter or its spirit, is found in the objection to arbitration of South American controversies by an European power. American questions, it is said, are for American decision, and on that ground the United States went so far as to refuse to mediate in the war between Chili and Peru jointly with Great Britain and France. Finally, on the ground, among others, that the authority of the Monroe doctrine and the prestige of the United States as its exponent and sponsor would be seriously impaired, Secretary Bayard strenuously resisted the enforcement of the Pelletier claim against Hayti.

> The United States, [he said,] has proclaimed herself the protector of this western world, in which she is by far the stronger power, from the intrusion of European sovereignties. She can point with proud satisfaction to the fact that over and over again has she declared effectively, that serious indeed would be the consequences if European hostile foot should, without just cause, tread those states in the New World which have emancipated themselves from European control. She has announced that she would cherish as it becomes her the territorial rights of the feeblest of those states, regarding them not merely as in the eye of the law equal to even the greatest of nationalities, but in view of her distinctive policy as entitled to be regarded by her as the objects of a peculiarly gracious care. I feel bound to say that if we should sanction by reprisals in Hayti the ruthless invasion of her territory and insult to her sovereignty which the facts now before us disclose, if we approve by solemn Executive action and Congressional assent that invasion, it will be difficult for us hereafter to assert that in the New World, of whose rights we are the peculiar guardians, these rights have never been invaded by ourselves.

The foregoing enumeration not only shows the many instances wherein the rule in question has been affirmed and applied, but also demonstrates that the Venezuelan boundary controversy is in any view far within the scope and spirit of the rule as uniformly accepted and acted upon. A doctrine of American public law thus long and firmly established and supported could not easily be ignored in a proper case for its application, even were the considerations upon which it is founded obscure or questionable. No such objection can be made, however, to the Monroe doctrine understood and defined in the manner already stated. It rests, on the contrary, upon facts and principles that are both intelligible and incontrovertible. That distance and three thousand miles of intervening ocean make any permanent political union between an European and an American state unnatural and inexpedient will hardly be denied. But physical and geographical considerations are the least of the objections to such a union. Europe, as Washington observed, has a set of primary interests which are peculiar to herself. America is not interested in them and ought not to be vexed or complicated with them. Each great European power, for instance, to-day

maintains enormous armies and fleets in self-defense and for protection against any other European power or powers. What have the states of America to do with that condition of things, or why should they be impoverished by wars or preparations for wars with whose causes or results they can have no direct concern? If all Europe were to suddenly fly to arms over the fate of Turkey, would it not be preposterous that any American state should find itself inextricably involved in the miseries and burdens of the contest? If it were, it would prove to be a partnership in the cost and losses of the struggle but not in any ensuing benefits.

What is true of the material, is no less true of what may be termed the moral interests involved. Those pertaining to Europe are peculiar to her and are entirely diverse from those pertaining and peculiar to America. Europe as a whole is monarchical, and, with the single important exception of the Republic of France, is committed to the monarchical principle. America, on the other hand, is devoted to the exactly opposite principle—to the idea that every people has an inalienable right of self-government—and, in the United States of America, has furnished to the world the most conspicuous and conclusive example and proof of the excellence of free institutions, whether from the standpoint of national greatness or of individual happiness. It can not be necessary, however, to enlarge upon this phase of the subject—whether moral or material interests be considered, it can not but be universally conceded that those of Europe are irreconcilably diverse from those of America, and that any European control of the latter is necessarily both incongruous and injurious. If, however, for the reasons stated the forcible intrusion of European powers into American politics is to be deprecated—if, as it is to be deprecated, it should be resisted and prevented—such resistance and prevention must come from the United States. They would come from it, of course, were it made the point of attack. But, if they come at all, they must also come from it when any other American state is attacked, since only the United States has the strength adequate to the exigency.

Is it true, then, that the safety and welfare of the United States are so concerned with the maintenance of the independence of every American state as against any European power as to justify and require the interposition of the United States whenever that independence is endangered? The question can be candidly answered in but one way. The states of America, South as well as North, by geographical proximity, by natural sympathy, by similarity of governmental constitutions, are friends and allies, commercially and politically, of the United States. To allow the subjugation of any of them by an European power is, of course, to completely reverse that situation and signifies the loss of all the advantages incident to their natural relations to us. But that is not all. The people of the United States have a vital interest in the cause of popular self-government. They have secured the right for themselves and their posterity at the cost of infinite blood and treasure. They have realized and exemplified its beneficent operation by a career unexampled in point of national greatness or individual felicity. They believe it to be for the healing of all nations, and that civilization must either advance or retrograde accordingly as its supremacy is extended or curtailed. Imbued with these sentiments, the people of the United States might not impossibly be wrought up to an active propaganda in favor of a cause so highly valued both for themselves and for mankind. But the age of the Crusades has passed, and they are content with such assertion and defense of the right of popular self-government as their

own security and welfare demand. It is in that view more than in any other that they believe it not to be tolerated that the political control of an American state shall be forcibly assumed by an European power.

The mischiefs apprehended from such a source are none the less real because not immediately imminent in any specific case, and are none the less to be guarded against because the combination of circumstances that will bring them upon us cannot be predicted. The civilized states of Christendom deal with each other on substantially the same principles that regulate the conduct of individuals. The greater its enlightenment, the more surely every state perceives that its permanent interests require it to be governed by the immutable principles of right and justice. Each, nevertheless, is only too liable to succumb to the temptations offered by seeming special opportunities for its own aggrandizement, and each would rashly imperil its own safety were it not to remember that for the regard and respect of other states it must be largely dependent upon its own strength and power. To-day the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or good will felt for it. It is not simply by reason of its high character as a civilized state, nor because wisdom and justice and equity are the invariable characteristics of the dealings of the United States. It is because, in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable as against any or all other powers.

All the advantages of this superiority are at once imperiled if the principle be admitted that European powers may convert American states into colonies or provinces of their own. The principle would be eagerly availed of, and every power doing so would immediately acquire a base of military operations against us. What one power was permitted to do could not be denied to another, and it is not inconceivable that the struggle now going on for the acquisition of Africa might be transferred to South America. If it were, the weaker countries would unquestionably be soon absorbed, while the ultimate result might be the partition of all South America between the various European powers. The disastrous consequences to the United States of such a condition of things are obvious. The loss of prestige, of authority, and of weight in the councils of the family of nations, would be among the least of them. Our only real rivals in peace as well as enemies in war would be found located at our very doors. Thus far in our history we have been spared the burdens and evils of immense standing armies and all the other accessories of huge warlike establishments, and the exemption has largely contributed to our national greatness and wealth as well as to the happiness of every citizen. But, with the powers of Europe permanently encamped on American soil, the ideal conditions we have thus far enjoyed can not be expected to continue. We too must be armed to the teeth, we too must convert the flower of our male population into soldiers and sailors, and by withdrawing them from the various pursuits of peaceful industry we too must practically annihilate a large share of the productive energy of the nation.

How a greater calamity than this could overtake us it is difficult to see. Nor are our just apprehensions to be allayed by suggestions of the friendliness of European powers—of their good will towards us—of their disposition, should they be our neighbors, to dwell with us in peace and harmony. The people of the United States have learned in the school of experience to what extent the relations of states to each

other depend not upon sentiment nor principle, but upon selfish interest. They will not soon forget that, in their hour of distress, all their anxieties and burdens were aggravated by the possibility of demonstrations against their national life on the part of powers with whom they had long maintained the most harmonious relations. They have yet in mind that France seized upon the apparent opportunity of our civil war to set up a monarchy in the adjoining state of Mexico. They realize that had France and Great Britain held important South American possessions to work from and to benefit, the temptation to destroy the predominance of the Great Republic in this hemisphere by furthering its dismemberment might have been irresistible. From that grave peril they have been saved in the past and may be saved again in the future through the operation of the sure but silent force of the doctrine proclaimed by President Monroe. To abandon it, on the other hand, disregarding both the logic of the situation and the facts of our past experience, would be to renounce a policy which has proved both an easy defense against foreign aggression and a prolific source of internal progress and prosperity.

There is, then, a doctrine of American public law, well founded in principle and abundantly sanctioned by precedent, which entitles and requires the United States to treat as an injury to itself the forcible assumption by an European power of political control over an American state. The application of the doctrine to the boundary dispute between Great Britain and Venezuela remains to be made and presents no real difficulty. Though the dispute relates to a boundary line, yet, as it is between states, it necessarily imports political control to be lost by one party and gained by the other. The political control at stake, too, is of no mean importance, but concerns a domain of great extent—the British claim, it will be remembered, apparently expanded in two years some 33,000 square miles—and, if it also directly involves the command of the mouth of the Orinoco, is of immense consequence in connection with the whole river navigation of the interior of South America. It has been intimated, indeed, that in respect of these South American possessions Great Britain is herself an American state like any other, so that a controversy between her and Venezuela is to be settled between themselves as if it were between Venezuela and Brazil or between Venezuela and Colombia, and does not call for or justify United States intervention. If this view be tenable at all, the logical sequence is plain.

Great Britain as a South American state is to be entirely differentiated from Great Britain generally, and if the boundary question cannot be settled otherwise than by force, British Guiana, with her own independent resources and not those of the British Empire, should be left to settle the matter with Venezuela—an arrangement which very possibly Venezuela might not object to. But the proposition that an European power with an American dependency is for the purposes of the Monroe doctrine to be classed not as an European but as an American state will not admit of serious discussion. If it were to be adopted, the Monroe doctrine would be too valueless to be worth asserting. Not only would every European power now having a South American colony be enabled to extend its possessions on this continent indefinitely, but any other European power might also do the same by first taking pains to procure a fraction of South American soil by voluntary cession.

The declaration of the Monroe message—that existing colonies or dependencies of an European power would not be interfered with by the

United States—means colonies or dependencies then existing, with their limits as then existing. So it has been invariably construed, and so it must continue to be construed unless it is to be deprived of all vital force. Great Britain cannot be deemed a South American state within the purview of the Monroe doctrine, nor, if she is appropriating Venezuelan territory, is it material that she does so by advancing the frontier of an old colony instead of by the planting of a new colony. The difference is matter of form and not of substance and the doctrine if pertinent in the one case must be in the other also. It is not admitted, however, and therefore cannot be assumed, that Great Britain is in fact usurping dominion over Venezuelan territory. While Venezuela charges such usurpation, Great Britain denies it, and the United States, until the merits are authoritatively ascertained, can take sides with neither. But while this is so—while the United States may not, under existing circumstances at least, take upon itself to say which of the two parties is right and which wrong—it is certainly within its right to demand that the truth shall be ascertained. Being entitled to resent and resist any sequestration of Venezuelan soil by Great Britain, it is necessarily entitled to know whether such sequestration has occurred or is now going on. Otherwise, if the United States is without the right to know and have it determined whether there is or is not British aggression upon Venezuelan territory, its right to protest against or repel such aggression may be dismissed from consideration.

The right to act upon a fact the existence of which there is no right to have ascertained is simply illusory. It being clear, therefore, that the United States may legitimately insist upon the merits of the boundary question being determined, it is equally clear that there is but one feasible mode of determining them, viz., peaceful arbitration. The impracticability of any conventional adjustment has been often and thoroughly demonstrated. Even more impossible of consideration is an appeal to arms—a mode of settling national pretensions unhappily not yet wholly obsolete. If, however, it were not condemnable as a relic of barbarism and a crime in itself, so one-sided a contest could not be invited nor even accepted by Great Britain without distinct disparagement to her character as a civilized state. Great Britain, however, assumes no such attitude. On the contrary, she both admits that there is a controversy and that arbitration should be resorted to for its adjustment. But, while up to that point her attitude leaves nothing to be desired, its practical effect is completely nullified by her insistence that the submission shall cover but a part of the controversy—that, as a condition of arbitrating her right to a part of the disputed territory, the remainder shall be turned over to her. If it were possible to point to a boundary which both parties had ever agreed or assumed to be such either expressly or tacitly, the demand that territory conceded by such line to British Guiana should be held not to be in dispute might rest upon a reasonable basis. But there is no such line. The territory which Great Britain insists shall be ceded to her as a condition of arbitrating her claim to other territory has never been admitted to belong to her. It has always and consistently been claimed by Venezuela.

Upon what principle—except her feebleness as a nation—is she to be denied the right of having the claim heard and passed upon by an impartial tribunal? No reason nor shadow of reason appears in all the voluminous literature of the subject. "It is to be so because I will it to be so" seems to be the only justification Great Britain offers. It is, indeed, intimated that the British claim to this particular territory rests upon an occupation, which, whether acquiesced in or not,

has ripened into a perfect title by long continuance. But what prescription affecting territorial rights can be said to exist as between sovereign states? Or, if there is any, what is the legitimate consequence? It is not that all arbitration should be denied, but only that the submission should embrace an additional topic, namely, the validity of the asserted prescriptive title either in point of law or in point of fact. No different result follows from the contention that as matter of principle Great Britain cannot be asked to submit and ought not to submit to arbitration her political and sovereign rights over territory. This contention, if applied to the whole or to a vital part of the possessions of a sovereign state, need not be controverted. To hold otherwise might be equivalent to holding that a sovereign state was bound to arbitrate its very existence.

But Great Britain has herself shown in various instances that the principle has no pertinency when either the interests or the territorial area involved are not of controlling magnitude and her loss of them as the result of an arbitration cannot appreciably affect her honor or her power. Thus, she has arbitrated the extent of her colonial possessions twice with the United States, twice with Portugal, and once with Germany, and perhaps in other instances. The Northwest Water Boundary arbitration of 1872 between her and this country is an example in point and well illustrates both the effect to be given to long-continued use and enjoyment and the fact that a truly great power sacrifices neither prestige nor dignity by reconsidering the most emphatic rejection of a proposition when satisfied of the obvious and intrinsic justice of the case. By the award of the Emperor of Germany, the arbitrator in that case, the United States acquired San Juan and a number of smaller islands near the coast of Vancouver as a consequence of the decision that the term "the channel which separates the continent from Vancouver's Island," as used in the treaty of Washington of 1846, meant the Haro channel and not the Rosario channel. Yet a leading contention of Great Britain before the arbitrator was that equity required a judgment in her favor because a decision in favor of the United States would deprive British subjects of rights of navigation of which they had had the habitual enjoyment from the time when the Rosario Strait was first explored and surveyed in 1798. So, though by virtue of the award the United States acquired San Juan and the other islands of the group to which it belongs, the British Foreign Secretary had in 1859 instructed the British Minister at Washington as follows:

> Her Majesty's Government must, therefore, under any circumstances, maintain the right of the British Crown to the Island of San Juan. The interests at stake in connection with the retention of that Island are too important to admit of compromise and Your Lordship will consequently bear in mind that, whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's Government which does not provide for the Island of San Juan being reserved to the British Crown.

Thus, as already intimated, the British demand that her right to a portion of the disputed territory shall be acknowledged before she will consent to an arbitration as to the rest seems to stand upon nothing but her own *ipse dixit*. She says to Venezuela, in substance: "You can get none of the debatable land by force, because you are not strong enough; you can get none by treaty, because I will not agree; and you can take your chance of getting a portion by arbitration, only if you first agree to abandon to me such other portion as I may designate." It is not perceived how such an attitude can be defended nor how it is reconcilable with that love of justice and fair play so eminently characteristic of the English race. It in effect deprives Venezuela of her

free agency and puts her under virtual duress. Territory acquired by reason of it will be as much wrested from her by the strong hand as if occupied by British troops or covered by British fleets. It seems therefore quite impossible that this position of Great Britain should be assented to by the United States, or that, if such position be adhered to with the result of enlarging the bounds of British Guiana, it should not be regarded as amounting, in substance, to an invasion and conquest of Venezuelan territory.

In these circumstances, the duty of the President appears to him unmistakable and imperative. Great Britain's assertion of title to the disputed territory combined with her refusal to have that title investigated being a substantial appropriation of the territory to her own use, not to protest and give warning that the transaction will be regarded as injurious to the interests of the people of the United States as well as oppressive in itself would be to ignore an established policy with which the honor and welfare of this country are closely identified. While the measures necessary or proper for the vindication of that policy are to be determined by another branch of the Government, it is clearly for the Executive to leave nothing undone which may tend to render such determination unnecessary.

You are instructed, therefore, to present the foregoing views to Lord Salisbury by reading to him this communication (leaving with him a copy should he so desire), and to reinforce them by such pertinent considerations as will doubtless occur to you. They call for a definite decision upon the point whether Great Britain will consent or will decline to submit the Venezuelan boundary question in its entirety to impartial arbitration. It is the earnest hope of the President that the conclusion will be on the side of arbitration, and that Great Britain will add one more to the conspicuous precedents she has already furnished in favor of that wise and just mode of adjusting international disputes. If he is to be disappointed in that hope, however—a result not to be anticipated and in his judgment calculated to greatly embarrass the future relations between this country and Great Britain—it is his wish to be made acquainted with the fact at such early date as will enable him to lay the whole subject before Congress in his next annual message.

I am, sir, your obedient servant,

RICHARD OLNEY.

Mr. Adee to Mr. Bayard.

No. 806.] DEPARTMENT OF STATE,
Washington, July 24, 1895.

His Excellency THOMAS F. BAYARD,
Etc., etc., etc., London.

SIR: In Mr. Olney's instruction No. 804, of the 20th instant, in relation to the Anglo-Venezuelan boundary dispute, you will note a reference to the sudden increase of the area claimed for Britis h Guiana amounting to 33,000 square miles, between 1884 and 1886. This statement is made on the authority of the British publication entitled the Statesman's Year Book.

I add for your better information that the same statement is found in the British Colonial Office List, a government publication.

In the issue for 1885 the following passage occurs, on page 24, under the head of British Guiana:

It is impossible to specify the exact area of the Colony, as its precise boundaries between Venezuela and Brazil respectively are undetermined, but it has been computed to be 76,000 square miles.

In the issue of the same List for 1886, the same statement occurs, on page 33, with the change of area to "about 109,000 square miles."

The official maps in the two volumes mentioned are identical, so that the increase of 33,000 square miles claimed for British Guiana is not thereby explained, but later Colonial Office List maps show a varying sweep of the boundary westward into what previously figured as Venezuelan territory, while no change is noted on the Brazilian frontier.

I am, sir, your obedient servant,

ALVEY A. ADEE,
Acting Secretary.

Lord Salisbury to Sir Julian Pauncefote.

No. 189.] FOREIGN OFFICE,
November 26, 1895.

SIR, On the 7th August I transmitted to Lord Gough a copy of the despatch from Mr. Olney which Mr. Bayard had left with me that day, and of which he had read portions to me. I informed him at the time that it could not be answered until it had been carefully considered by the Law Officers of the Crown. I have therefore deferred replying to it till after the recess.

I will not now deal with those portions of it which are concerned exclusively with the controversy that has for some time past existed between the Republic of Venezuela and Her Majesty's Government in regard to the boundary which separates their dominions. I take a very different view from Mr. Olney of various matters upon which he touches in that part of the despatch; but I will defer for the present all observations upon it, as it concerns matters which are not in themselves of first-rate importance, and do not directly concern the relations between Great Britain and the United States.

The latter part however of the despatch, turning from the question of the frontiers of Venezuela, proceeds to deal with principles of a far wider character, and to advance doctrines of international law which are of considerable interest to all the nations whose dominions include any portion of the western hemisphere.

The contentions set forth by Mr. Olney in this part of his despatch are represented by him as being an application of the political maxims which are well known in American discussion under the name of the Monroe doctrine. As far as I am aware, this doctrine has never been before advanced on behalf of the United States in any written communication addressed to the Government of another nation; but it has been generally adopted and assumed as true by many eminent writers and politicians in the United States. It is said to have largely influenced the Government of that country in the conduct of its foreign affairs: though Mr. Clayton, who was Secretary of State under President Taylor, expressly stated that that Administration had in no way adopted it. But during the period that has elapsed since the Message

of President Monroe was delivered in 1823, the doctrine has undergone a very notable development, and the aspect which it now presents in the hands of Mr. Olney differs widely from its character when it first issued from the pen of its author. The two propositions which in effect President Monroe laid down were, first, that America was no longer to be looked upon as a field for European colonization; and, secondly, that Europe must not attempt to extend its political system to America, or to control the political condition of any of the American communities who had recently declared their independence.

The dangers against which President Monroe thought it right to guard were not as imaginary as they would seem at the present day. The formation of the Holy Alliance; the Congresses of Laybach and Verona; the invasion of Spain by France for the purpose of forcing upon the Spanish people a form of government which seemed likely to disappear, unless it was sustained by external aid, were incidents fresh in the mind of President Monroe when he penned his celebrated Message. The system of which he speaks, and of which he so resolutely deprecates the application to the American Continent, was the system then adopted by certain powerful States upon the Continent of Europe of combining to prevent by force of arms the adoption in other countries of political institutions which they disliked, and to uphold by external pressure those which they approved. Various portions of South America had recently declared their independence, and that independence had not been recognized by the Governments of Spain and Portugal, to which, with small exception, the whole of Central and South America were nominally subject. It was not an imaginary danger that he foresaw, if he feared that the same spirit which had dictated the French expedition into Spain might inspire the more powerful Governments of Europe with the idea of imposing, by the force of European arms, upon the South American communities the form of government and the political connection which they had thrown off. In declaring that the United States would resist any such enterprise if it was contemplated, President Monroe adopted a policy which received the entire sympathy of the English Government of that date.

The dangers which were apprehended by President Monroe have no relation to the state of things in which we live at the present day. There is no danger of any Holy Alliance imposing its system upon any portion of the American Continent, and there is no danger of any European State treating any part of the American Continent as a fit object for European colonization. It is intelligible that Mr. Olney should invoke, in defence of the views on which he is now insisting, an authority which enjoys so high a popularity with his own fellow-countrymen. But the circumstances with which President Monroe was dealing, and those to which the present American Government is addressing itself, have very few features in common. Great Britain is imposing no "system" upon Venezuela, and is not concerning herself in any way with the nature of the political institutions under which the Venezuelans may prefer to live. But the British Empire and the Republic of Venezuela are neighbours, and they have differed for some time past, and continue to differ, as to the line by which their dominions are separated. It is a controversy with which the United States have no apparent practical concern. It is difficult, indeed, to see how it can materially affect any State or community outside those primarily interested, except perhaps other parts of Her Majesty's dominions, such as Trinidad. The disputed frontier of Ven-

ezuela has nothing to do with any of the questions dealt with by President Monroe. It is not a question of the colonization by a European Power of any portion of America. It is not a question of the imposition upon the communities of South America of any system of government devised in Europe. It is simply the determination of the frontier of a British possession which belonged to the Throne of England long before the Republic of Venezuela came into existence. But even if the interests of Venezuela were so far linked to those of the United States as to give to the latter a *locus standi* in this controversy, their Government apparently have not formed, and certainly do not express, any opinion upon the actual merits of the dispute. The Government of the United States do not say that Great Britain, or that Venezuela, is in the right in the matters that are in issue. But they lay down that the doctrine of President Monroe, when he opposed the imposition of European systems, or the renewal of European colonization, confers upon them the right of demanding that when a European Power has a frontier difference with a South American community, the European Power shall consent to refer that controversy to arbitration; and Mr. Olney states that unless Her Majesty's Government accede to this demand, it will "greatly embarrass the future relations between Great Britain and the United States."

Whatever may be the authority of the doctrine laid down by President Monroe, there is nothing in his language to show that he ever thought of claiming this novel prerogative for the United States. It is admitted that he did not seek to assert a Protectorate over Mexico, or the States of Central and South America. Such a claim would have imposed upon the United States the duty of answering for the conduct of these States, and consequently the responsibility of controlling it. His sagacious foresight would have led him energetically to deprecate the addition of so serious a burden to those which the Rulers of the United States have to bear. It follows of necessity that if the Government of the United States will not control the conduct of these communities, neither can it undertake to protect them from the consequences attaching to any misconduct of which they may be guilty towards other nations. If they violate in any way the rights of another State, or of its subjects, it is not alleged that the Monroe doctrine will assure them the assistance of the United States in escaping from any reparation which they may be bound by international law to give. Mr. Olney expressly disclaims such an inference from the principles he lays down.

But the claim which he founds upon them is that, if any independent American State advances a demand for territory of which its neighbour claims to be the owner, and that neighbour is the colony of a European State, the United States have a right to insist that the European State shall submit the demand, and its own impugned rights to arbitration.

I will not now enter into a discussion of the merits of this method of terminating international differences. It has proved itself valuable in many cases; but it is not free from defects, which often operate as a serious drawback on its value. It is not always easy to find an Arbitrator who is competent, and who, at the same time, is wholly free from bias; and the task of insuring compliance with the Award when it is made is not exempt from difficulty. It is a mode of settlement of which the value varies much according to the nature of the controversy to which it is applied, and the character of the litigants who appeal to it. Whether, in any particular case, it is a suitable

method of procedure is generally a delicate and difficult question. The only parties who are competent to decide that question are the two parties whose rival contentions are in issue. The claim of a third nation, which is unaffected by the controversy, to impose this particular procedure on either of the two others, cannot be reasonably justified, and has no foundation in the law of nations.

In the remarks which I have made, I have argued on the theory that the Monroe doctrine in itself is sound. I must not, however, be understood as expressing any acceptance of it on the part of Her Majesty's Government. It must always be mentioned with respect, on account of the distinguished statesman to whom it is due, and the great nation who have generally adopted it. But international law is founded on the general consent of nations; and no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country. The United States have a right, like any other nation, to interpose in any controversy by which their own interests are affected; and they are the judge whether those interests are touched, and in what measure they should be sustained. But their rights are in no way strengthened or extended by the fact that the controversy affects some territory which is called American. Mr. Olney quotes the case of the recent Chilean war, in which the United States declined to join with France and England in an effort to bring hostilities to a close, on account of the Monroe doctrine. The United States were entirely in their right in declining to join in an attempt at pacification if they thought fit; but Mr. Olney's principle that "American questions are for American decision," even if it receive any countenance from the language of President Monroe (which it does not), can not be sustained by any reasoning drawn from the law of nations.

The Government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent States for whose conduct it assumes no responsibilty, that its interests are necessarily concerned in whatever may befall those States simply because they are situated in the Western Hemisphere. It may well be that the interests of the United States are affected by something that happens to Chile or to Peru, and that that circumstance may give them the right of interference; but such a contingency may equally happen in the case of China or Japan, and the right of interference is not more extensiveor more assured in the one case than in the other.

Though the language of President Monroe is directed to the attainment of objects which most Englishmen would agree to be salutary, it is impossible to admit that they have been inscribed by any adequate authority in the code of international law; and the danger which such admission would involve is sufficiently exhibited both by the strange development which the doctrine has received at Mr. Olney's hands, and the arguments by which it is supported, in the despatch under reply. In defence of it he says:

> That distance and 3,000 miles of intervening ocean *make any permanent political union between a European and an American State unnatural and inexpedient* will hardly be denied. But physical and geographical considerations are the least of the objections to such a union. Europe has a set of primary interests which are peculiar to herself; America is not interested in them, and ought not to be vexed or complicated with them.

And, again:

> Thus far in our history we have been spared the burdens and evils of immense standing armies and all the other accessories of huge warlike establishments; and

the exemption has highly contributed to our national greatness and wealth as well as to the happiness of every citizen. But *with the Powers of Europe permanently encamped on American soil*, the ideal conditions we have thus far enjoyed cannot be expected to continue.

The necessary meaning of these words is that the union between Great Britain and Canada; between Great Britain and Jamaica and Trinidad; between Great Britain and British Honduras or British Guiana are "inexpedient and unnatural." President Monroe disclaims any such inference from his doctrine; but in this, as in other respects, Mr. Olney develops it. He lays down that the inexpedient and unnatural character of the union between a European and American State is so obvious that it "will hardly be denied." Her Majesty's Government are prepared emphatically to deny it on behalf of both the British and American people who are subject to her Crown. They maintain that the union between Great Britain and her territories in the Western Hemisphere is both natural and expedient. They fully concur with the view which President Monroe apparently entertained, that any disturbance of the existing territorial distribution in that hemisphere by any fresh acquisitions on the part of any European State would be a highly inexpedient change. But they are not prepared to admit that the recognition of that expediency is clothed with the sanction which belongs to a doctrine of international law. They are not prepared to admit that the interests of the United States are necessarily concerned in every frontier dispute which may arise between any two of the States who possess dominion in the Western Hemisphere; and still less can they accept the doctrine that the United States are entitled to claim that the process of arbitration shall be applied to any demand for the surrender of territory which one of those States may make against another.

I have commented in the above remarks only upon the general aspect of Mr. Olney's doctrines, apart from the special considerations which attach to the controversy between the United Kingdom and Venezuela in its present phase. This controversy has undoubtedly been made more difficult by the inconsiderate action of the Venezuelan Government in breaking off relations with Her Majesty's Government, and its settlement has been correspondingly delayed; but Her Majesty's Government have not surrendered the hope that it will be adjusted by a reasonable arrangement at an early date.

I request that you will read the substance of the above despatch to Mr. Olney, and leave him a copy if he desires it.

S.

Lord Salisbury to Sir Julian Pauncefote.

No. 190.] FOREIGN OFFICE,
November 26, 1895.

SIR, In my preceding despatch of to-day's date I have replied only to the latter portion of Mr. Olney's despatch of the 20th July last, which treats of the application of the Monroe doctrine to the question of the boundary dispute between Venezuela and the colony of British Guiana. But it seems desirable, in order to remove some evident misapprehensions as to the main features of the question, that the statement of it contained in the earlier portion of Mr. Olney's despatch should not be left without reply. Such a course will be the more convenient, because, in consequence of the suspension of diplomatic rela-

tions, I shall not have the opportunity of setting right misconceptions of this kind in the ordinary way in a despatch addressed to the Venezuelan Government itself.

Her Majesty's Government, while they have never avoided or declined argument on the subject with the Government of Venezuela, have always held that the question was one which had no direct bearing on the material interests of any other country, and have consequently refrained hitherto from presenting any detailed statement of their case either to the United States or to other foreign Governments.

It is, perhaps, a natural consequence of this circumstance that Mr. Olney's narration of what has passed bears the impress of being mainly, if not entirely, founded on *ex parte* statements emanating from Venezuela, and gives, in the opinion of Her Majesty's Government, an erroneous view of many material facts.

Mr. Olney commences his observations by remarking that "the dispute is of ancient date, and began at least as early as the time when Great Britain acquired by the Treaty with the Netherlands in 1814 the establishments of Demerara, Essequibo, and Berbice. From that time to the present the dividing line between these establishments, now called British Guiana, and Venezuela has never ceased to be subject of contention."

This statement is founded on misconception. The dispute on the subject of the frontier did not, in fact, commence till after the year 1840.

The title of Great Britain to the territory in question is derived, in the first place, from conquest and military occupation of the Dutch settlements in 1796. Both on this occasion, and at the time of a previous occupation of those settlements in 1781, the British authorities marked the western boundary of their possessions as beginning some distance up the Orinoco beyond Point Barima, in accordance with the limits claimed and actually held by the Dutch, and this has always since remained the frontier claimed by Great Britain. The definite cession of the Dutch settlements to England was, as Mr. Olney states, placed on record by the Treaty of 1814, and although the Spanish Government were parties to the negotiations which led to that Treaty, they did not at any stage of them raise objection to the frontiers claimed by Great Britain, though these were perfectly well known to them. At that time the Government of Venezuela had not been recognized even by the United States, though the province was already in revolt against the Spanish Government, and had declared its independence. No question of frontier was raised with Great Britain either by it or by the Government of the United States of Colombia, in which it became merged in 1819. That Government, indeed, on repeated occasions, acknowledged its indebtedness to Great Britain for her friendly attitude. When in 1830 the Republic of Venezuela assumed a separate existence its Government was equally warm in its expressions of gratitude and friendship, and there was not at the time any indication of an intention to raise such claims as have been urged by it during the latter portion of this century.

It is true, as stated by Mr. Olney, that, in the Venezuelan Constitution of 1830, Article 5 lays down that "the territory of Venezuela comprises all that which previously to the political changes of 1810 was denominated the Captaincy-General of Venezuela." Similar declarations had been made in the fundamental laws promulgated in 1819 and 1821.

I need not point out that a declaration of this kind made by a newly self-constituted State can have no valid force as against international

arrangements previously concluded by the nation from which it has separated itself.

But the present difficulty would never have arisen if the Government of Venezuela had been content to claim only those territories which could be proved or even reasonably asserted to have been practically in the possession and under the effective jurisdiction of the Captaincy-General of Venezuela.

There is no authoritative statement by the Spanish Government of those territories, for a Decree which the Venezuelan Government allege to have been issued by the King of Spain in 1768, describing the Province of Guiana as bordered on the south by the Amazon and on the east by the Atlantic, certainly cannot be regarded as such. It absolutely ignores the Dutch settlements, which not only existed in fact, but had been formally recognized by the Treaty of Munster of 1648, and it would, if now considered valid, transfer to Venezuela the whole of the British, Dutch, and French Guianas, and an enormous tract of territory belonging to Brazil.

But of the territories claimed and actually occupied by the Dutch, which were those acquired from them by Great Britain, there exist the most authentic declarations. In 1759, and again in 1769, the States-General of Holland addressed formal remonstrances to the Court of Madrid against the incursions of the Spaniards into their posts and settlements in the basin of the Cuyuni. In these remonstrances they distinctly claimed all the branches of the Essequibo River, and especially, the Cuyuni River, as lying within Dutch territory. They demanded immediate reparation for the proceedings of the Spaniards and reinstatement of the posts said to have been injured by them, and suggested that a proper delineation between the Colony of Essequibo and the Rio Orinoco should be laid down by authority.

To this claim the Spanish Government never attempted to make any reply. But it is evident from the archives which are preserved in Spain and to which, by the courtesy of the Spanish Government, reference has been made, that the Council of State did not consider that they had the means of rebutting it, and that neither they nor the Governor of Cumana were prepared seriously to maintain the claims which were suggested in reports from his subordinate officer, the Commandant of Guiana. These reports were characterized by the Spanish Ministers as insufficient and unsatisfactory, as "professing to show the Province of Guiana under too favourable a light," and finally by the Council of State as appearing from other information to be "very improbable." They form, however, with a map which accompanied them, the evidence on which the Venezuelan Government appear most to rely, though it may be observed that among other documents which have from time to time been produced or referred to by them in the course of the discussions is a Bull of Pope Alexander VI in 1493, which, if it is to be considered as having any present validity, would take from the Government of the United States all title to jurisdiction on the Continent of North America. The fundamental principle underlying the Venezuelan argument is, in fact, that, inasmuch as Spain was originally entitled of right to the whole of the American Continent, any territory on that Continent which she cannot be shown to have acknowledged in positive and specific terms to have passed to another Power can only have been acquired by wrongful usurpation, and if situated to the north of the Amazon and west of the Atlantic must necessarily belong to Venezuela, as her self-constituted inheritor in those regions. It may reasonably be asked whether Mr. Olney would

consent to refer to the arbitration of another Power pretensions raised by the Government of Mexico on such a foundation to large tracts of territory which had long been comprised in the Federation.

The circumstances connected with the marking of what is called the "Schomburgk" line are as follows:—

In 1835 a grant was made by the British Government for the exploration of the interior of the British Colony, and Mr. (afterwards Sir Robert) Schomburgk, who was employed on this service, on his return to the capital of the Colony in July 1839, called the attention of the Government to the necessity for an early demarcation of its boundaries. He was in consequence appointed in November 1840 Special Commissioner for provisionally surveying and delimiting the boundaries of British Guiana, and notice of the appointment was given to the Governments concerned, including that of Venezuela.

The intention of Her Majesty's Government at that time was, when the work of the Commissioner had been completed, to communicate to the other Governments their views as to the true boundary of the British Colony, and then to settle any details to which those Governments might take objection.

It is important to notice that Sir R. Schomburgk did not discover or invent any new boundaries. He took particular care to fortify himself with the history of the case. He had further, from actual exploration and information obtained from the Indians, and from the evidence of local remains, as at Barima, and local traditions, as on the Cuyuni, fixed the limits of the Dutch possessions, and the zone from which all trace of Spanish influence was absent. On such data he based his reports.

At the very outset of his mission he surveyed Point Barima, where the remains of a Dutch fort still existed, and placed there and at the mouth of the Amacura two boundary posts. At the urgent entreaty of the Venezuelan Government these two posts were afterwards removed, as stated by Mr. Olney, but this concession was made on the distinct understanding that Great Britain did not thereby in any way abandon her claim to that position.

In submitting the maps of his survey, on which he indicated the line which he would propose to Her Majesty's Government for adoption, Sir R. Schomburgk called attention to the fact that Her Majesty's Government might justly claim the whole basin of the Cuyuni and Yuruari on the ground that the natural boundary of the Colony included any territory through which flow rivers which fall into the Essequibo. "Upon this principle," he wrote, "the boundary-line would run from the sources of the Carumani towards the sources of the Cuyuni proper, and from thence towards its far more northern tributaries, the Rivers Iruary (Yuruari) and Iruang (Yuruan), and thus approach the very heart of Venezuelan Guiana." But, on grounds of complaisance towards Venezuela, he proposed that Great Britain should consent to surrender her claim to a more extended frontier inland in return for the formal recognition of her right to Point Barima. It was on this principle that he drew the boundary-line which has since been called by his name.

Undoubtedly, therefore, Mr. Olney is right when he states that "it seems impossible to treat the Schomburgk line as being the boundary claimed by Great Britain as matter of right, or as anything but a line originating in considerations of convenience and expediency." The Schomburgk line was in fact a great reduction of the boundary claimed by Great Britain as matter of right, and its proposal originated in a desire to come to a speedy and friendly arrangement with a weaker Power with whom Great Britain was at the time, and desired to remain, in cordial relations.

The following are the main facts of the discussions that ensued with the Venezuelan Government:—

While Mr. Schomburgk was engaged on his survey the Venezuelan Minister in London had urged Her Majesty's Government to enter into a Treaty of Limits, but received the answer that, if it should be necessary to enter into such a Treaty, a survey was, at any rate, the necessary preliminary, and that this was proceeding.

As soon as Her Majesty's Government were in possession of Mr. Schomburgk's reports, the Venezuelan Minister was informed that they were in a position to commence negotiations, and in January 1844, M. Fortique commenced by stating the claim of his Government.

This claim, starting from such obsolete grounds as the original discovery by Spain of the American Continent, and mainly supported by quotations of a more or less vague character from the writings of travellers and geographers, but adducing no substantial evidence of actual conquest or occupation of the territory claimed, demanded the Essequibo itself as the boundary of Venezuela.

A reply was returned by Lord Aberdeen, then Secretary of State for Foreign Affairs, pointing out that it would be impossible to arrive at any agreement if both sides brought forward pretensions of so extreme a character, but stating that the British Government would not imitate M. Fortique in putting forward a claim which it could not be intended seriously to maintain. Lord Aberdeen then proceeded to announce the concessions which, "out of friendly regard to Venezuela," Her Majesty's Government were prepared to make, and proposed a line starting from the mouth of the Moroco to the junction of the River Barama with the Waini, thence up the Barama to the point at which that stream approached nearest to the Acarabisi, and thence following Sir R. Schomburgk's line from the source of the Acarabisi onwards.

A condition was attached to the proffered cession, viz., that the Venezuelan Government should enter into an engagement that no portion of the territory proposed to be ceded should be alienated at any time to a foreign Power, and that the Indian tribes residing in it should be protected from oppression.

No answer to the note was ever received from the Venezuelan Government, and in 1850 Her Majesty's Government informed Her Majesty's Chargé d'Affaires at Carácas that as the proposal had remained for more than six years unaccepted, it must be considered as having lapsed, and authorized him to make a communication to the Venezuelan Government to that effect.

A report having at the time become current in Venezuela that Great Britain intended to seize Venezuelan Guiana, the British Government distinctly disclaimed such an intention, but inasmuch as the Government of Venezuela subsequently permitted projects to be set on foot for the occupation of Point Barima and certain other positions in dispute, the British Chargé d'Affaires was instructed in June 1850 to call the serious attention of the President and Government of Venezuela to the question, and to declare to them "that, whilst, on the one hand, Great Britain had no intention to occupy or encroach on the disputed territory, she would not, on the other hand, view with indifference aggressions on that territory by Venezuela."

The Venezuelan Government replied in December of the same year that Venezuela had no intention of occupying or encroaching upon any part of the territory the dominion of which was in dispute, and that orders would be issued to the authorities in Guiana to abstain from taking any steps contrary to this engagement.

This constitutes what has been termed the "Agreement of 1850," to which the Government of Venezuela have frequently appealed, but which the Venezuelans have repeatedly violated in succeeding years.

Their first acts of this nature consisted in the occupation of fresh positions to the east of their previous settlements, and the founding in 1858 of the town of Nueva Providencia on the right bank of the Yuruari, all previous settlements being on the left bank. The British Government, however, considering that these settlements were so near positions which they had not wished to claim, considering also the difficulty of controlling the movements of mining populations, overlooked this breach of the Agreement.

The Governor of the Colony was in 1857 sent to Carácas to negotiate for a settlement of the boundary, but he found the Venezuelan State in so disturbed a condition that it was impossible to commence negotiations, and eventually he came away without having effected anything.

For the next nineteen years, as stated by Mr. Olney, the civil commotions in Venezuela prevented any resumption of negotiations.

In 1876 it was reported that the Venezuelan Government had, for the second time, broken "the Agreement of 1850" by granting licences to trade and cut wood in Barima and eastward. Later in the same year that Government once more made an overture for the settlement of the boundary. Various delays interposed before negotiations actually commenced; and it was not till 1879 that Señor Rojaz began them with a renewal of the claim to the Essequibo as the eastern boundary of Venezuelan Guiana. At the same time he stated that his Government wished "to obtain, by means of a Treaty, a definitive settlement of the question, and was disposed to proceed to the demarcation of the divisional line between the two Guianas in a spirit of conciliation and true friendship towards Her Majesty's Government."

In reply to this communication, a note was addressed to Señor Rojaz on the 10th January, 1880, reminding him that the boundary which Her Majesty's Government claimed, as a matter of strict right on grounds of conquest and concession by Treaty, commenced at a point at the mouth of the Orinoco, westward of Point Barima, that it proceeded thence in a southerly direction to the Imataca Mountains, the line of which it followed to the north-west, passing from thence by the high land of Santa Maria just south of the town of Upata, until it struck a range of hills on the eastern bank of the Caroni River, following these southwards until it struck the great backbone of the Guiana district, the Barima Mountains of British Guiana, and thence southwards to the Pacaraima Mountains. On the other hand, the claim which had been put forward on behalf of Venezuela by General Guzman Blanco in his message to the National Congress of the 20th February, 1877, would involve the surrender of a province now inhabited by 40,000 British subjects, and which had been in the uninterrupted possession of Holland and of Great Britain successively for two centuries. The difference between these two claims being so great, it was pointed out to Señor Rojaz that, in order to arrive at a satisfactory arrangement, each party must be prepared to make very considerable concessions to the other, and he was assured that, although the claim of Venezuela to the Essequibo River boundary could not, under any circumstances, be entertained, yet that Her Majesty's Government were anxious to meet the Venezuelan Government in a spirit of conciliation, and would be willing, in the event of a renewal of negotiations for the general settlement of boundaries, to waive a portion of what they considered to be their

strict rights if Venezuela were really disposed to make corresponding concessions on her part.

The Venezuelan Minister replied in February 1881 by proposing a line which commenced on the coast a mile to the north of the Moroco River, and followed certain parallels and meridians inland, bearing a general resemblance to the proposal made by Lord Aberdeen in 1844.

Señor Rojaz' proposal was referred to the Lieutenant-Governor and Attorney-General of British Guiana, who were then in England, and they presented an elaborate Report, showing that in the thirty-five years which had elapsed since Lord Aberdeen's proposed concession natives and others had settled in the territory under the belief that they would enjoy the benefits of British rule, and that it was impossible to assent to any such concessions as Señor Rojaz' line would involve. They, however, proposed an alternative line, which involved considerable reductions of that laid down by Sir R. Schomburgk.

This boundary was proposed to the Venezuelan Government by Lord Granville in September 1881, but no answer was ever returned by that Government to the proposal.

While, however, the Venezuelan Minister constantly stated that the matter was under active consideration, it was found that in the same year a Concession had been given by his Government to General Pulgar, which included a large portion of the territory in dispute. This was the third breach by Venezuela of the Agreement of 1850.

Early in 1884 news arrived of a fourth breach by Venezuela of the Agreement of 1850, through two different grants which covered the whole of the territory in dispute, and as this was followed by actual attempts to settle on the disputed territory, the British Government could no longer remain inactive.

Warning was therefore given to the Venezuelan Government and to the concessionnaries, and a British Magistrate was sent into the threatened district to assert the British rights.

Meanwhile, the negotiations for a settlement of the boundary had continued, but the only replies that could be obtained from Señor Guzman Blanco, the Venezuelan Minister, were proposals for arbitration in different forms, all of which Her Majesty's Government were compelled to decline as involving a submission to the Arbitrator of the claim advanced by Venezuela in 1844 to all territory up to the left bank of the Essequibo.

As the progress of settlement by British subjects made a decision of some kind absolutely necessary, and as the Venezuelan Government refused to come to any reasonable arrangement, Her Majesty's Government decided not to repeat the offer of concessions which had not been reciprocated, but to assert their undoubted right to the territory within the Schomburgk line, while still consenting to hold open for further negotiation, and even for arbitration, the unsettled lands between that line and what they considered to be the rightful boundary, as stated in the note to Señor Rojaz of the 10th January, 1880.

The execution of this decision was deferred for a time, owing to the return of Señor Guzman Blanco to London, and the desire of Lord Rosebery, then Secretary of State for Foreign Affairs, to settle all pending questions between the two Governments. Mr. Olney is mistaken in supposing that in 1886 "a Treaty was practically agreed upon containing a general arbitration clause, under which the parties might have submitted the boundary dispute to the decision of a third Power, or of several Powers in amity with both." It is true that General Guzman Blanco proposed that the Commercial Treaty between the two

countries should contain a clause of this nature, but it had reference to *future* disputes only. Her Majesty's Government have always insisted on a separate discussion of the frontier question, and have considered its settlement to be a necessary preliminary to other arrangements. Lord Rosebery's proposal made in July 1886 was "that the two Governments should agree to consider the territory lying between the boundary-lines respectively proposed in the 8th paragraph of Señor Rojaz' note of the 21st February, 1881, and in Lord Granville's note of the 15th September, 1881, as the territory in dispute between the two countries, and that a boundary-line within the limits of this territory should be traced either by an Arbitrator or by a Joint Commission on the basis of an equal division of this territory, due regard being had to natural boundaries."

Señor Guzman Blanco replied declining the proposal, and repeating that arbitration, on the whole claim of Venezuela, was the only method of solution which he could suggest. This pretension is hardly less exorbitant than would be a refusal by Great Britain to agree to an arbitration on the boundary of British Columbia and Alaska, unless the United States would consent to bring into question one-half of the whole area of the latter territory. He shortly afterwards left England, and as there seemed no hope of arriving at an agreement by further discussions, the Schomburgk line was proclaimed as the irreducible boundary of the Colony in October 1886. It must be borne in mind that in taking this step Her Majesty's Government did not assert anything approaching their extreme claim, but confined themselves within the limits of what had as early as 1840 been suggested as a concession out of friendly regard and complaisance.

When Señor Guzman Blanco, having returned to Venezuela, announced his intention of erecting a lighthouse at Point Barima, the British Government expressed their readiness to permit this if he would enter into a formal written agreement that its erection would not be held to prejudice their claim to the site.

In the meanwhile, the Venezuelan Government had sent Commissioners into the territory to the east of the Schomburgk line, and on their return two notes were addressed to the British Minister at Carácas, dated respectively the 26th and 31st January, 1887, demanding the evacuation of the whole territory held by Great Britain from the mouth of the Orinoco to the Pomeroon River, and adding that should this not be done by the 20th February, and should the evacuation not be accompanied by the acceptance of arbitration as the means of deciding the pending frontier question, diplomatic relations would be broken off. In pursuance of this decision the British Representative at Carácas received his passports, and relations were declared by the Venezuelan Government to be suspended on the 21st February, 1887.

In December of that year, as a matter of precaution, and in order that the claims of Great Britain beyond the Schomburgk line might not be considered to have been abandoned, a notice was issued by the Governor of British Guiana formally reserving those claims. No steps have, however, at any time been taken by the British authorities to exercise jurisdiction beyond the Schomburgk line, nor to interfere with the proceedings of the Venezuelans in the territory outside of it, although, pending a settlement of the dispute, Great Britain cannot recognize those proceedings as valid, or as conferring any legitimate title.

The question has remained in this position ever since; the bases on which Her Majesty's Government were prepared to negotiate for its

settlement were clearly indicated to the Venezuelan Plenipotentiaries who were successively dispatched to London in 1890, 1891, and 1893 to negotiate for a renewal of diplomatic relations, but as on those occasions the only solutions which the Venezuelan Government professed themselves ready to accept would still have involved the submission to arbitration of the Venezuelan claim to a large portion of the British Colony, no progress has yet been made towards a settlement.

It will be seen from the preceding statement that the Government of Great Britain have from the first held the same view as to the extent of territory which they are entitled to claim as a matter of right. It comprised the coast-line up to the River Amacura, and the whole basin of the Essequibo River and its tributaries. A portion of that claim, however, they have always been willing to waive altogether; in regard to another portion, they have been and continue to be perfectly ready to submit the question of their title to arbitration. As regards the rest, that which lies within the so-called Schomburgk line, they do not consider that the rights of Great Britain are open to question. Even within that line they have, on various occasions, offered to Venezuela considerable concessions as a matter of friendship and conciliation, and for the purpose of securing an amicable settlement of the dispute. If as time has gone on the concessions thus offered diminished in extent, and have now been withdrawn, this has been the necessary consequence of the gradual spread over the country of British settlements, which Her Majesty's Government cannot in justice to the inhabitants offer to surrender to foreign rule, and the justice of such withdrawal is amply borne out by the researches in the national archives of Holland and Spain, which have furnished further and more convincing evidence in support of the British claims.

The discrepancies in the frontiers assigned to the British colony in various maps published in England, and erroneously assumed to be founded on official information, are easily accounted for by the circumstances which I have mentioned. Her Majesty's Government cannot, of course, be responsible for such publications made without their authority.

Although the negotiations in 1890, 1891, and 1893 did not lead to any result, Her Majesty's Government have not abandoned the hope that they may be resumed with better success, and that when the internal politics of Venezuela are settled on a more durable basis than has lately appeared to be the case, her Government may be enabled to adopt a more moderate and conciliatory course in regard to this question than that of their predecessors. Her Majesty's Government are sincerely desirous of being on friendly relations with Venezuela, and certainly have no design to seize territory that properly belongs to her, or forcibly to extend sovereignty over any portion of her population.

They have, on the contrary, repeatedly expressed their readiness to submit to arbitration the conflicting claims of Great Britain and Venezuela to large tracts of territory which from their auriferous nature are known to be of almost untold value. But they can not consent to entertain, or to submit to the arbitration of another Power or of foreign jurists, however eminent, claims based on the extravagant pretensions of Spanish officials in the last century, and involving the transfer of large numbers of British subjects, who have for many years enjoyed the settled rule of a British Colony, to a nation of different race and language, whose political system is subject to frequent disturbance, and whose institutions as yet too often afford very inadequate protection to life and property. No issue of this description has ever been

involved in the questions which Great Britain and the United States have consented to submit to arbitration, and Her Majesty's Government are convinced that in similar circumstances the Government of the United States would be equally firm in declining to entertain proposals of such a nature.

Your excellency is authorized to state the substance of this dispatch to Mr. Olney, and to leave him a copy of it if he should desire it.

Mr. Olney to Mr. Bayard.[1]

No. 956.] DEPARTMENT OF STATE,
Washington, January 18, 1896.

EXCELLENCY: The Commission appointed by the President of the United States "to investigate and report upon the true divisional line between the Republic of Venezuela and British Guiana" has organized by the election of the Hon. David J. Brewer, justice of the Supreme Court of the United States, as its president, and is entering upon the immediate discharge of its duties.

Since its organization I have received a letter from the president of the Commission, in which, while pointing out that it is in no view an arbitral tribunal, he nevertheless suggests that Great Britain and Venezuela, the parties immediately interested in the subject-matter of the Commission's inquiry, may both, or either of them, desire or see fit to aid the labors of the Commission and facilitate their reaching a correct conclusion by giving it the benefit of such documentary proof, historical narrative, unpublished archives, or other evidence as either may possess or control.

Justice Brewer adds:

> It is scarcely necessary to say that if either should deem it proper to designate an agent or attorney whose duty it would be to see that no such proofs were omitted or overlooked, the Commission would be grateful for such evidence of good will, and for the valuable results which would be likely to follow therefrom.

Either party responding affirmatively to the Commissioners' invitation would do so of course merely as *amicus curiæ*. As the president of the Commission declares in the concluding sentence of his communication:

> The purposes of the pending investigation are certainly hostile to none, nor can it be of advantage to any that the machinery devised by the Government of the United States to secure the desired information should fail of its purpose.

Requesting you to bring the matter to the attention of the British foreign office at your earliest convenience,

I am, etc., RICHARD OLNEY.

Mr. Bayard to Mr. Olney.[1]

[Telegram.]

LONDON, *February 9, 1896.*

Lord Salisbury readily places at the disposal of the Government of the United States any information in the hands of Her Majesty's Government relating to Venezuela boundary. Engaged in collecting documents for presentation to Parliament. He will have great pleasure in forwarding advance copies as soon as completed.

BAYARD.

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[1] Subsequent to publication of Senate Document No. 31.

POST-ROUTES IN ALASKA.[1]

Message of the President.

To the Senate of the United States:

I transmit herewith, in answer to the resolution of the Senate of December 18, 1895, a report by the Secretary of State, accompanied by copies of correspondence touching the establishment or attempted establishment of post-routes by Great Britain or the Dominion of Canada over or upon United States territory in Alaska; also, as to the occupation, or attempted occupation, by any means, of any portion of that territory by the military or civil authorities of Great Britain or of Canada.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 10, 1896.

Report of the Secretary of State.

The PRESIDENT:

The undersigned, Secretary of State, to whom was referred on the 6th ultimo a resolution of the Senate, in the following terms:

IN THE SENATE OF THE UNITED STATES,
December 18, 1895.

Resolved, That the President is requested, if not incompatible with the public interests, to communicate to the Senate all diplomatic correspondence and other information officially possessed by this Government, respecting the establishment or attempt to establish post routes by Great Britain or the Dominion of Canada over or upon United States territory in Alaska; also respecting the occupation or attempted occupation by any other means of any portion of such territory by the military or civil authorities of Great Britain or the Dominion of Canada; also respecting any other attempt by Great Britain or the Dominion of Canada to assert any claims to territory of the United States in Alaska—

Has the honor to report as follows:

The Department of State is not officially possessed of any diplomatic correspondence or other information respecting the establishment of, or any attempt to establish, post routes by Great Britain or the Dominion of Canada over or upon United States territory in Alaska.

Deeming it possible that the Postmaster-General might be able to impart some information touching this particular feature of the Senate's inquiry, I addressed a letter to Mr. Wilson on the subject. I inclose a copy of his reply, of January 31, 1896, from which it appears that one round trip by carrier was contemplated from Victoria, British Columbia, via Juneau, Alaska, to Fort Cudahy.

The Department of State is not officially possessed of any authentic correspondence or other information respecting any occupation or attempted occupation, by other means than the establishment of post routes, of any portion of United States territory in Alaska by the military or civil authorities of Great Britain or the Dominion of Canada. The only diplomatic correspondence on file having even a remote relation to this branch of the Senate's inquiry was exchanged in June,

[1] Reprinted from Senate Document No. 112, Fifty-fourth Congress, first session.

1895, when, at the instance of the Governor-General of Canada, the British ambassador at this capital asked that customs facilities be accorded a detachment of twenty mounted police en route for the Canadian section of the Yukon country, passing to its destination by way of Seattle, in the State of Washington, and St. Michaels, Alaska, and thence ascending the Yukon River to the boundary. The desired facilities were promptly accorded by the Secretary of the Treasury, and the British ambassador was so informed. Copies of the correspondence in question are appended.

The Department of State is not officially possessed of any diplomatic correspondence or other information respecting any other attempt of Great Britain or the Dominion of Canada to assert any claims to territory of the United States in Alaska, either by occupation or attempt to occupy such territory or otherwise.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, February 10, 1896.

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, June 2, 1895.

MY DEAR MR. UHL: I have the honor to transmit a copy of a telegram which I have received from the Earl of Aberdeen, Governor-General of Canada, in which his excellency asks that the United States Government should oblige the Canadian Government by granting certain customs facilities in the passage of an assignment of stores, including rifles, through the United States territory.

I trust that the request which I have now the honor to lay before you will meet with the same favorable consideration on the part of the United States Government as similar requests made by me on previous occasions.

I have only to call attention to the somewhat urgent nature of the matter in the hope that, should there be no objection, the required instructions may be telegraphed at the earliest possible moment.

Believe me, yours, truly,

JULIAN PAUNCEFOTE.

[Inclosure—Telegram.]

Governor-General of Canada to Sir Julian Pauncefote.

OTTAWA, ONTARIO, *June 1, 1895.*

A detachment of twenty members of the mounted police leave Regina to-day en route for the Canadian section of Yukon country. To arrive at their destination by the most convenient route at present available, they must embark at Seattle, State of Washington, and transship at St. Michaels, Alaska; their stores, including rifles, being forwarded as freight by the same route.

It would greatly facilitate the passing of such stores through the

United States of America if instructions were issued by the Treasury Department to the customs officers at entry and at place of transshipment.

The object of the expedition being the maintenance of order in Canadian mining country adjacent to the United States Territory of Alaska, I hope no difficulties in having requisite instructions telegraphed.

Full particulars by post.

ABERDEEN.

Mr. Uhl to Viscount Gough.

DEPARTMENT OF STATE,
Washington, June 6, 1895.

MY LORD: Referring to the ambassador's note of the 2d instant, I have the honor to inform you that the Treasury has given telegraphic instructions to the deputy collector of customs at Seattle, in the State of Washington, to allow stores, including rifles, for twenty Canadian mounted police, to be entered at that port in transit for shipment via St. Michaels Island, Alaska, to the Canadian section of the Yukon country. The deputy collector of customs at Seattle has also been instructed to send advices by steamer to the customs officers at St. Michaels Island in regard to the matter.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Viscount Gough to Mr. Uhl.

BRITISH EMBASSY,
Newport, R. I., June 11, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, informing me of the steps taken by the Secretary of the Treasury to facilitate the passage of stores for twenty Canadian mounted police.

I beg that you will express to Mr. Secretary Carlisle my sense of the courtesy he has shown in this matter.

I have, etc.,

HUGH GOUGH.

The Postmaster-General to Mr. Olney.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., January 31, 1896. (Received Feb. 1.)

SIR: I have the honor to acknowledge receipt of your letter of the 28th instant, inclosing a copy of Senate resolution of December 18, 1895, asking for certain data respecting the Territory of Alaska. The first part of this resolution requests information touching the establishment of, or attempt to establish, post-roads by Great Britain, or the Dominion of Canada, over or upon the Territory in question, and you request to be given such information as the Post-Office Department may possess in regard to the mattter.

In reply, I have to say that an inspector of our Department notified us, under date of December 6, 1895, from Tacoma, Wash., that a closed mail from Victoria, British Columbia, for Fort Cudahy, had left Seattle, Wash., December 4, by steamer for Juneau, Alaska, and that the Canadian officials had invited him to forward by the carrier, which they had employed for one trip from Juneau to Fort Cudahy, any mail that might be ready at Juneau for dispatch at that time to the section of country through which their mail carrier was to pass.

Subsequently this Department made inquiry of the post-office department of Canada as to what arrangements had been made by them for the mail service in question, and was informed that they had employed a carrier for one round trip only between Juneau, a United States post-office in Alaska, and Fort Cudahy, which is understood to be on undisputed Canadian soil. This Department has no data as to the exact distance between Juneau and Fort Cudahy, but it is estimated that the carrier, in making the trip in question, would travel over United States soil for a distance of 125 miles or more, which, however, is understood to be but a small part of the entire distance.

The Canadian post-office department states that the person employed by them was a Mr. T. C. Healy, and that he was expected to start from Juneau about December 13, and to leave Fort Cudahy upon his return trip about February 10.

This is substantially all the information that this Department has in regard to the matter in question. In this connection, it may be proper for me to add that at various points along the boundary line between the United States and Canada, where exchanges of mail have been found necessary, it is not uncommon for the United States to arrange for carrying its mails from a United States post-office to a Canadian post-office across the line, or for the Canadian post-office department to arrange for carrying their mail from a Canadian post-office across the boundary line to a United States post-office.

Very respectfully,

WM. L. WILSON,
Postmaster-General.

SPEECHES MADE BY THOMAS F. BAYARD.[1]

Message of the President.

To the House of Representatives:

In response to the resolution of the House of Representatives of December 28, 1895, I transmit herewith a report from the Secretary of State, and accompanying papers, relating to certain speeches made by Thomas F. Bayard, ambassador of the United States to Great Britain.

In response to that part of said resolution which requests information as to the action taken by the President concerning the speeches therein referred to, I reply that no action has been taken thereon by the President, except such as is indicated in the report and correspondence herewith submitted.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, January 20, 1896.

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[1] Reprinted from House Document No. 152, Fifty-fourth Congress, first session.

Report of the Secretary of State.

The PRESIDENT:

Having received by reference from yourself a resolution of the House of Representatives, of which the following is a copy:

DECEMBER 28, 1895.

Whereas Thomas F. Bayard, the ambassador of the United States to Great Britain, is reported by the London Times newspaper to have said in a public speech delivered in Boston, England, on the 2d day of August, 1895—

"The President stood in the midst of a strong, self-confident, and oftentimes violent people; men who sought to have their own way. It took a real man to govern the people of the United States;" and

Whereas said Thomas F. Bayard, ambassador of the United States to Great Britain, is further reported by the press of this country to have said in a public speech delivered in Edinburgh, Scotland, on the 7th day of November, 1895:

"In my own country I have witnessed the insatiable growth of a form of socialism styled protection, which has done more to corrupt public life, to banish men of independent mind from public councils, and to lower the tone of national representation than any other single cause. Protection, now controlling the sovereign power of taxation, has been perverted from its proper functions of creating revenue to support the Government into an engine for selfish profit, allied with combinations called trusts. It thus has sapped the popular conscience by giving corrupting largesse to special classes, and it throws legislation into the political market, where jobbers and chafferers take the place of statesmen":

Resolved, That the President be, and he is hereby, requested to communicate to the House, if not incompatible with the public interests, any information or correspondence showing whether Thomas F. Bayard, the ambassador of the United States to Great Britain, made such speeches; and if so, what action, if any, has been taken thereon by the President—

I annex hereto copy of letter of Mr. Bayard to the Secretary of State, dated December 12, 1895, accompanied by printed copy of address at Edinburgh;[1] telegram of the Secretary of State to Mr. Bayard, dated January 3, 1896; telegram of Mr. Bayard to the Secretary of State, dated January 4, 1896; letter of Mr. Bayard to the Secretary of State, dated January 4, 1895[6]; and letter of Mr. Bayard to the Secretary of State, dated January 6, 1895[6], together with exhibits[1] therein referred to, including cuttings[1] from English newspapers, one of which is a report of a speech made at Boston, Lincolnshire.

The letters and telegrams, copies of which are annexed, show all the information and correspondence of the Department of State relating to the subject-matter of the resolution of the House of Representatives. Except as therein shown, no action has been taken by the Department.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, January 18, 1896.

Mr. Bayard to Mr. Olney.

No. 553.] EMBASSY OF THE UNITED STATES,
London, December 12, 1895. (Received Dec. 23.)

SIR: Observing the proceedings, as reported by telegraph in the public newspapers of this country, of the United States House of Representatives in relation to a paper read by me on the evening of the 7th ultimo before the Philosophical Institution of Edinburgh, I have the honor to inclose herewith for your inspection a printed copy of the address in question.

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[1] Not reprinted.

In the absence of precise information of the text of the resolution said to have been adopted by the House, and not proposing to anticipate the action of either or both Houses of the Congress, yet observing that in the course of the discussion reference was made to the personal instructions of the Department of State to the diplomatic officers of the United States, I respectfully advert to Article VII and its subsections in order that your attention may be drawn to the fact that the address in question was delivered before an institution purely literary and scientific in its character and wholly unconnected with political parties, which had honored two of my official predecessors with similar invitations, which in both cases had been accepted—subjects political in their nature ("Democracy" and "The law of the land") having been respectively selected and treated with distinguished ability.

No political canvass was pending or approaching in this country when my address was made, and no interference or participation in local or party political concerns in this country was therefore possible.

The address consisted of my personal opinions upon governmental institutions in general, the moral forces and tendencies which underlie them, and the governmental policies which assist in the conservation of the freedom of the individual as an essential integer of human progress, and of the permanence of civilization.

The judgments so delivered were formed by me after careful deliberation, and, in their presentation, sundry historical facts and arguments tending to sustain them were advanced.

When the Congress shall have concluded its action on the subject, it is possible that I may desire to submit a further statement, but, meanwhile, I consider it proper to place before you the address itself in full and the facts connected with its delivery.

I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

P. S.—I find, upon reading over this note, that Mr. Lowell's address on Democracy was delivered by him before the Midland Institute, at Birmingham, an association similar in its character and purposes to the Edinburgh Philosophical Institution.

B.

Mr. Olney to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 3, 1896.

House resolution calls for information or correspondence showing whether you made not only the Edinburgh speech, but a speech at Boston containing these words: "The President stood in the midst of a strong, self-confident, and oftentimes violent people; men who sought to have their own way. It took a real man to govern the people of the United States."

Nothing in the Department except in newspapers as to Boston speech. Send copy with any statement as to it or any additional statement as to Edinburgh speech that you desire to make. Resolution asks what action, if any, President has taken on the speeches.

OLNEY.

Mr. Bayard to Mr. Olney.

[Telegram.]

LONDON, *January 4, 1896.*

Will procure and send by next mail newspaper containing report of proceedings of Boston Grammar School in August last.

BAYARD.

Mr. Bayard to Mr. Olney.

EMBASSY OF THE UNITED STATES,
London, January 4, 1895[6].

DEAR MR. SECRETARY: Your cipher telegram giving me the purport of the House resolution of inquiry as to the address delivered by me in Edinburgh on November 7 last, and likewise touching a speech made in Boston, in Lincolnshire, came this morning, but as the pouch closes by 2 p. m., I have telegraphed you, in cipher, that I will forward a copy of the newspaper containing the Boston incident by the next mail.

The Boston Grammar School is an ancient foundation of modest proportions, simple, honorable, and respected. It is the antetype of Boston, in Massachusetts, and my function was, in gratification of head master and those interested in the welfare of the school, to deliver the prizes to the graduating students. At some personal inconvenience, and hoping to strengthen the ties of friendly good will between the people of this country and my own, I made the journey to Lincolnshire, returning to London by midnight. The exercises were of a very simple and informal nature, and without a note or prepared words of any kind I made a short prefatory speech, and handed over the prizes to the successful competitors.

In the afternoon we adjourned to a public hall or hotel, where a dinner was served, and, as is customary here, there were toasts and responses, and I responded to the health of the President of the United States, and subsequently to a toast to myself. So far as I was concerned everything was impromptu, and a kindly, humorous, postprandial tone prevailed. It seems a reporter was present, but I did not see him, nor did I know that any report had been made until the local newspaper was sent to me a few days after in London. I sent a copy to Mr. Cleveland, because the report contained a kindly reference to the family home circle of the President, and as I have grandchildren in Boston, Mass., I sent a copy into that household. This was the extent of "publication" in the United States of which I have any knowledge. I must except an elaborate editorial in the Philadelphia Ledger, gravely censuring the constitutional views which the editor supposed to have been expressed by me.

The occurrence was early in last August, and had passed out of my memory until it was made the basis, or one of the bases, of a resolution of impeachment by the United States House of Representatives as a "high crime and misdemeanor" under the Constitution. I can discover no copy of the Boston newspaper in the offices of this embassy, but believe I can find one at my residence, and failing there, I will endeavor to procure a copy in Boston.

I find that in my No. 553, of December 12, I inclosed copies of my address before the Philosophical Institution at Edinburgh, stating the circumstances under which it occurred.

I beg leave to thank you for your prompt information of the nature of the House resolution, in regard to which, as to every other matter, I desire and intend that my position, acts, and opinions should be free from any misconception, and be perfectly transparent to the President, yourself, and my fellow-countrymen.

Believe me, respectfully and sincerely, yours,

T. F. BAYARD.

Mr. Bayard to Mr. Olney.

EMBASSY OF THE UNITED STATES,
London, January 6, 1895[6].

DEAR MR. SECRETARY: The closing of the mail on Saturday last at 2 p. m. did not allow me time, after deciphering your telegram relating to the remarks made by me in August last on the occasion of the distribution of prizes at the grammar school in Boston, Lincolnshire, to make search at my residence for copies of the local newspapers in which the proceedings were reported.

On returning home I looked them up, and have now the honor to inclose herewith copies[1] (in duplicate) of the Boston Independent and Lincolnshire Advertiser, and the Boston Guardian and Lincolnshire Independent, both published August 10, 1895, and each containing what purports to be a full report of the proceedings, and it is the only form in which they have ever been published, so far as I am informed.

Sundry discrepancies are obvious in these two reports, and they are such as are usually incidental under similar circumstances; but as to the remarks attributed to me, I spoke without premeditation, without notes, unaware of a reporter's presence, and have no means except recollection (now somewhat vague) to enable me to correct either report. Therefore, I shall not now essay it, although it is obvious the reporters failed to catch my words (sometimes in Latin) and confused them.

But both reports are sufficiently full and accurate to describe the purpose of my visit and general nature and intent of my remarks.

I also inclose herewith two additional copies of the address I made before the Philosophical Institution of Edinburgh on November 7 last.

If it is desired to gather the actual purport and meaning of any statement, it would appear to be necessary that phrases should not be separated from the context, but that all the parts should be considered in their relation to each other; and as the honorable House of Representatives have in the grave exercise of their public duty instituted inquiry into what has been said and done by me on the occasions referred to, including the circumstances attendant, it may not be unreasonable for me to express the hope that, in simple justice, a full publication of the remarks undergoing criticism may accompany the expression of any judgment they may arrive at in the premises.

This I respectfully await, and am,

Most obediently, yours, T. F. BAYARD.

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[1] Not reprinted.

PROTECTION OF FUR SEALS IN BERING SEA.[1]

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, February 6, 1895.

SIR: I have the honor to forward to you herewith, in accordance with instructions which I have received from the Earl of Kimberley, copy of a note addressed to his lordship by M. de Staal, Russian ambassador at the court of St. James, respecting the protection of the fur-seal species.

The Russian ambassador states that the Russian Government can only adhere to the regulations prescribed by the award of the Tribunal of Arbitration for the protection and preservation of the fur-seal species, provided that they shall be extended to the whole of the Pacific Ocean north of the thirty-fifth degree of latitude.

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure.—Translation.]

M. de Staal to the Earl of Kimberley.

LONDON, *December 19, 1894.*

MY LORD: On the 20th August last your excellency was kind enough to inform me of the desire expressed by the Government of Her Britannic Majesty to see Russia adhere to the terms of the treaty of Washington concluded in 1892 between the British and American Governments for fur sealing in the Pacific Ocean.

Having communicated to my Government the desire expressed by your excellency, I am to-day able to make known to you the tenor of the reply of the Imperial cabinet to your proposition.

The Russian Government having for its fisheries the same duties of protection as the two contracting powers in regard to their respective subjects, our adhesion to the arbitral regulation is subordinate to the condition that the measures prescribed by the arbitrators and stipulated by the Paris Tribunal of Arbitration shall be extended to the whole of the Pacific Ocean north of the thirty-fifth degree of north latitude, and in general to the Russian fisheries in Bering Sea and around the Robben Islands.

This condition is imposed upon us by the legitimate care for our interests in those regions and by the nature of the agreement to be established. Its purpose can not be destroyed, in fact, if the protection of the fisheries is limited (art. 2 of the arbitral award) to the eastern portion of those waters. Besides, this limit would be defined by an imaginary line and might give rise to misunderstandings.

I have been requested to bring the above to the knowledge of the Government of Her Britannic Majesty.

In fulfilling this duty near your excellency, I have, etc.,

STAAL.

Mr. Uhl to Sir Julian Pauncefote.

No. 29.] DEPARTMENT OF STATE,
Washington, February 15, 1895.

EXCELLENCY: I have the honor to advise you that I have received from the Secretary of the Treasury a further statement of the pelagic

[1] See Foreign Relations, 1894, Appendix 1, pp. 107-233.

catch of seals taken in the North Pacific Ocean and Bering Sea during the season of 1894, extended in such manner as to show the operations by latitude and longitude for each day of 10 of the 35 American vessels engaged therein. This statement includes 4 vessels, viz, *Louis Olsen*, *Rose Sparks*, *Therese*, and *Jane Grey*, additional to the vessels named in the papers heretofore received from the Treasury Department. I inclose copy of the statement just received, and which, I understand, has been compiled under the direction of an official of the Fish Commission from the records of the custom houses and personal observations of Prof. C. H. Townsend, of that Commission.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 29.]

Latitude and longitude in which seals were taken by United States vessels in Bering Sea and North Pacific Ocean.

[Compiled from records of United States custom-houses and United States Fish Commission.]

Vessel.	Male.	Female.	Total.	Remarks.
Ella Johnson	322	892	1,214	Entered at Port Townsend.
Deealuks	155	868	1,023	Do.
Stella Erland	219	542	761	Do.
Ida Etta	204	532	736	Do.
Columbia	180	223	403	Do.
Allie Alger	128	199	327	Do.
Therese	81	237	318	Entered at San Francisco.
Rose Sparks	37	160	197	Do.
Jane Grey	46	92	138	Do.
Louis Olsen	16	68	84	Catch landed at Victoria.
Total	1,388	3,813	5,201	

Louis Olsen (Japan catch, sex not given, also landed at Victoria), 1,112 skins. Total catch of vessels giving positions, 6,313 skins.

All other vessels cleared without notice of regulations of the Paris award, and their masters so deposed on entry at San Francisco.

UNITED STATES SEALING SCHOONER ELLA JOHNSON, R. H. MINER, MASTER.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	° ′	° ′			
Aug. 9	54 24	166 45	1	.....	1
10	54 46	167 20	4	55	59
11	54 47	168 18	.....	9	9
12	55 05	168 55	20	95	115
15	54 37	168 26	15	48	63
18	54 15	168 43	18	47	65
19	54 17	168 25	21	81	102
23	54 39	167 07	14	71	85
24	54 30	167 20	10	70	80
27	55 01	167 58	2	10	12
28	57 37	169 03	5	37	42
29	54 15	168 57	35	63	98
30	54 07	168 34	15	34	49
31	54 10	168 51	16	32	48
Sept. 1	54 09	168 33	40	63	103
2	54 29	168 39	10	45	55
5	54 29	167 42	20	11	31
7	54 52	168 54	28	40	68
8	54 49	168 54	25	30	55
9	54 07	168 56	15	30	45
13	54 52	169 03	2	4	
15	54 41	167 57	6	17	23
Total	.....	.....	322	892	1,214

Latitude and longitude in which seals were taken by United States vessels in Bering Sea and North Pacific Ocean—Continued.

UNITED STATES SEALING SCHOONER DEEAHKS, JAMES CLAPLANHOY, CAPTAIN (CHIEF OF WAHAH TRIBE).

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	° ′	° ′			
Aug. 6	54 33	167 00	.....	.....	11
7	54 41	168 00	.....	.....	7
8	54 53	170 52	.....	.....	11
9	55 36	172 17	.....	.....	2
10	56 02	172 27	.....	.....	55
11	56 10	172 37	.....	.....	20
14	56 21	173 09	.....	.....	1
15	55 43	172 39	.....	.....	9
16	55 35	172 36	.....	.....	1
18	55 16	171 05	.....	.....	23
19	55 11	170 42	.....	.....	13
22	54 10	167 00	.....	.....	51
23	54 25	167 30	.....	.....	36
24	54 35	167 38	.....	.....	40
26	54 59	167 00	.....	.....	5
27	55 03	166 34	.....	.....	12
28	54 37	167 21	.....	.....	153
29	54 30	167 14	.....	.....	91
30	54 30	167 14	.....	.....	58
31	54 54	166 56	.....	.....	14
Sept. 1	54 25	166 47	.....	.....	170
2	54 34	167 18	.....	.....	80
7	54 35	166 57	2	2	4
8	54 43	166 49	9	21	30
9	54 34	166 51	17	34	51
10	54 34	166 51	1	4	5
12	54 43	167 33	.....	1	1
13	54 42	167 16	5	7	12
14	54 35	166 45	4	13	17
15	54 35	166 45	13	27	40
Total	.....	.....	155	868	1,023

UNITED STATES SEALING SCHOONER STELLA ERLAND.

Aug. 5	54 44	167 23	7	37	44
6	54 56	167 41	3	13	16
8	56 04	165 59	0	6	6
12	58 24	168 01	.....	1	1
16	58 11	172 27	.....	1	1
18	57 48	172 28	2	33	35
22	56 30	172 35	3	21	24
25	56 13	171 30	.....	1	1
27	54 40	168 59	1	5	6
28	54 24	168 57	5	9	14
29	53 47	169 35	14	32	46
30	53 35	169 41	31	51	82
31	53 34	169 21	23	35	58
Sept. 1	53 38	169 25	39	59	98
2	53 47	169 40	21	29	50
7	54 20	167 47	17	8	25
8	54 46	166 55	32	55	87
10	54 55	166 59	3	12	15
12	55 09	166 55	1	.....	1
14	54 48	166 36	7	22	29
15	54 57	166 15	10	112	122
Total	.....	.....	219	542	761

***Latitude and longitude in which seals were taken by United States vessels in Bering Sea and North Pacific Ocean*—Continued.**

UNITED STATES SEALING SCHOONER IDA ETTA (69 TONS), B. B. WHITNEY, MASTER.

[Crew 17, boats 9, hunters 9.]

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	° ′	° ′			
Aug. 1	54 40	169 00	5	2	7
2	55 06	170 40	6	8	14
3	54 46	171 25	3	4	7
4	54 50	171 34	12	51	63
5	54 49	171 37	1	12	13
6	55 33	173 48	2	6	8
7	55 50	173 35	6	12	18
11	58 00	173 40	.....	1	1
18	54 09	168 39	25	53	78
19	54 15	168 10	6	17	23
22	54 18	167 55	3	.....	3
23	54 05	168 05	3	.....	3
24	54 07	168 25	.....	36	36
26	54 15	167 27	2	.....	2
27	54 16	168 50	15	37	52
28	54 17	168 14	6	13	19
29	54 43	167 50	5	20	25
30	54 45	167 49	14	59	73
31	54 44	169 00	2	18	20
Sept. 1	54 25	169 35	35	46	81
2	54 26	168 35	9	18	27
7	54 24	167 25	.....	1	1
8	54 17	168 00	10	2	12
9	54 18	168 15	8	4	12
16	54 58	167 23	.....	1	1
17	55 11	167 30	14	14	28
19	54 32	166 03	5	38	43
20	54 28	165 55	4	21	25
21	54 24	166 05	6	33	39
Total	.....	.....	204	532	736

UNITED STATES SEALING SCHOONER COLUMBIA (41 TONS), T. J. POWERS, MASTER.

[Crew 24, canoes 10, hunters 10, boats 1.]

Aug. 3	55 11	171 10	9	4	13
4	55 17	171 31	26	27	53
5	55 32	173 30	6	9	15
6	56 09	173 30	3	3	6
7	56 30	173 10	7	5	12
8	56 33	172 34	5	10	15
9	56 51	172 28	1	.....	1
10	56 54	172 43	11	16	27
11	57 09	173 19	20	27	47
17	57 01	174 20	3	2	5
19	57 06	174 14	4	8	12
23	57 49	173 50	3	9	12
24	57 49	175 01	2	2	4
28	57 54	175 09	2	1	3
29	57 00	173 52	19	23	42
31	55 46	173 07	1	.....	1
Sept. 1	55 25	172 55	3	6	9
2	55 23	172 24	18	25	43
3	54 58	172 26	1	3	4
5	54 28	167 57	19	14	33
9	54 19	167 53	3	5	8
10	(*)	.....	9	15	24
13	54 25	167 30	5	9	14
Total	.....	.....	180	223	403

* Thirty miles north of Bogoslof Island.

Latitude and longitude in which seals were taken by United States vessels in Bering Sea and North Pacific Ocean—Continued.

UNITED STATES SEALING SCHOONER THERESE (70 TONS), CHARLES HARITWEN, MASTER.

[Crew 22, boats 6, hunters 6.]

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	° ′	° ′			
Aug. 2	56 11	175 17	.....	1	1
3	56 57	174 15	.....	1	1
4	57 54	174 06	1	3	4
6	58 09	173 38	1	12	13
7	58 22	173 04	1	25	26
8	58 21	173 08	.....	2	2
11	58 02	171 50	2	.....	2
23	55 05	166 45	1	11	12
24	54 52	166 54	0	37	37
27	54 56	166 24	.....	5	5
28	54 43	166 52	20	31	51
29	54 22	166 52	13	23	36
30	54 22	166 27	10	10	20
Sept. 1	54 49	165 59	20	46	66
2	54 47	166 18	6	9	15
3	54 46	166 19	1	.....	1
8	54 50	165 21	1	5	6
9	54 39	166 26	4	15	19
10	54 36	166 26	.....	1	1
Total	.....	.....	81	237	318

UNITED STATES SEALING SCHOONER ALLIE I. ALGER (75 TONS), WESTER, MASTER.

Aug. 15	53 49	168 50	1	0	1
18	54 46	167 43	20	49	69
19	54 46	167 30	10	15	25
22	54 25	167 18	10	13	23
23	54 40	167 50	5	4	9
24	55 12	168 08	3	5	8
27	54 40	168 40	11	16	27
28	54 35	168 20	12	20	32
29	54 50	168 06	23	29	52
30	54 47	167 57	16	20	36
31	54 20	167 19	0	3	3
Sept. 1	55 12	167 36	9	14	23
2	55 13	168 08	2	2	4
5	56 05	167 55	2	4	6
7	55 39	168 14	4	5	9
Total	.....	.....	128	199	327

UNITED STATES SEALING SCHOONER ROSE SPARKS, J. W. TROTT, MASTER.

Aug. 11	56 42	174 23	1	1	2
15	55 48	172 27	.....	2	2
18	54 42	167 48	5	52	57
19	54 48	167 20	1	2	3
23	54 31	167 15	5	14	19
24	55 26	167 57	1	.....	1
25	55 45	167 47	.....	2	2
28	55 06	167 48	3	18	21
29	54 54	168 10	5	25	30
30	54 48	168 20	5	17	22
31	54 54	167 30	2	2	4
Sept. 1	54 42	167 34	6	20	26
2	54 42	167 25	1	1	2
5	54 31	165 45	1	2	3
6	54 28	165 35	1	2	3
Total	.....	.....	37	160	197

Latitude and longitude in which seals were taken by United States vessels in Bering Sea and North Pacific Ocean—Continued.

UNITED STATES SEALING SCHOONER JANE GREY (107 TONS).

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	° ′	° ′			
Aug. 13	55 20	172 28	1	4	5
15	56 01	175 00	.....	1	1
17	55 56	172 34	1	3	4
18	55 52	173 06	2	8	10
22	54 59	170 32	2	7	9
26	54 28	168 18	1	7	8
27	54 28	168 45	13	17	30
28	54 36	168 24	7	9	16
29	54 32	168 16	5	8	13
30	54 20	167 45	4	7	11
31	54 56	167 32	1	.....	1
Sept. 1	55 30	167 12	2	8	10
2	55 02	165 55	7	13	20
Total	.....	.....	46	92	138

UNITED STATES SEALING SCHOONER LOUIS OLSEN.

Aug. 4	57 50	173 56	4	8	12
6	58 30	173 56	4	15	19
7	58 30	173 56	4	30	34
10	58 27	172 46	1	3	4
11	57 42	172 52	3	10	13
18	56 05	172 17	2	.....	2
Total	.....	.....	16	68	84

Mr. Uhl to Sir Julian Pauncefote.

No. 41.] DEPARTMENT OF STATE,
Washington, February 27, 1895.

EXCELLENCY: I have the honor to apprise you of the receipt of a letter of the 21st instant from the Acting Secretary of the Treasury, in which he says that the statement made in the communication in relation to the American pelagic fur seal catch of 1894, which was transmitted to you on the 23d ultimo,[1] that the skins were carefully examined as to sex by an expert inspector at the time of entry, was based upon the fact the inspectors had been appointed for that purpose, and upon certification of reports as to sex by those inspectors. It now appears upon investigation that, while the reports of the other inspectors were based upon actual inspection of the skins, those of the inspector stationed at Port Townsend were, notwithstanding the certification above referred to, compiled from statements shown by the logs of vessels.

I have, etc.,

EDWIN F. UHL, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, March 6, 1895.

SIR: I am instructed by Her Majesty's principal secretary of state for foreign affairs to transmit to you a copy of an order of Her Majesty

[1] Printed in Foreign Relations, 1894, Appendix 1, p. 226.

in council, dated the 2d February, entitled "The Bering Sea award order in council, 1895."

I would observe that "the Bering Sea order in council, 1894," of which a copy was inclosed in my note of 11th July last, was of a temporary character to regulate the fur-seal fishery for that year, whereas the present order in council will remain in force until modified or repealed by a further order. It is substantially similar to the previous order, though a slight amendment has been introduced in the form of license, it being provided by Article I of the new order that the license may be issued not only by the Secretary of State, but by any person duly authorized by him for that purpose.

I have the honor to inform you that—

(1) The collector of customs at Victoria, British Columbia, and Her Majesty's consular officers in Japan are the persons duly authorized under the order to grant and revoke licenses.

(2) That in view of the fact that many sealing vessels will no doubt have already taken out licenses for the ensuing season, as provided by the order of 1894, before the new order can be brought into operation. Her Majesty's Government have decided to recognize the licenses thus taken out as valid during the present year and as entitling the holders to engage in the seal fishery under the prescribed conditions.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

ORDER IN COUNCIL.

The Bering Sea award orders in council, 1894 and 1895.

OSBORNE HOUSE,
Isle of Wight, February 2, 1895.

At the court at Osborne House, Isle of Wight, the 2nd day of February, 1895.

Present, the Queen's Most Excellent Majesty, Lord President, Marquess of Ripon, Lord Chamberlain, Lord Kensington, Mr. Cecil Rhodes.

Whereas by "the Bering Sea award act, 1894," it is enacted that Her Majesty the Queen in council may make orders for carrying into effect the provisions of the Bering Sea arbitration award set out in the first schedule to that act, and therein referred to as the scheduled provisions;

And whereas arrangements have been made between Her Majesty and the Government of the United States for giving effect to articles 4 and 7 of the said scheduled provisions, and it is expedient that effect should be given to those arrangements by an order in council under the said act;

Now, therefore, Her Majesty, in virtue of the powers vested in her by the said recited act, and of all other powers enabling her in that behalf, is hereby pleased, by and with the advice of her privy council, to order, and it is hereby ordered, as follows:

1. On the application of the owner or master of any British sailing vessel intended to be employed in fur-seal fishing under the provisions of the recited act, a secretary of state, or any person duly authorized by him for the purpose, may, if satisfactory evidence as required by the said article 7 has been given by such owner or master of the fitness of the men to be employed by him on the said vessel in the said fishing, grant a special license in the form in the schedule hereto, authorizing that vessel (for the year mentioned in the license) to fish for fur seals during the period in the manner and in the waters in which fur-seal fishing is allowed by the recited act; and the said special license when so granted shall be carried on board the said vessel at all times while so employed.

2. Every British sailing vessel provided with a special license under this order shall show, under her national colours, a flag not less than four feet square, of two equal triangular pieces, yellow and black, joined from the right-hand upper corner of the fly to the left-hand lower corner of the luff, the part above and to the left to be black, and the part to the right and below to be yellow.

3. If in the case of any vessel there is any contravention of these regulations, a secretary of state, or any person duly authorized by him for the purpose, whether

any penalty has been recovered under the recited act or not, may revoke the special license, whether the same was granted by a secretary of state or by such person.

4. This order may be cited as "The Bering Sea award order in council, 1895," and "The Bering Sea award order in council, 1894," and this order may together be cited as "The Bering Sea award orders in council, 1894 and 1895."

And the right honourable the Earl of Kimberley, K. G., and the most honourable the Marquis of Ripon, K. G., two of Her Majesty's principal secretaries of state, and the lords of the admiralty, are to give the necessary directions herein as to them respectively appertain.

SCHEDULE.

[Form of special license. "The Bering Sea award act, 1894." "The Bering Sea award order in council, 1895."]

Special license.

Whereas the British sailing vessel (name of vessel) is intended to be employed in fishing for fur seals under the provisions of "The Bering Sea award act, 1894;"

And whereas satisfactory evidence of the fitness of the men who are to be employed on board the said vessel in the said fishing has been given by A. B., the owner [or A. B. and others, owners, or C. D., the master], of the said vessel;

[And whereas I (name and description) have been duly authorized by a secretary of state to grant special licenses under the provisions of the above-mentioned act and order in council;]

Now, therefore, in pursuance of the above-mentioned act and order in council, I hereby authorize the said vessel for the year (eighteen hundred and ninety-five, or as the case may be) to be employed in fur-seal fishing during the period of time in the manner and in the waters in which fur-seal fishing is allowed by the above-mentioned act.

This special license is subject to revocation in case of any contravention of the above-mentioned act or order in council.

Given under my hand this —— day of ———, 189—.

(Signed.) ——— ———.

Mr. Uhl to Sir Julian Pauncefote.

No. 48.] DEPARTMENT OF STATE,
Washington, March 7, 1895.

EXCELLENCY: Referring to your communication of the 6th ultimo, inclosing a copy of a note from the Russian ambassador at the court of St. James, stating that the Government of Russia can only adhere to the regulations prescribed by the award of the Paris Tribunal of Arbitration for the protection and preservation of the fur-seal species, provided they shall be extended to the whole of the Pacific Ocean north of the thirty-fifth degree of latitude, I beg to say that correspondence with the Government of Japan on the subject in question shows that it also takes substantially the same position as Russia.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Sir Julian Pauncefote.

No. 51.] DEPARTMENT OF STATE,
Washington, March 13, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 6th instant, inclosing a copy of an order of Her Majesty in council, dated the 2d ultimo, entitled "The Bering Sea award order in council, 1895."

The Department has noted your observations in regard to the document, and will give the subject due consideration.

I have, etc.,

EDWIN F. UHL, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, March 14, 1895.

SIR: With reference to your note marked No. 17 and dated January 23,[1] I have the honor, by direction of the Earl of Kimberley, to transmit herewith copies of a report from the Canadian minister of marine and fisheries respecting the catch of the Canadian sealing fleet in the North Pacific during the season of 1894, and of the Appendixes I, II, and III, attached to the report, which give, so far as it has been obtainable, the information required by Article V of the Bering Sea arbitration award.

In transmitting to you the inclosed documents, Lord Kimberley requests me to explain that the information therein contained is not complete as to the sealers cleared for the spring operations before the award regulations had been brought into force.

I am further to state that some of the particulars asked for in your note under reply are not included among the points specified in Article V of the award, but the Dominion Government will be asked whether they can supply them.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 14th January, 1895.

The committee of the privy council have had under consideration a report, hereto attached, dated 9th January, 1895, from the minister of marine and fisheries, respecting the complete catch of the Canadian sealing fleet, operating in the North Pacific Ocean, during the season just closed.

The committee, concurring in the said report, advise that a copy of this minute, if approved, together with its appendixes, be forwarded to the right honorable the principal secretary of state for the colonies.

JOHN J. MCGEE,
Clerk of the Privy Council.

The MINISTER OF MARINE AND FISHERIES.

OTTAWA, *January 9, 1895.*

To His Excellency the Governor-General in Council:

The undersigned has the honor to report, for the information of your excellency, that he has received, through the collector of customs at Victoria, the appended statement showing the complete catch of the Canadian sealing fleet operating in the North Pacific Ocean during the season just closed. (Appendix I.)

Considerable interest will attach to the statistics for the year 1894, inasmuch as it is the initiatory year of the industry under the restrictions imposed by the Paris tribunal.

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[1] See Foreign Relations, 1894, Appendix 1, p. 226.

An examination of the figures shows that the take by the Canadian vessels aggregated 94,474 seal skins, while there were landed at the port of Victoria by 3 United States schooners 574 additional skins, making a grand total of 95,048 skins, including 3,989 skins taken along the coast by the Indians.

The vessels engaged in the business number 59, representing a tonnage of 3,866, with a crew of 888 white men and 518 Indians. The number of boats employed was 266, and the number of canoes 259. The catch is divided as follows:

British Columbia coast		11,703
Japan coast		49,483
Vicinity of Russian islands		7,437
Bering Sea: Males	11,723	
Females	14,702	
		26,425
Total		95,048

The largest catch which had previously been taken was that of 1893, being 70,592 seal skins.

In some quarters in the United States considerable stress is being laid upon the success of pelagic sealers this year, notwithstanding the curtailment of privileges involved in the regulations of the award.

It has been suggested in the press of the United States that this success affords an argument for the consideration of the absolute prohibition of pelagic sealing, if not for all time, at least for a term of years.

Apart from all other considerations, this can only be regarded as a remarkable attitude in the face of the decision of the arbitrators, as to an industry so long misrepresented and embarrassed, especially in the light of the fact that the decision was reached on terms of submission which were as favorable to the United States as it was possible under the circumstances to make them.

Such a position, on the face of it, appears to indicate that the large take of seal skins was secured from the seals frequenting the Pribilof Islands, or, as they have been commonly termed, "the Alaska seal herd."

It is not to be forgotten that the question began in the circumscribed waters of the Bering Sea, and that the only claim made by the United States Government was a right to expel all sealing vessels therefrom.

Forced out of Bering Sea by the different agreements reached, pending the decision of the arbitrators, the hardy sealers sought new fields wherein to ply their calling, which resulted in the successful exploiting of the Asiatic portion of the North Pacific Ocean.

In these waters they opened for themselves a field of operations in which neither the United States Government nor anybody else had any interest, beyond the common one of pelagic sealing itself.

Returning to the statistics, then, it will be found that of the 95,000 seal skins secured, 26,425 were taken in Bering Sea, the originally disputed waters, and the only ones which, at the time, the United States Government sought to control.

This would leave a balance of 68,623 skins secured by the British sealers this year, in waters wherein the United States Government has no particular interest.

If to the Bering Sea catch, however, that of the British Columbia coast be added (11,703), a total of 38,128 skins would be reached as the catch in North American waters, out of what has been termed by the United States authorities "the Alaskan seal herd."

Deducting these from the total catch, leaves the enormous balance of 56,920 seal skins taken in the waters of Asia, all but 7,437 of which were secured off the coast of Japan, a country which recognizes pelagic sealing.

The undersigned also has the honor to report that article 5 of the award imposes upon the masters of the vessels engaged in fur-seal fishing the accurate entry in their official log books of the date and place of each fur-seal fishing operations and also the number and sex of the seals captured upon each day. These entries to be communicated by each of the two Governments to the other at the end of the fishing season.

Owing to the fact that the vessels operating on the lower coast and in the Asiatic waters had all departed before the Bering Sea act of 1894 was promulgated, it was impossible to secure the desired information in respect of the catch of these vessels during 1894.

In respect of these vessels, however, which returned on the advent of the close of the season and refitted for the Bering Sea season, compliance with this provision of the award was practicable, and the undersigned has now the honor to append extracts from the logs of these vessels (Appendix II), received through the collector of customs at the port of Victoria providing the requisite information. These vessels

are *Rosie Olsen, Umbrina, Arietis, Walter A. Earl, Fawn, Mary Ellen, Vera, Triumph, Sapphire, Aurora, Beatrice* (Shanghai), *Mascott, Favourite, Annie C. Moore, Labrador, Saucy Lass, Borealis, Katharine, Ainoko, Kate, Venture, Walter L. Rich, Minnie, San Jose, Kilmeny, Henrietta, Shelby.*

In this manner the proportion of the sexes of seals taken in Bering Sea is established thus:

Males	11,723
Females	14,702

In the persistent denunciations of the operations of the sealers, great force was given to the iterated and reiterated statements as to the percentage of females killed, which had left the islands for food, whilst suckling their young, which also succumbed as a consequence. The usual statement was that 80 or 90 per cent were suckling females.

It has not yet been satisfactorily demonstrated that females while nursing (whatever they may do after they have ceased suckling their young) seek the open sea to any great distance from shore.

Indeed, the preponderance of the evidence is the contrary, but the above figures must be regarded as significant in successfully combating the statements hitherto advanced.

The open season in Bering Sea begins only on the 1st of August. Six of the above vessels ceased operations there between the 15th and 24th of August, while of 21 which remained until September only 2 operated as late as the 20th, the remainder on the average leaving about the middle of the month.

The total catch made in Bering Sea was therefore during August and September, the catch of females showing a tendency to increase with the lateness of the season.

From the information at present attainable, the undersigned submits that it is fair to assume that the vast majority of female seals have ceased suckling their young before the 1st of August.

There is therefore no longer any reason for their remaining in the immediate vicinity of the rookeries, and after their long sojourn on the islands might naturally be expected to seek the open sea.

Had the operations of the sealers covered the month of July, when the mass of the pups are depending upon the fostering care of their mothers, there is every reason to believe that the proportion of females taken would have been infinitely smaller, if indeed appreciable.

Considering the converse side of the question, it will be found that notwithstanding the comparatively large take this year, a fleet of about sixty vessels, scouring the whole North Pacific Ocean from America to Asia, has not yet in any one year secured the number of skins taken annually for twenty years under the lease of the old company, and have only twice exceeded the stipulated number allowed under the new lease of the two little islands of St. Paul and St. George, where these animals annually congregate for the reproduction of their species.

The catch of the lessees from 1871 to 1893 shows a grand total of about 2,000,000 skins, exclusive of 47,400 pups killed for food between 1871 and 1889.

During the same period the total product of the Canadian pelagic sealing industry was 383,452 skins, drawn from the Asiatic as well as the American herds. The catch on the Russian seal islands during the same period was 855,346 skins.

From the standpoint of destruction of seal life alone, the Canadian pelagic sealer would appear to be comparatively provident.

If it be argued that the industry is of comparatively recent development, and its gradual growth may be looked for, it would not appear that this should constitute a sufficient reason for its suppression in the interests of those controlling the land-killing operations.

If an undue number of seals is being killed, the fact is not wholly due to the existence of the pelagic sealing fleet.

The undersigned would further append, for the information of your excellency, a statement of the number of skins sold and prices realized at the sales in London on the 29th and 30th of November, 1894, showing a falling off in price of 20 per cent, as compared with the sales of last year. (Appendix III.)

The undersigned recommends that a copy of this report, if approved, together with its appendices, be forwarded to the right honorable the principal secretary of state for the colonies.

Respectfully submitted.

JOHN COSTIGAN.

APPENDIX I.—*Catch of the Canadian sealing fleet in the North Pacific Ocean, season of 1894.*

Vessels.	Masters.	Tonnage.	Crews.		Boats.	Canoes.	Catch.					
			Whites.	Indians.			British Columbia coast.	Japan coast.	Vicinity of Copper Island.	Bering Sea.		Total.
										Males.	Females.	
Enterprise	O. Scarf	69	22	....	8	....	.....	1,254	314	.....	.....	1,568
Rosie Olsen	A. B. Whiddon	39	6	16	2	8	.....	1,043	.....	425	431	1,899
Umbrina	C. Campbell	99	25	....	8	....	.....	2,588	153	30	30	2,801
Oscar and Hattie	A. Falger	81	24	....	7	....	.....	1,733	176	.....	.....	1,909
Diana	A. Nelson	50	19	....	6	....	.....	1,961	433	.....	.....	2,394
Breuda	C. E. Lacke	100	26	....	8	....	.....	2,383	343	.....	.....	2,726
Arietis	A. Douglass	86	25	....	8	....	.....	1,197	.....	39	52	1,288
Casco	O. Buchwlz	63	22	....	6	....	.....	1,926	.....	.....	.....	1,926
Dora Siewerd	F. Cole	94	26	....	8	....	.....	2,584	.....	.....	.....	2,584
Walter A. Earle	L. Magneson	68	8	20	2	10	.....	1,471	.....	155	517	2,143
Fawn	M. Keefe	59	6	18	1	9	.....	911	.....	310	336	1,557
Agnes McDonald	M. Cutler	107	26	....	8	....	.....	1,707	471	.....	.....	2,178
W. P. Hall	J. B. Brown	99	24	....	7	....	.....	710	.....	.....	.....	710
Mermaid	W. H. Whiteley	73	25	....	8	....	.....	1,603	505	.....	.....	2,108
City of San Diego	M. Pike	46	16	....	5	....	.....	1,304	250	.....	.....	1,554
Mary Taylor	E. Robbins	43	19	....	5	....	.....	874	250	.....	.....	1,124
Libbie	F. Hackett	93	22	....	7	....	.....	1,010	200	.....	.....	1,210
May Belle	F. Shields	58	14	....	6	....	.....	925	197	.....	.....	1,122
Mary Ellen	W. O. Hughes	63	23	....	7	....	.....	1,909	86	105	352	2,452
Viva	J. Anderson	92	26	....	7	....	.....	1,437	.....	.....	.....	1,437
W. P. Sayward	G. Ferry	60	20	....	6	....	.....	606	35	.....	.....	641
Penelope	L. McGrath	70	20	....	7	....	.....	1,306	296	.....	.....	1,602
Vera	W. Shields	60	19	....	6	....	.....	1,075	.....	80	115	1,270
Carlotta G. Cox	W. Rogers	76	24	....	7	....	.....	1,947	.....	.....	.....	1,947
Triumph	C. Cox	98	8	36	3	17	1,320	.....	.....	1,163	2,077	4,560
Otto	J. McLeod	86	25	....	8	....	.....	1,014	623	.....	.....	1,637
E. B. Marvin	C. J. Harris	96	23	....	7	....	.....	2,118	.....	.....	.....	2,118
Sapphire	W. Cox	109	8	32	4	16	535	.....	.....	1,226	879	2,640
Annie E. Paint	A. Bissett	82	26	....	9	....	.....	1,497	531	.....	.....	2,028
Geneva	W. O'Leary	92	27	....	9	....	.....	1,092	558	.....	.....	1,650
Teresa	F. Gilbert	63	25	....	7	....	.....	1,102	120	.....	.....	1,222
Ocean Belle	T. O'Leary	83	22	....	6	....	.....	530	274	.....	.....	804
Sadie Turpel	C. L. Blanc	56	22	....	8	....	.....	1,783	171	.....	.....	1,954
Maud S	R. McKiel	97	24	....	8	....	.....	1,343	86	.....	.....	1,429
Aurora	H. J. Lund	41	18	....	5	....	.....	693	21	79	138	931
Florence M. Smith	J. Allen	99	27	....	8	....	.....	96	81	.....	.....	177
Beatrice	D. Macauley	66	5	22	1	11	358	.....	.....	342	818	1,518
Mascot	H. F. Siewerd	40	4	16	1	7	.....	558	.....	299	246	1,103
Favourite	L. McLean	80	5	37	1	18	606	.....	.....	752	488	1,846
Annie C. Moore	C. Hackett	113	8	37	1	18	309	.....	.....	938	1,009	2,256
Labrador	J. J. Whitcley	25	5	14	1	7	308	.....	.....	179	381	868
Wanderer	H. Paxton	25	2	7	1	5	400	.....	.....	.....	.....	400
Pioneer	W. E. Baker	66	24	....	6	....	418	.....	1,263	.....	.....	1,681
Saucy Lass	R. E. Crowell	38	7	17	2	8	170	.....	.....	290	378	838
Borealis	G. Meyer	37	6	20	1	10	303	.....	.....	90	1,059	1,452
Katharine	J. Gould	82	6	26	1	13	269	.....	.....	490	569	1,328
Ainoko	J. Heater	75	5	22	2	11	467	.....	.....	1,092	565	2,124
Kate	M. Mose	58	5	20	1	10	79	.....	.....	303	564	946
Shelby	J. Searle	16	5	10	1	5	34	.....	.....	232	145	411
Venture	J. Mohrhouse	48	3	17	1	9	.....	.....	.....	417	492	909
Walter L. Rich	S. Balcom	76	9	25	2	13	691	.....	.....	1,000	749	2,440
Mountain Chief	J. Jamieson	23	1	13	....	6	175	.....	.....	.....	.....	175
Fisher Maid	C. Chipps	21	....	8	....	4	92	.....	.....	.....	.....	92
Minnie	V. J. Robson	46	6	20	....	12	488	.....	.....	679	986	2,153
San Jose	M. Foley	31	5	14	2	7	20	.....	.....	256	593	869
Kilmeny	J. Jamieson	19	2	12	....	6	.....	.....	.....	307	327	634
Henrietta	J. Daley	31	5	17	1	8	315	.....	.....	427	340	1,082
C. D. Rand	.....	51	7	22	2	11	357	.....	.....	.....	.....	357
Beatrice Vance	.....	49	21	....	6	....	.....	.....	.....	.....	.....	1,703
Canoe catch by Indians.	.....	....	....	....	....	....	3,989	.....	.....	.....	.....	3,989
Total Canadian		3,866	888	518	266	259	11,703	48,993	7,437	11,705	14,636	94,474
Catch of American schooners landed at Victoria:												
Louis Olsen							.....	435	.....	18	66	519
Anna Matilda							.....	7	.....	.....	.....	7
Josephine							.....	48	.....	.....	.....	48
Grand total							11,703	49,483	7,437	11,723	14,702	95,048

Summary of sealing catch, 1894.

British Columbia coast	11,703
Off Japanese coast	49,483
Vicinity of Copper Island	7,437
Bering Sea:	
Males	11,723
Females	14,702
Grand catch	95,048

Total catch, 1889 to 1894.

1889	35,310	1892	49,743
1890	43,325	1893	70,592
1891	52,365	1894	95,048

A. R. MILNE, *Collector.*

VICTORIA, BRITISH COLUMBIA, *December 6, 1894.*

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894.*

[Copied from official logs.]

ROSIE OLSEN.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 13	57 07	174 42	.....	1	1
16	57 05	174 18	.....	1	1
17	56 47	174 34	3	1	4
18	56 40	174 38	8	12	20
22	56 56	174 42	7	8	15
27	57 47	173 00	2	1	3
28	58 00	173 00	49	68	117
29	57 58	173 17	7	4	11
30	58 01	172 44	2	6	8
Sept. 1	58 01	172 50	20	29	49
2	58 08	173 10	20	49	69
5	57 47	173 20	8	13	21
6	58 09	173 48	18	12	30
7	58 13	173 36	36	40	76
8	58 13	173 39	20	10	30
9	58 11	173 11	24	29	53
10	58 15	173 09	17	12	29
12	57 50	173 09	11	8	19
14	57 56	173 16	58	35	93
16	58 05	173 08	34	28	62
18	57 56	173 22	4	1	5
19	57 47	173 25	76	59	135
20	57 47	173 21	1	4	5
Total	.....	.....	425	431	856

UMBRINA.

Aug. 7	57 40	176 45	1	.....	1
9	58 20	172 55	.....	2	2
10	57 53	172 32	2	6	8
18	58 07	172 50	7	15	22
22	53 12	172 00	20	7	27
Total	.....	.....	30	30	60

ARIETIS.

Aug. 4	56 26	172 14	7	13	20
5	56 22	172 14	.....	2	2
6	56 02	171 56	2	5	7
7	56 26	172 14	10	16	26
8	56 02	171 56	5	1	6
10	55 38	172 50	.....	3	3
11	55 08	171 07	2	1	3
12	54 08	170 00	4	1	5
13	54 50	168 33	1	.....	1
15	54 41	166 59	8	10	18
Total	.....	.....	39	52	91

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

WALTER A. EARLE.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 1	56 00	172 35	1	9	10
3	56 17	172 00	.....	3	3
4	56 13	172 00	15	30	45
6	56 00	172 41	10	25	35
7	55 58	172 26	20	12	32
10	57 10	173 26	16	20	36
18	56 00	172 29	15	32	47
22	56 12	172 15	9	12	21
28	56 27	173 33	26	80	106
29	56 24	173 38	.....	26	26
30	56 52	173 38	2	20	22
Sept. 1	56 23	173 48	5	30	35
2	56 43	174 16	8	60	68
5	56 43	173 52	6	16	22
6	56 43	173 52	7	18	25
7	56 19	172 58	.....	20	20
8	56 14	173 00	2	50	52
9	56 21	172 55	.....	14	14
10	55 58	172 54	13	40	53
Total	.....	.....	155	517	672

FAWN.

Aug. 3	56 05	172 02	2	.....	2
4	56 35	172 05	10	4	14
5	57 18	172 40	2	3	5
6	57 35	173 30	3	12	15
7	58 10	173 30	15	16	31
9	58 05	173 23	4	9	13
10	57 50	173 03	14	24	38
11	57 42	172 50	12	3	15
16	55 59	172 17	.....	3	3
18	55 47	172 11	4	27	31
22	55 54	172 12	10	18	28
23	56 21	172 41	4	.....	4
27	55 37	171 17	5	24	29
28	55 36	171 28	12	23	35
29	55 36	171 38	41	18	59
30	55 32	171 42	28	6	34
31	55 38	171 11	14	9	23
Sept. 1	55 00	170 16	18	23	41
2	54 30	170 00	.....	3	3
5	54 52	168 47	31	13	44
6	54 56	168 13	4	.....	4
7	55 19	167 55	24	35	59
9	55 25	168 26	22	27	49
10	55 21	168 36	8	6	14
12	55 13	169 09	.....	6	6
13	55 08	169 21	7	16	23
14	55 00	169 08	7	3	10
15	55 10	169 06	9	5	14
Total	.....	.....	310	336	646

MARY ELLEN.

Aug. 5	57 10	173 20	1	4	5
7	57 16	173 26	1	5	6
8	57 30	173 55	1	4	5
10	56 26	172 59	8	15	23
11	56 26	172 59	4	14	18
22	56 42	173 04	2	8	10
23	56 42	173 04	9	13	22
25	57 04	173 10	.....	2	2
27	57 10	173 12	3	12	15
28	57 10	173 12	11	33	44
29	57 10	173 12	1	7	8
30	57 10	173 12	2	11	13
Sept. 1	57 22	173 16	6	22	28
2	57 22	173 16	8	37	45

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

MARY ELLEN—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Sept. 5	57 22	173 16	4	18	22
6	57 22	173 16	11	41	52
7	57 46	173 22	10	37	47
8	57 46	173 22	9	44	53
9	57 52	173 27	12	17	29
10	57 52	173 27	2	8	10
Total	.....	.....	105	352	457

VERA.

Aug. 7	56 26	173 17	.....	4	4
8	56 25	173 17	.....	1	1
9	55 57	172 30	1	.....	1
10	55 57	172 30	3	4	7
11	55 50	172 58	6	5	11
13	55 04	172 35	9	1	10
17	54 30	168 30	.....	1	1
18	54 30	167 56	33	80	113
19	54 24	167 46	.....	2	2
22	54 17	167 37	3	1	4
23	54 23	168 03	13	10	23
24	54 30	168 07	12	6	18
Total	.....	.....	80	115	195

TRIUMPH.

Aug. 1	55 33	172 32	28	87	115
2	55 47	171 50	35	78	113
4	56 03	172 50	90	90	180
5	56 53	172 50	4	6	10
6	56 58	173 25	30	15	45
7	56 58	173 30	50	62	112
8	57 06	173 30	5	13	18
9	57 15	173 40	.....	5	5
10	56 29	173 05	30	70	100
11	56 25	173 06	20	36	56
15	55 46	171 59	4	11	15
19	55 30	171 30	15	25	37
22	54 38	168 50	80	63	143
23	54 32	168 25	50	58	108
24	54 30	168 29	38	51	89
25	54 38	168 20	10	12	22
26	54 30	168 12	20	30	50
27	54 40	168 00	70	93	163
28	54 53	167 50	80	98	178
29	54 46	168 40	50	117	167
30	54 54	168 58	42	83	125
31	55 00	168 18	26	35	61
Sept. 1	54 57	168 12	80	244	324
2	55 01	168 20	40	83	123
4	55 04	168 30	7	19	26
5	55 09	168 20	53	90	143
6	55 20	168 55	97	207	304
7	55 18	169 09	17	38	55
8	55 05	169 09	40	87	127
9	55 20	169 08	53	157	210
10	55 20	169 08	2	14	16
Total	.....	.....	1,163	2,077	3,240

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

SAPPHIRE.

Date.	Latitude. N.	Longitude. W.	Male.	Female.	Total.
Aug. 1	54 58	170 59	53	42	95
2	54 55	171 20	31	38	69
3	55 01	171 16	9	8	17
4	55 50	172 01	41	42	83
5	56 00	171 51	33	13	46
6	57 03	173 59	12	7	19
7	57 03	173 04	18	19	37
8	57 40	173 30	2	4	6
10	56 26	172 42	25	56	81
11	56 16	172 30	25	21	46
13	55 32	171 49	5	13	18
15	55 17	168 48	30	45	75
18	54 50	169 20	21	50	71
19	55 00	168 39	8	20	28
22	54 49	167 43	10	2	12
23	54 46	167 42	66	59	125
24	54 57	167 45	50	33	83
25	55 00	168 06	6	.....	6
26	54 57	168 47	10	6	16
27	54 58	168 45	70	83	153
28	54 39	169 02	41	20	61
29	54 50	169 04	60	26	86
30	54 53	168 09	112	45	157
31	55 09	168 13	8	3	11
Sept. 1	55 13	168 05	110	64	174
2	55 11	168 37	42	25	67
4	55 00	168 48	8	4	12
5	54 57	168 18	98	30	128
6	55 13	168 21	12	4	16
7	55 05	168 03	28	9	37
8	54 50	168 02	3	.....	3
9	54 55	168 01	62	49	111
10	55 09	168 09	1	.....	1
11	54 40	168 40	2	.....	2
13	55 03	168 58	31	11	42
15	54 52	168 23	20	4	24
16	55 09	167 04	4	1	5
17	55 23	167 02	24	16	40
18	55 05	166 11	14	.....	14
19	54 10	164 38	21	7	28
Total	.....	.....	1,226	879	2,105

AURORA.

Aug. 6	56 23	173 40	4	9	13
7	56 30	174 00	10	12	22
8	56 25	173 35	1	22	23
9	56 45	173 35	6	1	7
10	56 12	172 43	20	17	37
11	56 17	173 10	3	10	13
13	56 40	173 22	.....	9	9
15	53 55	170 56	12	22	34
16	54 04	168 00	16	22	38
18	55 28	166 00	3	5	8
19	55 18	166 01	4	8	12
23	53 18	259 00	.....	1	1
Total	.....	.....	79	138	217

BEATRICE (OF SHANGHAI).

Aug. 1	54 49	166 35	3	10	13
3	55 14	170 34	1	6	7
4	54 59	170 16	55	136	191
5	54 53	170 23	10	79	89
7	54 50	170 49	14	72	86
8	54 45	170 44	19	23	42
9	54 25	170 53	11	6	17
10	54 19	171 27	18	6	24
11	54 32	171 49	15	14	29
12	54 54	171 30	2	8	10

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

BEATRICE (OF SHANGHAI)—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 15	54 46	170 18	4	6	10
17	55 03	171 06	.....	6	6
18	54 52	171 00	6	48	54
19	54 58	170 53	3	4	7
23	55 12	169 27	1	14	15
25	54 57	171 01	7	13	20
27	54 34	171 34	7	43	50
28	54 32	171 36	2	21	23
29	55 22	171 32	5	16	21
30	55 08	170 40	10	40	50
31	55 01	170 31	3	5	8
Sept. 1	54 41	170 24	30	82	112
2	54 49	170 02	3	3	6
5	54 24	168 41	5	4	9
6	54 57	170 14	6	13	19
8	54 56	167 35	5	11	16
9	54 55	167 28	20	75	95
10	55 08	167 37	3	.....	3
13	54 36	167 14	15	13	28
14	54 37	166 55	12	3	15
15	54 39	167 03	19	20	39
16	54 53	166 44	3	.....	3
17	55 09	167 00	20	16	36
18	54 51	166 42	4	2	6
19	54 22	166 36	1	.....	1
Total	.....	.....	342	818	1,160

MASCOT.

Aug. 1	55 06	168 20	18	5	23
2	54 40	167 20	2	4	6
3	54 20	167 10	1	2	3
9	55 34	171 33	2	3	5
10	55 40	171 15	33	22	55
11	56 10	172 00	11	7	18
22	56 05	171 15	12	10	22
28	57 56	173 29	31	26	57
29	57 56	173 29	4	7	11
30	57 50	173 11	5	4	9
Sept. 1	57 47	173 15	16	25	41
2	57 49	173 13	15	35	50
5	58 03	173 46	18	12	30
6	58 02	174 00	11	11	22
7	58 04	173 50	39	19	58
8	58 14	173 45	21	19	40
9	58 02	173 35	16	4	20
12	58 00	173 35	23	20	43
	.....	.....	*21	11	32
Total	.....	.....	299	246	545

FAVOURITE.

Aug. 1	54 40	166 20	98	64	162
2	55 05	168 05	.....	2	2
3	55 13	168 20	49	30	79
4	55 03	168 40	150	67	217
5	55 40	173 00	70	52	122
7	55 40	173 30	60	14	74
8	55 46	173 15	10	13	23
10	56 26	173 20	50	48	98
11	56 26	169 46	25	25	50
15	54 41	169 18	25	22	47
18	54 21	169 10	60	28	88
19	54 25	168 00	39	30	69
22	54 39	168 10	40	24	64
23	54 39	168 10	67	60	127
24	54 38	169 29	9	9	18
Total	.....	.....	752	488	1,240

* Canoe lost and picked up by schooner *Wanderer*, with 32 skins.

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

ANNIE C. MOORE.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 1	57 50	173 00	24	24	48
2	57 50	172 48	11	13	24
3	57 50	173 00	12	14	26
4	58 00	172 45	40	20	60
5	58 00	173 00	3	5	8
9	57 55	173 00	25	15	40
10	58 00	173 00	95	95	190
11	58 00	173 00	50	66	116
13	58 10	173 10	10	29	39
15	57 50	173 00	10	8	18
16	57 55	173 05	5	4	9
18	55 40	172 00	10	38	48
22	56 45	172 30	50	56	106
23	57 00	173 40	15	20	35
26	57 50	173 04	9	8	17
28	57 56	173 10	112	110	222
29	58 00	172 10	28	31	59
30	58 03	173 00	30	29	59
Sept. 1	57 55	173 15	50	52	102
2	58 05	173 07	70	80	150
5	58 00	173 30	60	70	130
6	58 00	173 30	28	23	51
7	58 03	173 22	100	90	190
8	58 10	173 10	40	48	88
9	58 15	173 20	21	20	41
10	58 20	173 10	30	41	71
Total	.....	.....	938	1,009	1,947

LABRADOR.

Aug. 3	55 05	167 00	3	10	13
4	55 00	167 10	12	70	82
5	54 32	166 20	27	10	37
6	54 40	167 00	10	16	26
8	55 13	166 45	4	14	18
9	55 04	167 25	1	7	8
10	54 50	167 05	20	32	52
12	54 55	167 20	48	100	148
16	54 45	167 24	1	2	3
18	54 40	167 30	33	100	133
19	54 25	167 10	20	20	40
Total	.....	.....	179	381	560

SAUCY LASS.

Aug. 6	54 28	166 44	7	9	16
22	55 28	172 13	25	39	64
27	55 08	169 01	6	10	16
28	54 30	168 16	29	25	54
30	55 44	167 42	40	69	109
Sept. 1	55 09	167 33	90	109	199
2	54 56	167 40	7	9	16
5	55 24	166 52	6	10	16
8	54 56	167 49	8	6	14
9	55 07	167 30	20	26	46
10	55 23	167 54	5	7	12
13	54 52	167 40	8	10	18
15	55 05	167 30	25	27	52
16	54 51	167 14	8	12	20
18	54 05	166 40	6	10	16
Total	.....	.....	290	378	668

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

BOREALIS.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 1	57 36	166 43	.....	3	3
3	56 04	167 22	.....	6	6
4	56 12	167 21	4	28	32
5	56 05	167 22	4	33	37
7	55 33	170 25	2	184	186
8	55 27	170 21	3	25	28
9	55 26	170 14	5	33	38
10	55 27	170 55	6	198	204
11	55 36	171 00	3	38	41
12	55 20	171 00	1	4	5
14	55 26	171 09	.....	1	1
15	55 32	170 36	1	19	20
18	55 27	169 54	4	41	45
19	55 30	170 36	1	1	2
22	55 31	170 04	.....	1	1
23	55 44	171 15	1	2	3
25	56 34	172 20	.....	2	2
27	56 37	172 11	.....	6	6
28	56 50	172 49	6	89	95
29	56 49	172 49	1	26	27
30	56 33	172 33	.....	8	8
Sept. 1	55 30	170 05	4	77	81
4	55 35	168 30	.....	1	1
5	54 59	168 42	9	48	57
6	55 06	168 33	12	74	86
7	55 02	168 10	7	49	56
12	55 20	169 41	16	62	78
Total	.....	.....	90	1,059	1,149

KATHARINE.

Aug. 1	56 05	173 09	2	2	4
2	56 23	172 57	20	13	33
4	56 30	173 17	40	21	61
6	56 35	174 09	3	20	23
7	56 30	173 30	28	31	59
8	56 25	173 10	3	4	7
9	56 27	173 00	5	9	14
10	56 20	172 01	16	100	116
11	56 20	172 10	50	11	61
13	56 25	172 50	1	3	4
16	56 18	173 11	2	8	10
17	56 14	173 15	8	4	12
18	56 16	172 45	9	24	33
19	56 18	172 22	5	12	17
25	56 05	172 16	8	54	62
26	56 30	174 00	1	3	4
27	54 20	168 30	30	4	34
28	54 10	168 25	38	51	89
29	54 16	168 35	6	42	48
30	54 22	167 40	57	37	94
31	54 15	167 45	20	25	45
Sept. 1	54 20	167 30	105	52	157
2	54 40	167 25	13	24	37
3	54 25	167 20	.....	2	2
5	54 35	167 06	20	13	33
Total	.....	.....	490	569	1,059

AINOKA.

Aug. 1	54 56	171 12	8	1	9
2	55 05	171 49	20	6	26
4	55 07	172 44	60	41	101
6	56 42	173 34	13	9	22
7	56 55	173 30	14	13	27
8	56 48	173 34	12	4	16
9	56 50	173 28	5	3	8
10	56 35	173 13	15	12	27

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

AINOKA—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 11	56 37	172 40	18	.....	18
17	54 29	168 59	5	.....	5
18	54 30	168 45	42	24	66
19	54 23	169 12	35	6	41
23	55 05	167 31	70	45	115
24	54 47	169 02	25	24	49
25	55 03	168 08	10	6	16
26	54 42	167 42	7	5	12
27	54 35	167 33	62	58	120
28	54 45	168 39	75	43	118
29	54 34	168 19	62	18	80
30	54 57	168 06	61	18	79
31	54 12	168 13	5	12	17
Sept. 1	54 23	168 27	107	65	172
2	54 28	168 43	8	20	28
4	54 31	168 30	1	3	4
5	54 23	168 43	69	26	95
6	55 00	168 35	32	20	52
7	55 05	168 37	14	25	39
8	55 16	168 42	76	10	86
9	55 07	168 06	30	7	37
13	54 53	168 27	10	1	11
14	55 04	168 08	45	10	55
15	55 07	168 01	68	30	98
17	54 27	166 23	8	.....	8
Total	.....	.....	1,092	565	1,657

KATE.

Aug. 3	55 56	167 31	1	5	6
4	56 21	167 28	1	20	21
5	57 37	166 43	1	14	15
7	58 40	167 48	.....	1	1
10	58 03	172 00	4	11	15
11	58 01	172 30	4	7	11
15	55 29	171 14	.....	8	8
18	55 05	170 20	5	38	43
22	54 41	168 50	29	54	83
23	54 37	169 00	36	67	103
25	54 51	167 56	3	3	6
26	54 47	168 42	.....	9	9
27	54 49	169 06	31	62	93
28	54 36	169 24	15	45	60
29	54 31	168 43	1	3	4
30	54 39	168 41	10	44	54
31	54 45	167 59	3	3	6
Sept. 1	54 58	168 03	52	40	92
2	54 29	168 25	8	11	19
4	54 18	167 40	1	1	2
5	54 42	167 37	12	12	24
6	54 45	168 23	.....	2	2
7	55 05	168 56	9	10	19
8	54 32	169 00	15	13	28
9	54 45	168 32	12	19	31
12	54 50	167 37	1	.....	1
13	54 47	167 39	12	15	27
14	54 47	167 39	8	10	18
15	54 41	167 33	25	34	59
16	54 35	165 24	4	3	7
Total	.....	.....	303	564	867

VENTURE.

Aug. 1	54 36	165 37	9	11	20
2	55 02	166 18	.....	1	1
3	55 00	167 11	5	7	12
4	55 24	167 17	21	31	52
5	55 14	167 36	4	6	10
6	55 28	167 14	.....	1	1
7	55 26	168 15	.....	2	2

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

VENTURE—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 8	55 12	168 50	1	2	3
11	55 05	169 55	5	6	11
12	54 49	169 55	44	34	78
15	54 38	170 08	6	9	15
18	54 48	169 43	16	13	29
19	54 53	169 46	5	7	12
22	54 23	168 27	47	63	110
23	54 23	168 20	5	13	18
24	54 24	168 05	16	24	40
27	54 33	168 13	19	41	60
28	54 38	168 14	27	42	69
29	54 36	168 18	14	21	35
30	54 31	168 19	13	19	32
31	54 50	168 11	21	17	38
Sept. 1	54 46	168 08	74	87	161
2	54 59	168 01	5	3	8
5	54 43	168 04	12	7	19
7	54 37	167 58	3	1	4
9	54 35	168 12	74	87	167
13	54 49	168 36	5	2	7
14	54 38	168 20	2	1	3
15	54 39	167 51	24	16	40
18	54 26	161 07	1	.....	1
Total	.....	.....	417	492	909

WALTER L. RICH.

Aug. 1	55 05	168 48	1	23	24
3	55 17	166 51	3	7	10
4	55 17	166 51	53	50	103
5	55 10	167 10	10	4	14
6	55 00	166 36	20	5	25
10	55 15	167 44	37	19	56
12	55 11	167 59	96	80	176
15	55 05	167 10	73	6	79
16	55 12	167 20	12	2	14
18	54 56	167 45	143	36	179
19	55 00	167 30	60	4	64
23	54 56	168 20	87	16	103
24	54 40	168 44	12	22	34
25	54 48	168 10	3	25	28
26	54 53	168 00	12	31	43
27	55 05	168 10	3	32	35
28	54 35	169 10	30	75	105
29	54 35	168 15	40	45	85
30	54 42	167 45	32	14	46
31	54 36	168 34	60	34	94
Sept. 1	54 40	167 50	133	145	278
2	54 40	168 22	21	9	30
5	54 40	168 22	53	60	113
6	54 40	166 25	6	5	11
Total	.....	.....	1,000	749	1,749

MINNIE.

Aug. 1	54 48	165 51	20	45	65
3	54 37	165 31	2	1	3
4	55 12	165 07	16	28	44
5	55 28	166 29	.....	1	1
6	55 08	166 44	18	23	41
7	54 50	166 30	21	35	76
8	54 55	166 31	7	6	13
10	54 43	166 14	.....	1	1
11	54 44	165 29	31	41	72
12	54 51	165 30	24	63	87
15	54 23	168 30	12	27	39
16	54 52	168 24	.....	1	1
17	54 47	168 13	.....	1	1
18	54 54	168 00	47	114	161

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

MINNIE—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 19	54 53	168 07	12	44	56
22	54 31	167 39	4	14	18
23	54 48	167 34	15	58	73
24	55 09	168 00	18	50	68
25	54 59	168 23	.....	1	1
26	54 39	168 07	14	3	17
27	55 05	167 42	33	20	53
28	55 04	167 39	81	60	141
29	54 55	167 35	103	90	193
30	54 54	167 49	58	30	88
31	55 06	167 55	10	12	22
Sept. 1	55 09	167 36	76	116	192
2	55 16	167 51	12	9	21
7	55 20	168 00	10	15	25
8	55 14	167 41	8	10	18
9	55 02	167 30	6	11	17
10	55 52	167 25	1	2	3
12	55 08	167 22	1	.....	1
13	55 07	167 19	14	20	34
15	55 02	168 08	5	9	14
	.....	.....	.....	*5	5
Total	.....	.....	679	986	1,665

SAN JOSE.

Aug. 3	54 54	166 28	2	2	4
4	54 54	166 28	10	74	84
5	55 01	167 23	12	20	32
8	55 12	168 15	4	5	9
10	55 04	169 04	2	1	3
11	55 02	170 37	2	1	3
12	55 13	170 55	3	2	5
18	55 11	168 10	8	3	11
19	54 25	166 34	30	13	43
23	54 56	166 44	15	8	23
24	54 54	167 33	13	4	17
25	55 29	168 00	.....	1	1
26	55 10	166 54	.....	2	2
27	54 57	167 13	.....	26	26
28	54 55	167 30	3	40	43
29	55 01	167 11	6	20	26
30	55 04	167 50	14	40	54
31	54 57	168 06	4	9	13
Sept. 1	55 11	168 10	7	50	57
2	55 13	168 36	9	20	29
4	55 17	168 10	4	9	13
5	55 15	168 55	20	50	70
6	55 15	169 20	43	80	123
7	55 14	169 24	1	2	3
8	55 00	169 00	10	20	30
9	55 05	168 10	14	40	54
10	55 16	168 25	3	7	10
11	54 48	169 03	1	2	3
13	54 35	166 35	4	18	22
15	54 28	166 00	4	9	13
Total	.....	.....	256	593	849

KILMENY.

Aug. 6	55 30	165 00	8	11	19
8	55 00	166 00	7	2	9
9	55 10	165 00	1	.....	1
10	55 00	167 00	6	7	13
11	49 55	166 30	2	.....	2
13	55 30	167 00	50	43	93
18	55 12	167 00	2	3	5
20	55 10	167 40	50	59	109
22	55 00	167 00	10	11	21

* Boat of *Minnie* with 5 skins picked up by schooner *Favourite*.

APPENDIX II.—*Extracts from the logs of the British Columbia sealing fleet—Catch in Bering Sea, 1894*—Continued.

KILMENY—Continued.

Date.	Latitude.	Longitude.	Male.	Female.	Total.
	N.	W.			
Aug. 23	55 00	165 00	4	4	8
24	55 10	166 00	20	15	35
25	54 40	166 25	4	8	12
28	54 20	168 20	4	2	6
29	54 40	167 00	53	43	96
30	54 50	167 20	4	40	44
31	54 30	167 40	4	10	14
Sept. 1	54 30	167 30	40	34	74
2	54 35	167 28	29	9	38
7	54 40	167 15	1	4	5
8	54 10	167 15	3	6	9
9	54 35	167 20	3	10	13
10	54 40	167 05	.....	2	2
13	54 00	166 03	1	2	3
15	54 15	165 10	1	2	3
Total	.....	.....	307	327	634

HENRIETTA.

		Longitude W.			
Aug. 18	54 50	166 20	8	15	23
19	55 00	166 30	15	24	39
24	55 46	166 30	18	21	39
28	54 40	168 46	12	11	23
29	54 16	169 19	100	20	120
30	54 05	169 27	21	5	26
31	54 47	169 16	12	15	27
Sept. 1	54 57	168 53	120	65	185
2	54 56	169 10	40	21	61
5	55 02	168 52	20	31	51
6	55 15	168 40	10	32	42
7	55 00	169 3[illegible]	3	4	7
8	55 05	169 3[illegible]	3	9	12
9	55 10	168 56	20	33	53
15	54 40	167 00	25	34	59
Total	.....	.....	427	340	767

SHELBY.

		Longitude W.			
Aug. 7	54 40	167 32	4	4	8
8	54 50	168 14	3	2	5
10	55 14	170 32	27	28	55
11	55 20	170 44	3	1	4
13	55 41	171 50	2	3	5
15	55 38	171 07	1	2	3
18	55 52	172 35	2	5	7
22	55 05	171 54	7	2	9
26	56 32	171 55	.....	1	1
27	56 10	171 58	10	3	13
28	56 20	172 02	24	11	35
29	56 19	172 03	4	3	7
31	55 28	170 59	4	.....	4
Sept. 1	55 19	170 38	10	4	14
2	55 14	170 31	16	6	22
5	55 32	169 46	2	1	3
6	55 32	170 37	17	14	31
7	55 23	170 34	4	3	7
8	55 06	170 30	30	26	56
9	55 13	170 18	28	15	43
17	55 32	169 44	16	3	19
19	55 28	170 11	13	3	16
20	55 21	170 07	5	5	10
Total	.....	.....	232	145	377

APPENDIX III.—*Sales of salted fur-seal skins in London, November 29 and 30, 1894.*

	Number of skins.	Remarks.
C. M. Lampson & Co.:		
Alaska	16,030	Sold 20 per cent lower than in November last.
Copper Island	27,298	Do.
Northwest coast, etc	52,548	Sold 20 per cent lower than in January last.
Hudson Bay Co.:		
Northwest coast	30,221	Do.
Culverwell, Brooks & Co.:		
Northwest coast	40,787	Do.
Goad, Rigg & Co.:		
Lobos	11,430	Do.

STATEMENT OF PRICES.

[C. M. Lampson & Co.]

	Alaska.		Copper Island.		Northwest coast, etc.		
	November, 1894.	November, 1893.	November, 1894.	November, 1893.	November, 1894 (sound).	November, 1894 (part pinky).	January, 1894.
	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
Wigs	.....	.....	65 00	72 00			
Large middlings	79 00	.....	60 06	72 03	55 00	.....	.....
Middlings	72 10	90 01	56 00	74 03	.....	42 03	50 07
Middlings and smalls	79 00	100 03	64 06	79 09	43 08		
Smalls	90 09	114 06	66 10	83 06	42 04	40 05	54 03
Large pups	89 00	109 01	61 11	76 03	45 00	40 10	56 00
Middling pups	89 09	108 05	56 00	68 09	43 10	38 08	54 02
Small pups	92 00	101 00	48 06	61 03	36 06	32 09	47 06
Extra small pups	.....		42 00	52 00	27 06	23 00	32 00
Extra extra small pups	.....	.....	.....	.....	17 04	16 00	24 07
					Low, cut, etc.		Low, cut etc.
Wigs:							
Large, low, etc	.....	.....					
Small, low, etc	.....	80 00	47 00	55 00	53 00	.....	48 09
Middlings, low, etc	65 00						
Middlings and smalls, low, etc.	70 00		42 00	55 06	38 01	.....	.....
Smalls, low, etc	61 00	72 00	42 04	52 00	35 03	.....	44 06
Large pups, low, etc	69 00	77 00	42 01	50 02	33 00	.....	44 04
Middling pups, low, etc			37 09	45 09	32 00	.....	41 04
Small pups, low, etc	52 00	63 00	35 00	45 00	26 03	.....	37 00
Extra small pups, low, etc			24 00	37 00	17 00	.....	19 05
Extra extra small pups, low, etc							
Middlings, cut, etc	75 00	103 00	56 00	76 00	14 04	.....	16 06
Middlings and smalls, cut, etc.	73 04		60 00				
Smalls	88 00	110 00	60 00	78 00	.....	.....	.....
Large pups, cut, etc	88 00	.....	56 00	72 00	.....	.....	.....
Middling pups, cut, etc	85 00	117 00	48 00	.....			
Small pups, cut, etc		.....	39 00	62 00	.....	.....	.....
Extra small pups, cut, etc	.....	.....		.....			
Gray pups, cut, etc	.....	.....	.....	.....	11 00	.....	.....

Mr. Uhl to Sir Julian Pauncefote.

No. 71.] DEPARTMENT OF STATE,
Washington, April 5, 1895.

EXCELLENCY: I have the honor to apprise you of the receipt of a letter from the Acting Secretary of the Treasury, of the 2d instant, in which he states that the Treasury Department has received information to the effect that two vessels have engaged in sealing during the past season which do not seem to be entered either on the American or British-Canadian list of vessels. The vessels are the *C. E. Fox*, which is reported to have secured 250 skins, and the *Sea Lion*, 2,200 skins.

In view of this information the Department will be glad to have you ascertain from the Canadian Government whether or not these vessels entered at British Columbia, and, if so, further particulars as to their catch, numbers of crew, etc.

I may observe that neither of these vessels is mentioned in the list transmitted with your note of March 14 last.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, April 17, 1895.

SIR: I duly transmitted to the Earl of Kimberley copy of Mr. Uhl's note of February 15 containing returns of the sealing operations of 10 American vessels in the North Pacific.

With reference to the longitude of the locality of the daily catch, which is specified in the above-mentioned returns, Lord Kimberley presumes that these 10 vessels were engaged on the American side of the line of demarcation, and that the longitude is to be taken as east of the one hundred and eightieth meridian; but as sealing is conducted in the same latitude and longitude east and west of that line, it is, in his lordship's opinion, desirable, to prevent confusion, that the returns should specify whether the longitude is east or west.

I have, in consequence, the honor to request that you will be so good as to enable me to furnish Lord Kimberley with the information desired.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Gresham to Sir Julian Pauncefote.

No. 90.] DEPARTMENT OF STATE,
Washington, April 29, 1895.

EXCELLENCY: In compliance with a request contained in a letter received from the Treasury Department under date of the 26th instant, I have the honor to inclose herewith for the information of Her Britannic Majesty's Government a list of the vessels of the United States Revenue-Cutter Service composing the Bering Sea fleet[1] the present season, and the names of all officers attached thereto. In case other vessels are added to the fleet you will be promptly advised of the fact.

In this connection I have to request that I may be furnished, for the information of this Government, with a list of the vessels composing the British fleet, together with the names of the officers attached thereto; also, with a list of all British vessels which have cleared for seal fishing since November, 1894, which latter information is desired at as early a date as is practicable.

I have, etc.,

W. Q. GRESHAM.

[1] *Rush, Corwin, Bear,* and *Perry.*

Mr. Uhl to Sir Julian Pauncefote.

No. 91.] DEPARTMENT OF STATE,
Washington, April 30, 1895.

EXCELLENCY: Referring to your note of the 17th instant, asking to be informed whether the catch of seals by the ten American vessels in the North Pacific during the year 1894, which formed the subject of the statement prepared by the United States Treasury Department in February last, was made in east or west longitude, I have the honor to state that the Department is advised by the Acting Secretary of the Treasury that the pelagic sealing of said vessels was carried on in west longitude, that is to say, to the eastward of the meridian of 180° from Greenwich; and that there is no record as to the operations of the schooner *H. C. Wahlburg*, but it is assumed that they were conducted as were those of the remainder of the fleet.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Sir Julian Pauncefote.

No. 95.] DEPARTMENT OF STATE,
Washington, May 7, 1895.

EXCELLENCY: Referring to the Department's note of the 30th ultimo to you, inclosing, for the information of Her Britannic Majesty's Government, a list of the vessels of the United States Revenue-Cutter Service comprising the Bering Sea fleet for the present season, and the names of all officers attached thereto, I have the honor to inform you that the Department has received a letter from the Secretary of the Treasury, dated the 6th instant, stating that the revenue-cutter steamers *Grant* and *Wolcott* and the United States Fish Commission steamer *Albatross* have been further designated by the President for patrolling that portion of the North Pacific Ocean and Bering Sea embraced within article 2 of the Paris award; that the fleet as constituted comprises the revenue steamers *Rush*, *Corwin*, *Bear*, *Perry*, *Grant*, and *Wolcott*, and the United States Fish Commission steamer *Albatross*, and that the commanding officer is Capt. C. L. Hooper, of the *Rush*.

In view of the fact that within a few days at the most the last of the fleet will have cleared for duty, the Secretary of the Treasury would be pleased to be informed, with the least possible delay, as to the names of the vessels designated by Her Majesty's Government for similar duty.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Sir Julian Pauncefote.

No. 99.] DEPARTMENT OF STATE,
Washington, May 10, 1895.

EXCELLENCY: On the 23d of January last the Secretary of State had the honor to address you an important communication[1] respecting the President's deep solicitude with regard to the future of the Alaskan seal herd and suggesting to Her Majesty's Government that a commis-

[1] Printed in Foreign Relations, 1894, Appendix 1, p. 228.

sion be appointed on behalf of Great Britain, Russia, Japan, and the United States to investigate and report touching the effects of pelagic sealing and the proper measures needful to regulate such sealing so as to protect the herd from destruction and permit it to increase in such numbers as to permanently furnish an annual supply of skins; and, furthermore, proposing that during the deliberations of such a commission a modus vivendi be agreed upon extending the area embraced in the regulations of the Paris Tribunal along the line of the thirty-fifth degree of north latitude to the Asiatic shore, and absolutely prohibiting sealing in Bering Sea pending the report of such commission.

At the date of that proposition but little time remained available for reaching an agreement between the two Governments, parties to the Paris award, which could be made effectual during the present sealing season, and for obtaining the concurrence of the other Governments interested, Russia and Japan; and early action upon the subject was naturally expected. This Department is, however, yet without information as to whether Her Majesty's Government is prepared to take effective steps as suggested to check the appalling diminution of the Alaskan seal herd within the area of the award and avert the imminent destruction of the important industries to which the seal fisheries give rise.

At this late day the proposition for a quadruple investigation and report can scarcely be executed during the present year, and while it remains a matter for urgent consideration in prevision of next year's needs, the delay brings into more immediate and urgent prominence the second branch of the proposal, and especially the imperative need of agreeing upon the absolute closure of Bering Sea to pelagic sealing until the four Governments may reach a convenient accord on the general features of the problem.

Extended consideration of the subject, since Mr. Gresham's note of January 23 was written, has not only confirmed the grave apprehensions then expressed, but has forced upon this Government the conviction that further suggestions designed to expand by mutual agreement the scope of the Paris award, in order to make it more effective for the purpose of preserving the fur-seal herd, are warranted by the information now in possession of this Government.

The sealing season of 1894 was the first during which the provisions of the Paris award were applicable, and the pelagic catch of seals, both without and within the area defined in the award, proved to have been the largest ever known.

The statistics of the seal catch, as estimated in another note addressed to you by the Secretary of State on the same day, January 23, are confirmed by later knowledge. Reliable information discloses that 138,323 skins taken by pelagic sealers in the North Pacific and in Bering Sea, from the American, Russian, and Japanese herds during the season of 1894, were sold in London. Careful estimates show that about 3,000 were retained in the United States for dressing and dyeing, making a total of 141,323. To this should be added about 800 which were known to have been on a vessel believed to have been lost, making the total catch about 142,000, of which 56,686 were taken within the area covered by the Paris award.

The following table gives the number of skins taken by pelagic sealers within said area during the years 1890–1894, inclusive:

1890	40,809	1893	28,613
1891	45,941	1894	55,686
1892	46,642		

It may be estimated within moderate bounds that these figures represent only about one-third of all the seals killed, the bodies of the greater part not being recovered.

An examination of these figures must satisfy the most skeptical mind that the fur-seal herd will be speedily exterminated unless the scope and the details of the award shall be supplemented by enlarged regulation.

So far as the articles of the award relating to the North Pacific Ocean, exclusive of Bering Sea, are concerned, whereby all seal fishing from May to August is forbidden, much good has been accomplished, and favorable results were apparent on the breeding islands early in the season. The fatal defect in the scope of the award, however, was in opening Bering Sea during August and September to pelagic sealing and prohibiting only the use of firearms. It has been claimed—and there is evidence in support of the claim—that the spear is as destructive in Bering Sea as the shotgun, and some experts believe that even greater destruction is accomplished by the use of the spear than by guns, for the reason that the noise of the latter frightens away many seals which may be easily killed while sleeping on the water by spearsmen. While the herd is traveling in the North Pacific Ocean, away from the islands, it is very difficult to kill seals with spears, as they are constantly swimming and rarely found asleep on the surface. In Bering sea, however, the females leave their pups on the islands and go out for a distance of 100 or 200 miles, far beyond the inhibited 60-mile zone, to feed. They are there found in large numbers asleep on the water and can easily be killed by the silent and skillful spearsman. The large number of pups found dead from starvation on the islands during the latter part of September and October, 1894 (12,000 by actual count on the accessible parts of the rookeries and 20,000 in all by careful estimates), shows the destructive effect of permitting any pelagic sealing whatever in Bering Sea.

With the closure of that sea to pelagic sealing, and with the enforcement of the closed season in the North Pacific Ocean as established by the award, it is believed that the seals would receive no more than a fair degree of protection, whereby seal fishing might continue to be profitable both on land and sea for a long time to come. Unless such a restriction in the scope of the award be made the fur seals will be exterminated for all commercial purposes within a very few years at the most, and the dependent industries be destroyed. These considerations, joined to the official figures of last season's catch, which are now definitely known, fully bear out the wisdom and necessity of the proposals made in Mr. Gresham's note of January 23, making it more than ever the President's imperative duty to recall to the attention of Her Majesty's Government the defects in the form and scope of the Paris award, and in the legislation thereunder for carrying out its provisions, especially that enacted by the British Government; and I am directed by the President to earnestly renew, through you, the endeavors already set on foot to secure by mutual arrangement appropriate legislation on both sides, in order that the object of the award—to wit, the preservation of the fur-seal fisheries for the mutual and lasting benefit of the citizens and subjects of the two countries—may be effectually accomplished.

The contention of Her Majesty's Government that regulations framed for the purpose of carrying out the award should be coextensive with and limited by the terms of the award would seem to be sound, but this circumstance makes it the more incumbent upon the two parties to con-

sider certain aspects in which the award fails to provide for contingencies which one brief year's experience has shown should be promptly met. No adequate remedy seems effective except through concurrent action, for Her Majesty's Government, by insisting on following the strict terms of the award, only emphasizes the glaring defects therein and demonstrates the need of an agreement to cure them. One of the most radical infirmities of this character, so conspicuous as to amount to a miscarriage of the undoubted purpose of the award itself, is found in Article VI, which prohibits the use of firearms and explosives in fur-seal fishing, the only exception being shotguns when used outside of Bering Sea. This prohibition is directed simply against the use of these weapons for one particular purpose—that of killing fur seal—leaving the possession and use lawful for all other purposes, such as killing whales, walrus, sea otter, hair seal, and other animals found within Bering Sea.

Experience has shown it to be almost a practical impossibility to detect a sealing vessel in the act of using firearms for this one prohibited purpose. Although the searching officer may be morally certain that firearms have been used, and may properly consider the mere presence of firearms on the vessel, if accompanied with bodies of seals, seal skins, or other suspicious evidence, sufficient justification (even apart from the provisions of section 10 of the act of Congress of April 6, 1894, which is applicable only to American vessels) for the seizure of such a vessel, it must be apparent that in proceedings for condemnation brought in a court thousands of miles away from the place of seizure it will be almost impossible to secure conviction and forfeiture on the ground of illegal use of weapons. Furthermore, under the procedure necessarily following the seizure of a British vessel the United States officer delivers the vessel, with such witnesses and proof as he can procure, to the senior British naval officer at Unalaska. At the trial no representative of our Government is present, and the British Government must conduct the prosecution and must trust to such proofs and witnesses as the American officer could collect and furnish at the time. Under such circumstances forfeiture of the vessel could not be secured except in the clearest cases of guilt.

The prohibition of the use of firearms in seal fishing in Bering Sea can be effectually accomplished only by prohibiting the possession of firearms in that sea adapted to the killing of seals.

The provision of section 10 of the act of Congress of April 6, 1894, by which a presumption of a legal use from the possession of implements forbidden then and there to be used is raised, aids materially the enforcement of the award in the case of American vessels, to which, as I have said, our act alone applies. It is greatly to be regretted that no equivalent provision is found in the British act of Parliament enacted April 18, 1894, for carrying out said award; and in this connection it is significant that in the prior act carrying out the modus vivendi of June 15, 1891, for the prohibition of all sealing in Bering Sea (54 and 55 Victoria, chap. 19), a provision similar to that in the act of Congress above cited was inserted as follows:

> If a British ship is found within Bering Sea having on board thereof fishing or shooting implements or seal skins, or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this act.

The principle thus enunciated is so evidently just and necessary that it is not easy to understand why the latter British act, legislating upon the same subject, should have contained no similar provision in terms conforming to the intendment of the award. The Secretary of the

Treasury is of the opinion that although an amendment bringing the present British act into harmony with the prior act and with the American statute in this regard would render the task of enforcing the award much easier, and give more effectual results, the most satisfactory amendment would consist in common legislation rendering a vessel subject to forfeiture if found in Bering Sea with firearms on board adapted to the killing of seal.

It should further be provided by concurrent legislation that sealing vessels having implements or seal skins on board desiring to traverse the area covered by the award during the closed season if licensed, and during any season if unlicensed, should have such implements duly sealed and their catch noted on the log book (a privilege now accorded at the option of the master under the regulations of 1895, Article IV), under the penalty of forfeiture for violation of this privilege.

This privilege, however, as above stated, should not be accorded to vessels having firearms in Bering Sea.

It is further to be noted that under the British act of Parliament the provisions of the merchant shipping act (1854), with respect to official logs (including the penal provisions) are made applicable to sealing vessels. Said penal provisions, however, do not appear in the schedule attached to the copy of the act in the possession of the Department.

I have therefore to request that you will ascertain and inform me whether such penalties include the forfeiture of the vessel and cargo. Section 8 of the act of Congress expressly provides that any violation of the award or regulations will render the vessel and cargo liable to forfeiture. It is feared that because of the specific reference in the British act to the penal provisions of the merchant shipping act of 1854 as to official logs the failure of a vessel to keep log entries might not bring her within the general liability to forfeiture contained in the British act unless said merchant shipping act, now made a part thereof, contains similar provisions. During the past season log-book entries were duly made by United States sealing vessels in Bering Sea and were transmitted to Congress.

The Department is also informed that similar entries were made by British vessels in Bering Sea, which entries have been duly transmitted by the British Government. Many vessels, however, had cleared for the coasts of Japan and Russia as early as January, long before the passage of either the act of Congress of April 6, 1894, or the act of Parliament of April 18, 1894. Inasmuch as the award was not self-operative and contained no penalties for its violation, the Treasury Department considered that the penalties provided in the subsequent legislation were not retroactive, and could not properly be applied to the failure to make the log entries required by the award before the passage of such legislation. Entry was, therefore, permitted for the catch of seals on receipt of the master's oath that he cleared in ignorance of the provisions as to log-book entries. During the coming season collectors have been instructed rigidly to enforce the law as to log-book entries; and the exact status of the British law, therefore, becomes of great importance, so that an early answer to the present inquiry is very desirable.

While upon this subject of so amending the concurrent legislation of the two countries as to secure uniformity, I may invite attention to the fact that under the British act it is nowhere made the duty of the British naval officers to seize ships when found in violation of the law. Section 11 of the United States act imposes that duty on United States officers duly designated by the President. You will recall that Mr. Gresham adverted to this point in his note to you of April 10, 1894;

and in your reply of April 11 you observed that, in your opinion, the word "may" would be construed as imperative and that, in any case, the instructions to the naval officers would probably remove all doubt on the point. It is now submitted, however, that this detail is too important to be left to mere administrative interpretation of a statute which in terms omits to prescribe this most essential duty; and in the judgment of the President this discrepancy in the concurrent legislation of the two countries should no longer continue.

Besides advancing these considerations in regard to the concurrent legislation for regulating sealing in the North Pacific and Bering Sea, the Secretary of the Treasury has asked me to ascertain, through you, whether during the past season the British Government has employed inspectors to verify the log-book entries of British vessels as to the number and sex of seal skins landed, in like manner as provided by the legislation of this country. All skins entered during the past season at United States ports, except Port Townsend, were duly examined by expert inspectors as to number and sex. By an error, however, the skins entered at Port Townsend, although duly examined and counted, were not classified as to sex.

The Secretary of the Treasury further suggests that the British Government be requested to consent to the stationing of United States inspectors at British Columbian ports for the purpose of verifying said log entries of British vessels and examining the skins as to sex, reciprocally according the British Government a like privilege in United States ports. I have, therefore, the honor to make such a request, and to invite as early a response thereto as may be practicable.

In thus communicating to you, by direction of the President, the proposals and suggestions of this Government, I desire, by way of recapitulation, to lay especial stress upon (1) the necessity of immediate agreement to close Bering Sea absolutely to pelagic sealers pending consideration of the proposition for extending the protective area of the North Pacific Ocean along the thirty-fifth parallel to the Asiatic coast, with the concurrence of Russia and Japan; (2) the proposal for a modus vivendi whereby the effective concurrence of Great Britain, Russia, Japan, and the United States shall be lent to the protection of the fur-seal herds; (3) the appointment of a joint commission, as suggested in Mr. Gresham's note of January 23, 1895, and (4) the advisability, if not the proven necessity, for amending the concurrent legislation of the two countries for the expansion and more precise definition of the scope of the Paris award, and the duty of the two Governments thereunder.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, May 11, 1895.

SIR: In an informal note dated December 15, 1894, you were good enough to transmit to me, for my information, a copy of "Regulations approved by the Secretary of the Treasury for the government of vessels that may be employed in fur sealing in the season 1895." As it was desirable that regulations on that subject by our respective Governments should be substantially in accord, it was arranged that I should discuss the matter personally with the Secretary of the Treasury,

as I had previously done with respect to the regulations for the season 1894. The result of my discussion with Mr. Secretary Carlisle was that on the 17th of January last I received from him a modified draft of regulations which he proposed to recommend to the President, and which I promised to transmit to my Government for their concurrence.

For convenience of reference I have the honor to inclose a copy of that draft. I submitted it at the time to Her Majesty's Government who have most carefully considered it with reference, more particularly, to the proposed renewal and extension of the arrangement of last year for the voluntary sealing up of arms, etc., under articles 4, 5, and 6.

As regards articles 1, 2, and 3, which relate to the special license, the distinguishing flag, and the fitness of the men to be employed in the fishery, sufficient provision has already been made on the side of Great Britain (in pursuance of articles 4 and 7 of the award regulations) by "the Behring Sea order in council 1895," of which I had the honor to communicate a copy to you in my note of the 6th of March last. As regards the renewal and extension, under articles 4, 5, and 6 of the draft regulations, of the provisions of last year for the voluntary sealing up of arms, etc., I have now received the observations of my Government thereon, and I am instructed to inform you that, in their opinion, the arrangement in question has not in practice been worked for the protection of British sealers from interference, as Her Majesty's Government had hoped would have been the case. This is proved by the seizure of the British sealing vessels *Wanderer* and *Favourite*.

The possession of arms, etc., by a sealing vessel within the area of the award during the close season is not, as you are aware, forbidden by the award regulations, and for the above reasons Her Majesty's Government are not prepared to renew the arrangement. No necessity, therefore, arises, for any further concurrent regulations such as are proposed by Mr. Secretary Carlisle.

It appears from the cases of the *Wanderer* and of the *Favourite*, the particulars of which were laid before Congress (see Ex. Doc. No. 67, pp. 341, 386 [383]), that the United States naval officers who effected the seizures were under the erroneous impression that they were empowered to apply the legislation of the United States to those vessels. Thus, in the case of the *Wanderer*, Commander Goodrich writes: "My action is based on section 10 of the act of Congress of April 6," and in the case of the *Favourite*, Commander Clark attempts to justify the seizure under the same section of the act of Congress.

It is hardly necessary to point out that United States naval officers have no authority to seize British sealing vessels except under the British order in council of 1894 (No. 1) for offenses against the British act of Parliament (the Bering Sea award act, 1894), which embodies the Paris award regulations.

It is hoped that instructions in the above sense will be issued to the United States naval officers employed in the duty of enforcing those regulations.

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure.]

Draft of proposed regulations for the government of vessels employed in fur-seal fishing.

ARTICLE I.

Every vessel employed in fur-seal fishing shall have, in addition to the papers now required by law, a special license for fur-seal fishing.

ARTICLE II.

Before the issuance of the special license required by the fourth article of the award, the master of any sailing vessel proposing to engage in the fur-seal fishery shall produce satisfactory evidence to the officer to whom application is made that the hunters employed by him are competent to use with sufficient skill the weapons by means of which the fishing may be carried on.

ARTICLE III.

Every sailing vessel provided with special license shall show under her national ensign a flag not less than 4 feet square, composed of two pieces, yellow and black, joined from the right-hand upper corner of the fly to the left-hand lower corner of the luff, the part above and to the left to be black, and that part to the right and below to be yellow.

ARTICLE IV.

In order to protect from unnecessary interference sealing vessels within the area of the award during the close season (that is to say, between April 30 and August 1), but which have not violated the law, any sealing vessel lawfully traversing or intending to traverse the area of the award during the close season, on her way to her home port, or to or from the sealing grounds, or for any other legitimate purpose, may, on the application of the master, have her sealing outfit secured under seal and an entry thereof made on her clearance or log book, and such sealing up and entry shall be a protection to the vessel against interference or detention during the close season by any cruiser, so long as the seals so affixed shall remain unbroken, unless there be evidence of any violation of the fishery articles of the award notwithstanding.

ARTICLE V.

Such sealing up or entry may be effected in port or at sea by any naval, consular, or customs officer of the nation to which the vessel belongs.

It may also be effected in the case of British sealing vessels at the island of Attou by any naval or customs officer of the United States in the absence of any British naval or consular officer.

It may also be effected at sea as regards British vessels by the commander of a United States cruiser, and as regards United States vessels by the commander of a British cruiser.

If the master shall so desire, the officer effecting the sealing up and entry shall deliver to him a certificate of the number of seals and seal skins on board at that date, keeping a copy of the same.

ARTICLE VI.

And whereas, by the sixth fishery article of the award, the use of nets, firearms and explosives is forbidden in the fur-seal fishery, but that restriction does not apply to shotguns when such fishing takes place outside of Bering Sea during the season when it may lawfully be carried on. Any sealing vessel having shotguns and ammunition on board may, before entering Bering Sea, on the application of the master, have the same secured under seal, and an entry thereof made on her clearance or log book; and such sealing up and entry may be effected in the same manner, and shall afford the same protection against interference or detention in Bering Sea during the season when the fishery may lawfully be carried on there as the securing of sealing outfits under the last preceding regulation.

ARTICLE VII.

Any vessel of the United States may obtain a special license for fur-seal fishing upon application to the chief officer of the customs in any port of the United States or to the United States consular officer of any port in Japan, and complying with the requirements of these regulations.

ARTICLE VIII.

The foregoing regulations are intended to apply only to the season of 1895.

Mr. Uhl to Sir Julian Pauncefote.

No. 101.] DEPARTMENT OF STATE,
Washington, May 13, 1895.

EXCELLENCY: I have the honor to state that the revenue-cutter *Perry* intends to sail from San Francisco for Bering Sea on to-morrow, the 14th instant, and to inquire whether you have received the names of the British vessels, with their officers, spoken of in my note of the 7th instant. In case you have not yet received the desired information, I shall very greatly appreciate your courtesy in telegraphing for it, so that this Government may be apprised thereof to-day or at the earliest possible moment.

I have, etc., EDWIN F. UHL.

Mr. Uhl to Sir Julian Pauncefote.

No. 102.] DEPARTMENT OF STATE,
Washington, May 14, 1895.

EXCELLENCY: In connection with the Department's No. 95, addressed to you under date of the 7th instant, regarding the vessels of the United States Revenue-Cutter Service comprising the Bering Sea fleet for the present season, I have the honor to inform you that the names of the officers attached to the revenue steamers *Wolcott* and *Grant* and the Fish Commission steamer *Albatross* are as follows:

Revenue steamer Wolcott.—Capt. M. L. Phillips, First Lieut. W. E. Reynolds, Second Lieut. H. B. West, Second Lieut. John L. Davis, Third Lieut. W. W. Jaynes, First Asst. Engineer W. J. Phillips, Second Asst. Engineer R. W. Champlain, Second Asst. Engineer H. N. Wood.

Revenue steamer Grant.—Capt. D. F. Tozier, Second Lieut. K. W. Perry, Second Lieut. F. H. Dimock, Third Lieut. John Y. Berry, First Asst. Engineer E. A. Jack, Second Asst. Engineer L. T. Jones, Second Asst. Engineer Wm. E. Maccoun, Acting Watch Officer H. F. Beecher.

Fish Commission steamer Albatross.—Lieut. Commander F. J. Drake, U. S. N., commander; Lieut. F. S. Carter, U. S. N., executive officer; Ensign W. G. Miller, U. S. N.; Ensign Benj. Wright, U. S. N.; P. A. Surg. E. S. Bogert, U. S. N.; Asst. Paymaster E. D. Ryan, U. S. N.

It is probable that in the near future there will be detailed an executive officer in place of Lieutenant Carter, and two additional ensigns as watch officers. P. A. Engineer Emil Theiss, U. S. N., has been ordered to report as engineer officer of the *Albatross* upon his discharge from treatment at the Naval Hospital, Mare Island, California. As soon as the Department is advised of these proposed changes you will promptly be informed.

I have, etc., EDWIN F. UHL.

[Handed to Mr. Uhl by Sir Julian Pauncefote, May 27, 1895.]

Instructions to Sir Julian Pauncefote.

No. 93.] FOREIGN OFFICE, *May 17, 1895.*

SIR: I have received your excellency's dispatch, No. 29, of the 24th January, inclosing a note from Mr. Gresham, of the 23d January,[1] rela-

[1] See Foreign Relations 1894, Appendix 1, p. 226.

tive to the operation of the regulations laid down by the Paris Tribunal of Arbitration for the fur-seal fishery, and the view entertained by the President of the United States that, the regulations having failed in their object, further provisions are required to preserve the herd from extermination.

In order to avert this result Mr. Gresham had been directed to propose:

That a commission should be appointed by the Governments of Great Britain, the United States, Russia, and Japan, consisting of one or more men from each country, eminent for scientific knowledge and practical acquaintance with the fur trade. This commission should visit the Asiatic side of the North Pacific as well as the American, and also the islands which the seals frequent, and report to their respective Governments as to the effect of pelagic sealing on the herd and the proper measures needed to regulate such sealing so as to protect the herd from destruction and permit it to increase in such numbers as to permanently furnish an annual supply of skins.

That during the deliberations of this commission the respective Governments should agree upon a modus vivendi as follows:

"That the regulations now in force be extended along the line of the thirty-fifth degree of north latitude, from the American to the Asiatic shore, and be enforced during the coming season in the whole of the Pacific Ocean and waters north of that line. Furthermore, that sealing in Bering Sea be absolutely prohibited pending the report of such commission."

Her Majesty's Government have given the facts set forth by Mr. Gresham in support of these proposals their most serious consideration, but after examining attentively the figures and information at their disposal they have come to the conclusion that the condition of affairs is not of so urgent a character as the President has been led to believe.

In the second paragraph of his note Mr. Gresham states:

> It would appear that there were landed in the United States and Victoria 121,143 skins, and that the total pelagic catch, as shown by the London trade sales and careful estimates of skins transshipped in Japanese and Russian ports, amounts to about 142,000, a result unprecedented in pelagic sealing. It would further appear that the vessels engaged in Bering Sea, although only one-third of the total number employed in the North Pacific, in four or five weeks killed 31,585 seals—not only over 8,000 more than were killed in Bering Sea in 1891 (the last year the sea was open), but even more than the total number killed during the four months on the American side of the North Pacific this season.

He goes on to say—

> This startling increase in the pelagic slaughter of both the American and Asiatic herds has convinced the President, and, it is respectfully submitted, can not fail to convince Her Majesty's Government, tha tthe regulations enacted by the Paris Tribunal have not operated to protect the seal herd from that destruction which they were designed to prevent, and that unless a speedy change in the regulations be brought about, extermination of the herd must follow. Such a deplorable result should, if possible, be averted.

I must, in the first place, observe that arguments based on figures which include the pelagic catch on the Asiatic or western side of the Pacific are calculated to lead to erroneous conclusions as to the working of the regulations, and as to their effect on the seals frequenting the Pribilof Islands.

There can be no doubt that there has been a large increase in the number of seals taken off the Japanese coast last year in comparison to any previous year. The total number taken there in 1893 was only a

little over 29,000, while last year it appears from the returns to have been not less than 51,000.

But no point has been more constantly insisted upon by those who have examined and argued the question on behalf of the United States than that the seals frequenting the eastern and western sides of the Pacific form two absolutely distinct bodies or "herds," and do not intermingle. In the opinion of the experts and counsel employed on behalf of Great Britain this doctrine was pushed too far. They held that a certain amount of intermingling might and indeed did take place in Bering Sea. But though our knowledge of seal life is still far from complete, it may certainly be held as tolerably established that the two main bodies of seals are distinct, and that increased pelagic catch on the Japanese coast does not constitute a serious menace to the seals frequenting the Pribilof Islands.

Whether that increased catch can be continued without serious diminution of seal life on the Asiatic side is a question which has still to be tested by experience.

For the present the regulations apply to the eastern side only, and their success or failure must be judged solely by their effect on the herd which they were intended to protect. I proceed, therefore, to examine that effect as shown by the figures in the possession of Her Majesty's Government.

From the table printed at page 207 of the report of the British commissioners, it appears that in the years 1889, 1890, and 1891 the pelagic catch on the eastern side was as follows:

1889	42,870
1890	51,560
1891	68,000

These figures include the catch of both British and American vessels.

The figures of the American catch for later years are not available, but the Canadian catch on the eastern side in 1891, 1892, 1893, and 1894 are given in the official report as follows:

1891	52,995	1893	28,613
1892	39,107	1894	38,044

The American catch for 1894 on the eastern side is given in the table inclosed in Mr. Gresham's other note, forwarded in your excellency's dispatch No. 29, as 17,558, so that the total catch on that side last year was 55,602. This, as contrasted with the catch of 1891, shows a diminution of about 12,500.

In that year, though the modus vivendi was partly in force, the Canadian catch in Bering Sea was 29,146, whereas in 1894 it was only 26,425. This shows a diminution of about 10 per cent in the catch.

Her Majesty's Government have no returns of the American pelagic catch in Bering Sea in the season of 1891, and are therefore unable to make a comparison between the total catch there in that year and in 1894. They are unable to understand on what grounds Mr. Gresham has stated the total in 1891 to have been less than 23,585 when, according to their information, the Canadian catch alone was 29,146.

Turning, now, to the number of vessels employed in the fishery, these do not appear to have increased, but, on the contrary, to have decreased.

There are no trustworthy figures available as to the United States sealing vessels previous to those now furnished for 1894 by Mr. Gresham, but there are full official returns with regard to the Canadian sealing

fleet, and the following table, showing the numbers and operations of the fleet during the last four years, is interesting in this connection:

Year.	Number.	Tonnage.	Number of hunters.		Total catch on both sides of Pacific.
			White.	Indian.	
1891	51	3,378	716	336	50,495
1892	66	4,456	961	511	46,362
1893	55	3,743	847	432	68,231
1894	59	3,866	888	518	90,485

It will be seen from these figures that the number of Canadian vessels and the number of hunters employed on them last season is below that of 1892, the great falling off in 1893 being due to wrecks and seizure of vessels in the previous year.

As regards the total number of vessels, both British and American, employed in the fishery, these are given at page 185 of the United States case before the Tribunal of Arbitration as 115 in 1891 and 123 in 1892, while in 1894 they were only 92—a most material decrease.

The number of vessels and of men employed on them having thus decreased, while the total catch on both sides of the Pacific has undoubtedly increased, it is clear that there has been a general increase in the average catch per man and per vessel. This is no doubt due in considerable degree to increased efficiency, to the fact that under the regulations the use of the spear has largely replaced that of firearms, and that consequently fewer of the seals shot or speared were lost. Much is probably the result of those accidental circumstances of weather and climate which go to make a good fishing season. But the fact tends also to show that more seals were met with than before, and from this point of view the increased catch does not point to any imminent danger of extinction of the species.

As regards the effect of the regulations on the number of seals frequenting the Pribilof Islands, it seems premature to attempt to form an opinion.

Her Majesty's Government have noted the fact, which is not quoted by Mr. Gresham, but has been stated on authority, that only 16,000 seals were allowed by the United States Treasury agent to be killed on the Pribilof Islands during the last season. It is a feature of the question which deserves attention, but in the absence of information as to the standard weight of skins and other conditions fixed by that officer it is not possible to estimate the significance of this restriction. It does not, however, necessarily point to any grounds of immediate apprehension, as only 20,000 seals could be taken in 1890, though the standard in that year was undoubtedly low.

In any case, as the number of seals taken outside Bering Sea, on the American side was, owing to the regulations, much less than usual, and pelagic sealing does not begin in that sea till the 1st of August, by which time killing on the islands is over, it is evident that the small take on the islands was not due to the results of the pelagic catch of last year.

Taking all these circumstances into consideration, Her Majesty's Government can not agree that any sufficient evidence as yet exists to show that the regulations have failed in their effect or that there is such urgent danger of total extinction of the seals as to call for a departure from the arbitral award by which the two nations have solemnly bound themselves to abide.

The arbitrators had before them all the information both as to the condition of the herd and the results of pelagic sealing which the resources of both nations could supply, and after exhaustive consideration they, in the judicial exercise of their discretion, fixed five years as the period after which the regulations might be revised. Only one year has elapsed, and beyond the fact that though the sealers have scrupulously adhered to the regulations they have had a successful season, there is no substantial ground to support the contention that the period for revision of the regulations fixed by the arbitrators ought to be so materially curtailed.

To set aside their authority upon so slight a ground would, in the opinion of Her Majesty's Government, be a most serious blow to the authority of arbitral decisions, and to the general principle of arbitration which both Governments have at heart to promote.

Her Majesty's Government are, however, anxious to do all in their power to contribute to a fair and thorough examination of the facts connected with the seal fishery, and to the adoption in useful time of any measures which may be necessary for the preservation of the species. They have examined carefully the specific proposals contained in Mr. Gresham's note, in order to see how far any portion of them could be accepted with this view, having due regard to the important British interests involved.

As regards the proposed modus vivendi for this season, Her Majesty's Government regret that they find themselves unable to accept this proposal.

Even if some adequate grounds had been furnished for its adoption in the interest of the fishery, it is to be remembered that the sealers have already almost all started and are now scattered over the whole breadth of the North Pacific, where it is impossible to warn them.

They have made their preparations on the assumption that the interference and interruption to which their industry has been subject more or less for the last ten years had at length come to an end, and that the conditions under which it might be prosecuted had at last acquired some permanence and stability. To spring upon them again in the midst of their operations so stringent a proposal as that of the United States would be an act of great injustice, and would involve Her Majesty's Government in the payment of heavy compensation.

The measure suggested would in fact put an end to pelagic sealing, as it would have only the first four months of the year, when from various causes comparatively few seals are caught, while the sealers would have to lay their vessels up during the remaining two-thirds of the year. The adoption of such a restriction under present circumstances, and upon the only grounds which can be adduced to justify it, would be almost tantamount to an announcement that whenever there has been a successful pelagic fishing, steps will at once be taken to prevent the recurrence of such an event.

Nor can Her Majesty's Government believe that the appointment at present of an international commission, such as is suggested by Mr. Gresham, would lead to any useful result.

It will be remembered that the commissioners appointed by the United States and Great Britain, who visited the islands in 1891 to examine this same question, found themselves unable to agree, except as to a few vague general statements, and presented reports in which they differed widely, not only as to the remedial measures necessary, but even as to many of the most important facts in seal life, and only the same result can be expected from a second more numerous commission.

Such commissioners, it must be borne in mind, can only be on the islands for a few weeks at most, while the period during which the seals frequent the islands extends from May to October or November, and the phases of seal life exhibited are constantly changing.

The question to be dealt with is the progress and the growth or decrease of the herd, and the information required to enable it to be effectively grappled with can only be gathered by continuous observations carried on constantly during the greater part of the period that the islands are resorted to by the seals, and extending over a series of years. The new commission might, no doubt, be able to gather some new facts as to seal life, but nothing but continuous and comparative study could qualify it to form a judgment as to the effects which the pursuit of the seals at sea and the slaughter on land is producing on the herd, and to suggest any remedial measures with confidence and authority.

Instead of appointing such a commission, though possibly as a preparatory step to its appointment, Her Majesty's Government would propose the appointment of agents to reside on the seal islands and to collect authoritative information by observations, which should extend over such a period as will be sufficient to enable a judgment to be formed of the effect of the fishing upon the preservation of the herds.

If such agents appointed by the United States and Great Britain were to conduct investigations jointly during the next four years, both Governments would by that time have, with the particulars derived from the sealers' logs and other sources, a body of information which would enable the two nations to approach the question of revising the regulations in a thoroughly scientific manner, and to protect, as far as possible, the numerous and varied interests involved in the seal fishery.

Her Majesty's Government do not wish, however, to be understood as desiring to postpone all discussion until that date. The agents would naturally make their reports at regular and not too distant intervals, and if the facts disclosed in these reports, or information obtained from other sources, should at any time show a state of things urgently calling for remedial measures, Her Majesty's Government would be willing at once to examine with the Government of the United States the method in which such measures could best be applied. Similarly they will be ready to do what is in their power to obtain early returns of the results of the fishery during the present year, in order that they may be examined by the two Governments at the first practicable moment.

If these proposals recommend themselves to the Government of the United States it might be desirable also to approach the Russian Government with a view to the appointment of similar agents on the Commander Islands. There is little independent information available in regard to the conditions of seal life on these islands, and as the Russian Government desire that the regulations made by the arbitrators for the western side of the Pacific should be extended to the eastern side, it seems reasonable that there should be inquiry how far such extension is necessary and applicable.

Your excellency is authorized to read this dispatch to Mr. Gresham, and if he should so desire, to hand him a copy of it.

Mr. Uhl to Sir Julian Pauncefote.

No. 106.] DEPARTMENT OF STATE,
Washington, May 18, 1895.

EXCELLENCY: I have the honor to acknowledge receipt of your note of the 11th instant, communicating the declination of your Government to agree upon concurrent regulations for carrying out the provisions of the Paris award during the present season. The reason assigned therefor is that the provisions of the award relating to the special license and distinguishing flag are already provided for in the British order in council of February 2, 1895; and that concurrent regulations similar to those agreed upon for last season by the respective Governments as to outfit and arms of sealing vessels are not considered necessary for the present season, inasmuch as within the award area, and during the closed season, the possession by vessels of said outfit and arms is nowhere forbidden by the terms of the award. As regards the regulations of last season, you are instructed to inform me that in the opinion of Her Majesty's Government "the arrangement in question has not in practice been worked for the protection of British sealers from interference, as Her Majesty's Government had hoped would have been the case;" and in this connection specific reference is made to the seizure by United States officers of the British sealing vessels *Wanderer* and *Favorite*.

You further call attention to the statement drawn from the correspondence laid before Congress (Senate Ex. Doc. No. 67, pp. 341–386), that the United States naval officers who effected the seizures were under the erroneous impression that they were empowered to apply the legislation of the United States of April 6, 1894, to those vessels; whereas those officers have no authority to seize British vessels except under the British order in council of 1894 (No. 1) for offenses against the British act of Parliament of 1894, which embodies the Paris award regulations; and you therefore request that United States officers engaged in patrolling the award area during the present season be instructed accordingly.

Your present note is the first intimation received from Her Majesty's Government that the jointly drafted concurrent regulations for the season of 1895 have not been accepted by your Government.

The original draft of those regulations was transmitted by the Secretary of State to you on December 15, 1894, for the approval of your Government. Subsequently, an understanding having been reached whereby you were to confer directly with the Treasury authorities on the subject, a number of interviews were had by you with Secretary Carlisle and Assistant Secretary Hamlin upon the matter. In the course thereof, as I am informed, you submitted a counter draft of proposed concurrent regulations containing certain suggested improvements over the drafts submitted by Mr. Carlisle; and after preliminary negotiations covering a considerable period, a final draft was agreed upon satisfactory to you and to him, the understanding being that one copy thereof should be submitted to the President for his approval and promulgation, while you, for your part, should forward a copy for the approval of Her Majesty's Government, and for inclusion in an order in council shortly to be passed—you having stated that it would be necessary to embrace the regulations in a new order in council, for the reason that the last order bearing upon the subject was limited in its operations to the sealing season of 1894.

The President approved and signed these regulations on January 18, 1895, understanding that they had received your approval and would be forwarded by you to your Government as above stated.

While it was not understood that you had authority to bind your Government or had undertaken definitively to do so without a formal transmission of the proposed regulations, yet the Secretary of the Treasury had every reason to believe that the draft agreed upon by him and you would be promptly accepted by the British Government or its declination as promptly communicated. In point of fact this Government has had excellent reason to suppose that the draft regulations had been actually accepted as an arrangement made between the two Governments, its authority for this supposition being the formal terms of the British order in council mentioned in your note (Bering Sea order in council, 1895), which bears date February 2, 1895. On that date a copy of those proposed regulations must have been in the possession of Her Majesty's Government, it having been given to you on the 17th of January for transmission.

The preamble of this order recites that:

> Whereas arrangements have been made between Her Majesty's Government and the Government of the United States for giving effect to articles 4 and 7 of the scheduled provisions, and it is expedient that effect should be given to those arrangements by an order in council. * * *

The word "arrangements" as thus used can only refer to the proposed regulations for the season of 1895, which had been framed by yourself and Secretary Carlisle, for no other agreement or regulation than that contained in such regulations has been entered into this year between the respective Governments as to any of the provisions of the award, and the arrangements for the last season were obsolete and nonexistent, having been in terms limited to the sealing season of 1894. It may be suggested that the word "arrangements" in the order in council of February 2, 1895, can not refer to the draft of regulations approved January 18, 1895, by the President, for the reason that no specific mention is made in said order as to the provisions of said draft of regulations for securing under seal the outfit and arms of sealing vessels. The special license and distinguishing flag, however, were the only matters covered by said draft of regulations which depended, as regards British vessels, for their validity upon, and received their binding force from, said order in council.

It will be noted in this connection that the order in council of June 27, 1894, likewise contained no reference to the duty of securing the outfit and arms under seal, although the mutual agreement upon which said order and the regulations of 1894 were based contained a similar provision imposing upon sealers said duty.

That this word "arrangements" can only refer to the agreement or understanding between Secretary Carlisle and yourself upon which said regulations were based, is made clear by the use of the same word, in identical context, in the previous orders in council of April 30 and June 27, 1894, respectively. In the first of these it was recited that:

> Until arrangements for giving further effect to articles 4 and 7 of the said scheduled provisions shall have been made between Her Majesty and the Government of the United States, the following provisions should have effect. * * *

Subsequently to this order, to wit, on May 4, 1894, the President of the United States signed and approved regulations for the season of 1894, based upon an agreement made by yourself and Mr. Gresham for the respective Governments, articles 7 and 8 of which provided for a special license and distinguishing flag.

The order in council following, on June 27, 1894, contains this significant language:

> And whereas arrangements have been made for giving further effect to the said articles and for regulating during the present year the fishing for fur seals in accordance with the said scheduled provisions. * * *

It is thus seen that the first order in council, of April 30, 1894, recites the pendency of arrangements, while the second order, of June 27, 1894, recites such arrangements (of May 4, 1894) as having been actually made; and therefore the word "arrangements," as severally used in those orders, could only mean the preliminary agreement upon which was based the regulations of 1894, which agreement, as above stated, was expressly limited by its terms to the sealing season of 1894, and was nonexistent when the present order was issued.

By every sound principle of interpretation and precedent, therefore, this Government was entitled to regard the reference to "arrangements" in the order in council of February 2, 1895, as relating only to the agreement reached in the draft regulations furnished to you on January 17, 1895, and transmitted to your Government, which regulations were approved by the President, as above stated, and to hold that Her Majesty's Government, by necessary implication, had ratified and recognized as subsisting the proposed regulations submitted as above, by the passage of the order in council of February 2, 1895. We are, however, constrained to accept your note of the 11th instant as a formal notification of the nonconcurrence in the same by Her Majesty's Government.

It is my duty to express the deep regret of the President that the British Government should have communicated its declination at this late period of the season, after our consuls have been instructed and the patrolling fleet of the United States has sailed under orders based on the legitimate assumption that the privilege of sealing afforded by said regulations was to be accorded during the present season, as during last season, to British as well as to American vessels.

It is further to be regretted that what appears to be the chief reason assigned for this declination, namely, the seizure of the steamers *Wanderer and Favorite*, should not have prompted a timely refusal to enter upon negotiations for regulations, thus saving much trouble and uncertainty which now appear to be unavoidable.

The British fleet engaged in sealing last season numbered 60 vessels; of these the *Wanderer* and *Favorite* were the only ones seized by United States officers, and these seizures were made because of a direct infraction of the regulations of 1894, agreed upon, as above stated, by both Governments. The *Wanderer* was seized June 9, 1894, and the *Favorite* August 7, 1894. The master of the *Wanderer*, before the seizure, stated to the boarding officer that all his arms were sealed up, which upon examination was found not to be true. No objection has ever been made by Her Majesty's Government because of these seizures until the present time.

The case of the *Wanderer* was made the occasion of the Department's note to Mr. Goschen of November 19, 1894, communicating the full report of the naval officer in command. That seizure, like that of the *Favorite*, also, was made because of the direct infraction of the regulations of 1894, agreed upon as above stated by both Governments; and that being the case it is, I submit, quite immaterial whether the United States officer effecting the seizure was under an erroneous impression that the United States act of April 6, 1894, was concurrently applicable to the case.

No correspondence whatever between the two Governments appears of record with regard to the seizure of the *Favorite*, but the date upon which it was effected—August 27, 1894—justifies the supposition that the facts in regard thereto, as were certainly the facts in regard to the seizure of the *Wanderer*, were in possession of Her Majesty's Government during all the preliminary negotiations between yourself and Secretary Carlisle from December 15, 1894, to January 17, 1895; and this Government is at this late date for the first time informed that those seizures are made the ground for the refusal by Her Majesty's Government to adopt concurrent regulations for 1895.

In view of your present communication on May 11, it is presumed that no British sealing vessel now at sea has applied or will hereafter apply for the privilege of having its outfit and arms sealed up. The officers of the United States patrolling fleet will, however, be instructed that the failure of a British vessel to have her outfit and arms secured under seal is not a violation of the Paris award, or of the British act of Parliament. They will also be instructed to refuse to grant this privilege in the future to British vessels. Similar instructions will at once be given to our consuls in Japanese and British Columbia ports.

Notwithstanding this, I have the honor to request, through you, that Her Majesty's Government shall notify its officers engaged in patrolling the award area to seal up the outfit and arms of American vessels applying for this privilege, in accordance with sections 4, 5, and 6 of the regulations promulgated by the President, January 18, 1895.

With further reference to the precise complaint which your present note of May 11 appears to convey concerning the seizures of the *Wanderer* and *Favorite*, and your request based thereon, I beg to further inform you that the instructions already given to the United States officers as to patrolling the award area during the present season will not admit of any other doubt as to the proper scope and limitation of the act of Congress approved April 6, 1894.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, May 20, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, in relation to the fur-seal fishery, which I had returned to you on the 11th with a view to the correction of a passage in page 21, where it is assumed that the proposal of your Government for the renewal of the arrangement of last year respecting the voluntary sealing up of arms and implements of fishery had been assented to by Her Majesty's Government.

In a separate note of this date, in reply to yours of the 18th instant, I have explained the grounds on which I ventured to take exception to the passage above mentioned, and although it has not been modified or withdrawn, I do not think it necessary to make any further remarks on the subject.

I shall not fail to transmit to my Government by to-morrow's mail a copy of the whole correspondence.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, May 20, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant in reply to mine of the 11th, in which I announced the decision of my Government not to renew for the season 1895 the experimental arrangement for the voluntary sealing up of arms and implements of fishery which was adopted last season with a view to the better protection of sealing vessels against unnecessary interference within the area of the Bering Sea award during the close season.

You inform me that pending the reply of my Government to that proposal its acceptance had been inferred by your Government from the delay in the reply as well as from the language of the British Bering Sea order in council, 1895. You base that inference on the recital in that order in council which states that certain "arrangements" had been made between our respective Governments, and you conclude that the word "arrangements" must be held to include the agreement or understanding between Secretary Carlisle and myself respecting the renewal of the sealing up of arms arrangement.

In the first place, I beg leave to remind you that, as explained in my note of the 11th, there was no "agreement or understanding" between Secretary Carlisle and myself, except that I should refer his draft of proposed regulations for 1895 (of which a copy was inclosed in my note) to my Government for their approval and concurrence.

In the next place, it appears to have entirely escaped the observation of your Government that the "arrangements" mentioned in the order in council of 1895, as well as in all the previous British orders in council, as having been made between the two Governments, are expressly stated to be arrangements for giving effect to articles 4 and 7 of the regulations prescribed by the Bering Sea award, which relate to the form of license, the distinctive flag, and the fitness of the men employed. No inference, therefore, could possibly arise from the language of the order in council, that the arrangements therein mentioned extended to the proposed renewal of the arrangement respecting the sealing up of arms. "Expressio unius est exclusio alterius."

As regards the delay on the part of Her Majesty's Government in replying to the proposal, it should be borne in mind that the question was one calling for careful inquiry into the working of the arrangement during the season of 1894.

As before mentioned, it was an experimental measure, designed for the protection and convenience of the masters of sealing vessels, who themselves objected to it after the experience of one season.

Moreover, it led to the seizure of two British sealing vessels by United States cruisers under a misapprehension by the naval officers concerned as to their legal powers and in violation of the agreement between the two Governments of May 4, 1894 (see Ex. Doc. No. 67, p. 120), which declared that unless there should be evidence of seal hunting no sealing vessel should be seized or detained merely on account of seals, sealskins, or fishery implements being found on board.

A lengthened inquiry into the whole working of the arrangement, therefore, became necessary before Her Majesty's Government could be expected to arrive at a conclusion. They will learn, no doubt with satisfaction, that the instructions which you mention have been sent by

your Government to the officers of the United States patrolling fleet, and I shall not fail to transmit to them a copy of your note by the earliest opportunity.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Uhl to Sir Julian Pauncefote.

No. 108.] DEPARTMENT OF STATE,
Washington, May 24, 1895.

EXCELLENCY: Referring to your note of the 14th instant, replying to the Department's No. 101, of the preceding day, regarding the names of the British vessels, with their officers, composing the Bering Sea patrolling fleet for this season, I have the honor to inquire whether the information promised by His Excellency the Governor-General of Canada, in the telegram referred to in your note, has been received by your excellency.

The U. S. revenue steamer *Wolcott* is expected to sail for Bering Sea to-morrow, and it is desired, if possible, to telegraph its commanding officer full information regarding the British patrolling fleet.

I have, etc.,

EDWIN F. UHL, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, May 27, 1895.

SIR: With reference to your note, No. 108, of the 24th instant, asking to be made acquainted with the names of the British vessels, with their officers, composing the Bering Sea patrolling fleet for this season, I have the honor to inform you that Her Majesty's ships *Nymphe* and *Pheasant* are under orders to proceed to Bering Sea for patrol duty.

I inclose a list of the officers now holding appointments on the *Nymphe* and *Pheasant.*

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure.]

The following are the officers who now hold appointments on the *Nymphe:* Commander, George Huntingford; lieutenants, Patrick M. Stewart, Ernest L. C. Muntz, Charles J. Wintour; paymaster, Charles E. C. Webb; chief engineer, Robert S. G. Borgate; surgeon, Henry E. South; assistant engineer, Thomas O. Jameson; boatswain, Richard J. Chappell.

The following hold appointments on the *Pheasant:* Lieutenant-commander, Frank A. Garforth; second lieutenants, Henry R. Shipster, Arthur B. Hughes; surgeon, Edgar F. Mortimer; engineer, Albert E. Collins; assistant paymaster in charge, Henry Constantine; gunner, Frederick S. Farlow.

Mr. Uhl to Sir Julian Pauncefote.

No. 113.] DEPARTMENT OF STATE,
Washington, June 1, 1895.

EXCELLENCY: Referring to our recent correspondence touching the enforcement by the United States and Great Britain of the Paris award

within the award area, I have the honor to request to be furnished with a copy of the regulations, if any, applicable to British sealing vessels for the season of 1895.

As time presses, I have further to ask that you communicate this request to Her Majesty's Government by telegraph, and that you kindly advise me of the probable time when I may expect to receive the text of the regulations in question.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, June 3, 1895.

SIR: With reference to the concluding paragraph of Mr. Gresham's note of April 29 last, and subsequent correspondence, I have the honor to transmit herewith a list of British sealing vessels cleared from Canadian ports for the Bering Sea since November last.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

British Columbia sealing fleet, 1895.

Vessel.	Tonnage.	Master.	Crew.		Owners and M. owners.	Destination.	Sailed.
			White.	Indian.			
							1895.
Agnes McDonald	107	M. F. Cutler	25	....	J. Collister	Japan	Jan. 10
Ainoko	75	Heater	6	24	William Grant	British Columbia coast.	Jan. 26
Amateur	18	C. Jipson	2	16	C. Jipson	do	Jan. 28
Annie C. Moore	113	C. Hackett	9	30	Charles Hackett	do	Jan. 23
Annie E. Paint	82	A. Bissett	26	....	E. B. Marvin & Co.	Japan	Jan. 8
Arietis	86	O. Scarf	22	....	William Munsie	do	Jan. 25
Aurora	41	T. Harold	7	20	T. Harold	British Columbia coast.	Feb. 1
Beatrice	66	Macauley	5	24	William Grant	do	Jan. 19
Beatrice	49		....	....	Wrede & Daering	do	Jan. 19
Borealis	37	E. Robbins	21	....	Thomas Harold	Japan	Jan. 4
Brenda	100	C. E. Locke	26	....	R. P. Rithet & Co., Limited.	do	Jan. 14
C. D. Rand	51	J. J. Whiteley	6	24	Robt. Ward & Co., Limited.	British Columbia coast.	Jan. 15
Carlotta G. Cox	76	C. J. Harris	23	....	E. B. Marvin & Co.	Japan	Jan. 10
Casco	63	C. LeBlanc	19	....	George Collins	do	Jan. 10
City of San Diego	46	S. Pike	17	....	H. F. Siewerd, Wm. Munsie.	do	Jan. 4
Diana	50	A. Nelson	19	....	E. B. Marvin & Co., Geo. Collins.	do	Jan. 8
Dora Siewerd	93	Siewerd	8	30	Robt. Ward & Co., Limited, H. F. Siewerd.	British Columbia coast.	Jan. 19
E. B. Marvin	96	W. D. Byers	26	....	R. P. Rithet & Co., Limited, E. B. Marvin & Co.	Japan	Jan. 10
Enterprise	69	J. Daley	6	28	Thos. Earl, Robt. Ward & Co., Limited.	British Columbia coast.	Feb. 7
Favourite	80	L. McLean	7	36	R. P. Rithet & Co., Limited.	do	Feb. 4
Fawn	59	M. Keefe	6	26	Thos. Earle	do	Jan. 29
Fisher Maid	21	Chipps	1	12	Chipps	do	Jan. 29
Florence M. Smith	99	L. McGrath	9	36	C. J. Kelly, Marvin & Co.	do	Feb. 14

British Columbia sealing fleet, 1895—Continued.

Vessel.	Tonnage.	Master.	Crew.		Owners and M. owners.	Destination.	Sailed.
			White.	Indian.			
							1894.
Geneva	92	W. O'Leary	27	....	Hall, Gaepel & Co.	Japan	Dec. 31
							1895.
Kate	58	O. Bucholz	6	24	Captain Warren	British Columbia coast.	Jan. 30
Katherine	81	I. Gould	6	24	I. Gould	do	Jan. 23
Kilmeny	18	R. Southby	3	12	F. A. Nicholson	do	Feb. 6
Labrador	25	J. Williams	....	17	J. Williams	do	Feb. 4
Libbie	93	F. Hackett	8	28	C. Hackett	do	Jan. 23
Mary Ellen	63	G. A. Ferey	9	20	V. Kacobson	Japan	Jan. 11
Mary Taylor	43	R. Lavender	18	....	A. Beechtel	British Columbia coast.	Jan. 15
							1894.
Mascot	40	E. Lorenz	7	16	H. F. Sieverd	Japan	Dec. 28
							1895.
Maud S	97	R. E. McKeil	8	36	Rithet & Co., Limited.	British Columbia coast.	Jan. 22
May Belle	58	E. Shields	7	34	William Munsie	do	Jan. 24
Mermaid	73	W. Whiteley	24	....	Robt. Ward & Co.	Japan	Jan. 24
Mountain Chief	23	J. Nawassum	3	16	J. Nawassum	British Columbia coast.	Feb. 4
Ocean Belle	83	R. Martin	23	....	Hall, Gaepel & Co.	Japan	Jan. 4
Ocean Hattir	81	T. Magnesen	6	34	Thomas Earle	British Columbia coast.	Jan. 23
Otto	86	J. McLeod	6	28	William Munsie	do	Jan. 24
Pachwellis	19	J. Nyetam	....	16	James Nyetam	do	Feb. 4
Pioneer	66	W. E. Baker	24	....	A. Bechtel	Japan	Jan. 11
							1894.
Rosie Olsen	39	A. Whidden	6	20	A. K. Munroe	do	Dec. 27
							1895.
Sadie Turpel	56	J. Anderson	19	....	D. Campbell	do	Jan. 19
Sapphire	109	W. Cox	8	36	E. B. Marvin & Co.	British Columbia coast.	Jan. 23
San Jose	31	M. Foley	6	21	Rithet & Co	do	Jan. 29
Saucy Lass	38	D. Martin	6	20	Alex Rosse	Japan	Jan. 11
Shelby	16	C. C. Claussen	10	....	Louis Wille	British Columbia coast.	Feb. 13
South Bend	21	C. F. Dillon	....	....	C. F. Dillon	do	Feb. 15
Teresa	63	G. Meyer	7	24	Thos. Robbington	do	Feb. 1
Triumph	98	C. N. Cox	8	36	E. B. Marvin & Co.	do	Jan. 23
Umbrina	99	C. Campbell	25	....	R. P. Rithet & Co., Limited.	Japan	Jan. 14
Vera	60	W. Shields	20	....	E. B. Marvin & Co.	do	Jan. 18
Victoria	63	R. Balcom	5	25	do	British Columbia coast.	Jan. 29
Viva	92	M. Pike	23	....	William Munsie	Japan	Jan. 4
Walter A. Earle	68	L. Magneson	6	28	Thomas Earle	British Columbia coast.	Feb. 16
Walter L. Rich	76	S. Balcom	6	25	George E. Munroe	do	Jan. 29

[Inclosure 2.]

Sealing vessels still in port likely to clear in June, 1895, for Bering Sea.

Vessel.	Tonnage.	Owners and M. owners.
Henrietta	31	P. McQuade & Son.
Minnie	46	V. Jacobson.
Penelope	70	Captain Grant.
South Bend	21	C. F. Dillon.
Venture	48	Estate of D. Urquhart.
Wanderer	25	H. Paxton.
W. P. Sayward	60	Estate of D. Urquhart.

A. R. MILNE, *Collector.*

CUSTOMS, CANADA, COLLECTOR'S OFFICE,
Victoria, British Columbia, May 11, 1895.

Sir Julian Pauncefote to Mr. Uhl.

BRITISH EMBASSY,
Washington, June 4, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, on the subject of the enforcement of the Paris award in the case of sealing vessels, and requesting to be furnished with a copy of the regulations, if any, applicable to British sealing vessels for the season of 1895.

In reply I have the honor to state that I am not aware of any regulations applicable to British sealing vessels other than those contained in the British act of Parliament and order in council, of which I have had the honor to furnish copies to you, but I have telegraphed to the Earl of Kimberley for the required information.

If there should be any additional regulations, copies of the same will probably be sent out by the first mail from England after the receipt of my above-mentioned telegraphic inquiry, and on receipt thereof I shall lose no time in transmitting them to you.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Uhl to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 4, 1895.

Treasury Department inquires touching nature of bill relative to seals announced for introduction in Parliament by Sir Edward Gray. Please telegraph earliest obtainable information.

UHL, *Acting.*

Mr. Bayard to Mr. Uhl.

[Telegram.]

LONDON, *June 5, 1895.*

Proposed bill extends and modifies North Pacific sealing act, 1893, expiring July, 1895, carrying into effect convention between Great Britain and Russia, but is not intended to affect or impair Bering Sea award act, 1894.

BAYARD.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, June 7, 1895.

SIR: With reference to Mr. Uhl's note of the 18th ultimo, I have the honor to inform you that I am in receipt of a communication from Her Majesty's principal secretary for foreign affairs, stating that, in accordance with the request of your Government, British naval officers will be authorized to continue sealing up of arms and ammunition of United States sealing vessels if requested to do so.

I have, etc., HUGH GOUGH.

Mr. Uhl to Lord Gough.

No. 121.] DEPARTMENT OF STATE,
Washington, June 8, 1895.

MY LORD: I have the honor to acknowledge the receipt of the ambassador's note of May 20, 1895, in continuation of previous correspondence concerning the scope of the arrangements entered into between the two Governments with regard to seal hunting in the award area.

Sir Julian takes the ground, first that no "arrangements," in the sense of an agreement, had been entered into between himself and the Secretary of the Treasury except that Mr. Carlisle's draft of the proposed regulations for 1895 should be submitted to Her Majesty's Government for approval and concurrence; and second, in effect, that the order in council for 1895 in terms excluded, as did the orders of previous years, any arrangement for the sealing up of arms on board sealing vessels in transit through the award area during the closed season.

As expressly declared in my note of May 18, it was not understood that the ambassador had authority to bind his Government, or had undertaken definitively to do so, without a formal transmission of the proposed regulations. The fact remains, however, as already stated by me, that an understanding or agreement was reached between Sir Julian and the Secretary of the Treasury as to the form and substance of the regulations in question, which agreement, in the form of regulations prepared by them respectively and reduced to writing, was to be submitted to the President and to Her Majesty's Government for approval. Not only was a formal counter draft of those regulations submitted by the ambassador to the Secretary of the Treasury, but the final form agreed upon between them contained many changes suggested by him; and indeed, after the agreed draft had been sent to the President for signature, Sir Julian's letter of January 20 to Mr. Carlisle pointed out certain words evidently inserted by mistake, and referred to the draft as an "arrangement."

Further, Sir Julian is pleased to say that it appears to have entirely escaped the observation of this Government that the "arrangements" mentioned in the order in council of 1895, as well as in all previous British orders in council, as having been made between the two Governments, are expressly stated to be arrangements for giving effect to Articles IV and VII of the regulations prescribed by the Bering Sea award, which relate to the form of license, the distinctive flag, and the fitness of the men employed; wherefore his excellency asserts that no inference could possibly arise from the language of the order in council that the "arrangements" therein mentioned extended to the proposed renewal of an arrangement respecting the sealing up of arms. I beg to submit that the point to which his excellency refers was not overlooked by this Government in view of the identity of the provisions of the order of 1895 with those of the previous orders in council to which his excellency adverts. Knowing that the order of 1894 referred to arrangements agreed upon between the two Governments as stated in Sir Julian's note to Mr. Gresham of May 10, 1894, and knowing also that those arrangements expressly included regulations for the sealing up of fishery implements at the request of the masters of the sealing vessels, it was not obvious that by repeating the same provisions Her Majesty's Government intended in 1895 to exclude a part of the regulations which were included in the order of 1894. Otherwise a conclusion (entirely untenable) follows that the slightly varied recital of the order of February 2, 1895, must have concealed a positive decision reached

by Her Majesty's Government at that early date, to reject the provisions of the arrangement of January relative to the sealing up of arms, which decision was not announced to this Government until the 11th of May following.

So far as touches his excellency's assertion that no inference could properly be drawn that the "arrangements" mentioned in the order of 1895 embraced also the securing under seal of the equipment of sealing vessels as provided for in sections 4, 5, and 6, of the draft regulations of 1895, I have the honor to reply that no arrangements whatever have been entered into between the respective Governments during this year on the subject in question, other than the "arrangements" contained in the draft from which were phrased the regulations of 1895, promulgated by the President on January 18, and that the reference in the order in council of 1895 could only have related to the draft of regulations prepared by the ambassador and Mr. Carlisle. That the effect of the order in council in limiting the word "arrangements" to articles IV and VII of the award (thus by necessary implication ratifying the corresponding articles 1, 2, and 3, of the draft of regulations) was not regarded by the British Government as a refusal to concur in the remaining articles of said regulations, is made evident by the fact that formal notification of such refusal was deemed necessary by the ambassador's note of May 11.

Until that refusal was thus tardily communicated to this Government, I repeat that we had every reason to believe that the order in council of February 2, 1895, as communicated by Sir Julian to Mr. Gresham on the 6th March last, related to the antecedent "arrangements" of January last, precisely as did the order in council of 1894 relate to the earlier "arrangements" of that year. Either an arrangement was entered into this year on the basis of the draft of regulations of January last, including the securing under seal of the outfit of vessels as well as the form of the distinguishing flag, special license, and fitness of seal hunters, or there was no arrangement whatsoever made this year. Her Majesty's Government can not, without manifest inconsistency, rely on the first three articles of the draft while at the same time repudiating the remainder.

I note the ambassador's suggestion that the cause of the delay on the part of Her Majesty's Government in communicating its conclusions in regard to the draft regulations of January last is due to the careful inquiry entered into as to the working of the "arrangements" during 1894, as a result of which inquiry it appeared that the masters of sealing vessels objected to the practice of having their outfit secured under seal after the experience of last season. The only two cases mentioned in Sir Julian's note upon which to base the contention of Her Majesty's Government that the agreement between the two Governments of May 4, 1894, was violated had occurred long prior to the date of the negotiations between Sir Julian and Mr. Carlisle. Correspondence in regard to the *Wanderer* had been exchanged some weeks before between your embassy and this Department without suggestion of complaint on this particular score. On February 2, 1895, the date of this order in council, Her Majesty's Government, as stated in my previous note of May 18, presumably had in its possession the draft of regulations of January. It also presumably had the report of the Canadian minister of marine and fisheries to the Governor-General in council, dated January 9, 1895, in which full statistics of the catch of 1894 were given, as also log-book entries of vessels entering Bering Sea, in which report no mention

whatsoever is made of any dissatisfaction with the regulations of 1894. At the time this report was published all the sealing vessels had returned from the cruise of 1894, and on February 2, 1895, the date of the passage of said order in council, a large number of them had already left for the cruise of 1895.

Under all these circumstances it becomes my duty to again express the deepest regret that Her Majesty's Government could have allowed such a space of time to elapse before giving to this Government notice of its refusal to concur in the regulations drafted by the ambassador and the Secretary of the Treasury in January last, and this delay is all the more to be regretted for the reason that the majority of the vessels of the United States patrolling fleet have sailed under instructions that the regulations of 1895 apply to British as well as to American vessels. I must therefore again express the judgment of this Government that it was entitled to prompt notice respecting the acceptance or rejection of those arrangements, adding that it was in nowise bound to regard the tardy communication to it of the order in council of the 2d of February, 1895, as a notice of the refusal, in whole or in part, to accept those draft regulations.

Under all these circumstances this Government must disclaim in advance any imputable responsibility for any consequences of the delay in making known such refusal, not conceding, however, that any would otherwise exist.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Lord Gough to Mr. Uhl.

BRITISH EMBASSY,
Newport, R. I., June 11, 1895.

SIR: With reference to your note marked No. 113 and dated the 1st instant, in which you requested to be furnished with a copy of the regulations applicable to British sealing vessels for the season of 1895, I have the honor to state that I have received a telegram from the Earl of Kimberley informing me that there are no regulations other than those in the Bering Sea award act, 1894, and Bering Sea order in council, 1895.

I have, etc.,

HUGH GOUGH.

Lord Gough to Mr. Uhl.

BRITISH EMBASSY,
Newport, June 13, 1895.

SIR: With reference to the State Department note of the 23d January last, marked No. 17, requesting certain information with regard to Canadian pelagic sealing in 1893 and 1894, I have the honor, acting under the instructions of the Earl of Kimberley, to forward herewith copy of a minute of the Canadian privy council containing the information asked for.

I have, etc.,

HUGH GOUGH.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 26th April, 1895.

The committee of the privy council have had under consideration the annexed report from the minister of marine and fisheries, dated 20th April, 1895, in connection with certain information touching Canadian pelagic sealing in 1893 and 1894, which had been requested by the United States Government.

The committee advise that your excellency be moved to forward a certified copy of this report, together with its appendixes, to the right honorable the principal secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

ANNEX A.

MARINE AND FISHERIES, CANADA,
Ottawa, April 20, 1895.

To His Excellency the Governor-General, in Council:

The undersigned has the honor to revert to an approved minute of council dated 2d April, 1895 (750 J).

In referring to a dispatch from his excellency Her Majesty's ambassador at Washington, dated 19th February, conveying the request of the United States Government for certain information touching Canadian pelagic sealing in 1893 and 1894, this minute of council incidentally announced that much of the information was already in the hands of Her Majesty's Government.

It was also stated that the undersigned had caused steps to be taken to procure from Victoria, British Columbia, such supplementary information in the direction indicated as might be obtainable.

The undersigned has now the honor to report to your excellency that he has received the information asked for, which he appends to this report, together with the correspondence with the collector of customs at Victoria on the subject, as follows:

1. Letter to Mr. A. R. Milne, 8th March, 1895.

2. Letter from Mr. A. R. Milne, 30th March, 1895, inclosing (*a*) letter from Mr. J. C. Nixon; (*b*) summary of catch by British Columbia sealing fleet, 1893 and 1894; (*c*) detailed statement of catch in Bering Sea in 1894, showing latitude and longitude, where taken, and sexes of seals; (*d*) detailed statement, 1893, showing vessels, tonnage, crews, hunters (whether white or Indian); (*e*) detailed statement, 1894, showing vessels, tonnage, crews, hunters (whether white or Indian).

The undersigned would observe that the United States Secretary of State, in his request for information, desired to be informed whether the skins taken by British pelagic sealers were examined as to sex by expert inspectors, as was done in the case of skins entered at United States ports.

Your excellency will observe, from the appendixes to this report, that the undersigned in seeking the information asked for gave considerable prominence to this point, with the object of elucidating whether any practical benefit was likely to accrue from such a course, whether or not it had been hitherto practiced.

Information was sought as to the practicability and value of such a means and its effectiveness toward establishing the sex of the animals from which the skins were taken.

Also whether it was considered to be reliable in establishing the sexes of the seals killed, whether it could be adopted, and whether, in view of the log records on this particular point, demanded by the terms of the award, such a course, if practicable and effective, would be necessary or useful, even in insuring, by the check it might afford, more careful attention to the examination by the masters of the vessels of the seals killed at sea, and the consequent greater accuracy in their log entries.

From the information elicited on this point it appears that the skins taken by the Canadian pelagic sealers were not so examined by expert inspectors at the time of landing at Victoria and Vancouver.

There also appears to be some ground on the Canadian Pacific Coast for doubting that the skins landing in San Francisco and Puget Sound ports were examined as to sex by expert inspectors.

The collector of customs gathers that little credence is given to the statement that an expert examination of the skins was made, inasmuch as it would be unreliable and uncertain.

The separation of the female from the male skins at the time of landing must, it

is stated, be mainly determined by the teats, which it is well known occur with male as well as female seals, while a further complication arises from the fact that quite a number of the females are barren, and the teats on the skins taken from such animals would not be more prominent than on those taken from males.

Your excellency's attention is also invited to the statement that both in San Francisco and at Victoria a young, inexperienced lad was engaged by the firm of Liebes Brothers, the largest furriers on the Pacific Coast, to examine some seal skins which they were about to purchase (presumably as to sex), and the reported opinions of reliable sealers and furriers as to the nature of such an examination in view of the lack of either experience or intelligence by the examiner requisite to determine the point.

The undersigned would further refer to the statement in the collector's letter, that formerly the matter had been the subject of much consideration among those interested in the sealing business, with the result that the opinion prevailed that very few experts are able to determine the sex from an examination of the skins after they have been salted and mixed.

It seems that all the rules as to the color of the hair and the whiskers of the animals, as well as to the condition of the fur, have proven unreliable.

The positive assertion is ventured that the only time when the sex can be correctly determined is during the operations of skinning the animals, when each pelt could be ticketed.

The collector instances the opinion of the late Mr. Davis, representative in Victoria of the firm of Ullan & Sons, fur dealers, of New York and St. Paul. This gentleman is referred to as possessing expert knowledge in the purchase of furs, particularly seal skins.

In 1891 Mr. Davis met the sealing fleet at its rendezvous off Olitak Bay to transfer the skins to the steamer *Danube* previous to the departure of the sealing schooners for the Asiatic waters.

He is represented as having emphatically stated that it was virtually impossible to distinguish the sexes of the animals from which the skins were taken by the teats or otherwise, the only sure way being observations during the process of flaying, although in exceptional cases of very choice skins the sex might be determined. In the case of barren females, however, the distinction was practically impossible.

A further instance is cited of an examination in 1892 of about 200 skins at Victoria. Mr. Macoun, of Ottawa, Mr. Munsie, of Victoria, and several others failing to determine the sexes of the animals from which these skins were taken, notwithstanding they were selected and pronounced by Mr. Koutzouer (an expert for Messrs. Boscowitz & Co.) to be the product from male seals. The teats proved to be as prominent as those to be found upon the skins of any female seal.

It is admitted, however, that the pelt of a female seal, killed while very heavy with young, may be determined from its peculiar shape.

The collector expresses the opinion that expert examination of seal skins would be almost impracticable, while its effectiveness would be uncertain in establishing the sex of seals from which they were taken. Hence, it would not be necessary or useful; but he believes that if the sealers, in addition to keeping accurate log entries as to their fishing operations, were compelled to label or tag each skin as to the sex of the animal, at the time of flaying, the most reliable evidence obtainable would be insured.

The undersigned would further invite your excellency's attention to the statement that 1,037 skins were landed in Victoria and sold from the State of Washington, United States of America, during 1894, which were not examined as to sex by experts.

Also to the letter from Mr. J. C. Nixon, of Seattle, stating that the skins landed at the Puget Sound ports were not examined by experts. In the light of the evidence contained in the appendices to this report, the undersigned is of opinion that such an examination of the salted seal skins, when landed at the home ports, would prove of little utility in establishing the sexes of the seals killed.

The undersigned recommends that a copy of this report, if approved, together with its appendices, be forwarded to the right honorable Her Majesty's principal secretary of state for the colonies.

Respectfully submitted.

JOHN COSTIGAN.

ANNEX B.

OTTAWA, *March 8, 1895.*

A. R. MILNE, Esq.,
Collector of Customs, Victoria, British Columbia.

SIR: I have the honor to inform you that a request of the United States Secretary of State for certain information in respect of the Canadian sealing fleet and their

operations during the seasons of 1893 and 1894 has been communicated to the Government by his excellency Her Majesty's ambassador at Washington—

(1) The total number of seals taken by British vessels in the North Pacific Ocean and Bering Sea, both on the Asiatic and American sides.

(2) The total number of skins landed at British ports by said vessels.

(3) The total number transhipped in Japanese or Russian ports, including any that may have been ultimately entered at Victoria.

(4) The number of skins landed as entered at Victoria by American vessels.

(5) A report as to the sex of all skins taken in Bering Sea and the North Pacific Ocean.

(6) Location of the place of catch by latitude and longitude.

(7) The names of all vessels employed, tonnage, number of crew, and number of seal hunters, indicating whether whites or Indians.

(8) The further request is made that information may be given as to whether the skins taken by the Canadian pelagic sealers were examined as to sex by expert inspectors, as was done in the case of skins entered in United States ports.

The honorable the minister of marine and fisheries would be pleased if you will obtain the information as above intimated and classified, or such of it as is procurable, and forward it to this department at your earliest convenience.

With regard to section 8, touching the expert inspection of skins when landed with a view to determining the sex of the animals from which they were taken, it is presumed that no measures of this nature have hitherto been adopted at Victoria or Vancouver.

The department would, however, like to have your opinion as to the practicability and value of such a means and its effectiveness toward the end in view.

Also, if it is considered to be reliable in establishing the sexes of the seals killed whether in your opinion it could be adopted, and whether in view of the log records on this point, required by the terms of the award, such a course, if practicable and effective, would be necessary or useful.

It may be that the adoption of an inspection of this character would, by the check it afforded, insure more careful attention to the examination, by the masters of the vessels, of the seals killed at sea and greater accuracy in their consequent log entries.

I have the honor, etc.,

JOHN HARDIE,
Acting Deputy Minister Marine and Fisheries.

ANNEX C.

CUSTOMS, CANADA,
Victoria, British Columbia, March 30, 1895.

JOHN HARDIE, Esq.,
Acting Deputy Minister of Marine and Fisheries, Ottawa.

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant conveying the information that a request had been made by the United States Secretary of State for certain information in respect of the Canadian sealing fleet and their operations during the seasons of 1893 and 1894, and that such request had been communicated to the Government by his excellency Her Majesty's ambassador at Washington.

In compliance therewith I beg to transmit herewith the information asked for touching the operations during those two years and are arranged under the following headings:

(1) The total number of seals taken by British vessels in the North Pacific Ocean and Bering Sea, both on the Asiatic and American sides.

(2) The total number of skins landed at British ports by said vessels.

(3) The total number transhipped in Japanese or Russian ports, including any that may have been ultimately entered at Victoria.

(4) The number of skins landed as entered at Victoria by American vessels.

(5) A report as to the sex of all skins taken in Bering Sea and the North Pacific Ocean.

(6) Location of the place of catch by latitude and longitude.

(7) The names of all vessels employed, tonnage, number of crew, and number of seal hunters, indicating whether whites or Indians.

(8) The further request is made that information may be given as to whether the skins taken by the Canadian pelagic sealers were examined as to sex by expert inspectors, as was done in the case of skins entered in the United States ports.

The skins taken by Canadian pelagic sealers were not examined as to sex by expert inspectors at the time of landing from the vessels at this port or at Vancouver.

A general denial is made that seal skins were, on being landed at United States ports, namely, at San Francisco and Puget Sound, examined as to sex by expert inspectors.

No confidence is entertained here in the American statement made that an expert examination of the skins was held, as such would be unreliable and uncertain when separating the females from the males at time of landing, which could mainly be determined by the teats of the animals, it being a well-known fact that males have such as well as females, and quite a number of females have been barren, that is, have been barren during the season or longer, and the males have teats as prominent on the skin as the barren females.

Parties interested in sealing state that in San Francisco and here a young, inexperienced lad was sent by Liebes Bros., the largest furriers of that city, to examine some seal skins landed which they were about to purchase, but the reliable sealers and furriers say that such was a perfect farce, he not having the experience and intelligence requisite to determine such.

In the past this matter has been the subject of much discussion here amongst those interested in sealing, and the concensus of opinion is that very few experts are able to determine the sex from the skins when they have been salted and mixed, and all rules as to the color of the hair and the whiskers of the animal or the condition of the fur have been found to be unreliable and unsatisfactory; a seal skin being split from the lower jaw to the tail, even the tail itself, which is very short, being about an inch in length, is also split, and the sex can not be determined that way.

It is positively asserted that the only time to determine the sex is while skinning the animal while fresh, and that masters could then put a ticket on each skin.

Mr. Davis, the representative here of Messrs. Joseph Ullman & Sons, fur dealers, of New York and St. Paul, who resided here for a few years, since deceased, and who came here with expert knowledge in the purchase of skins, particularly seal skins, went north on the steamer *Danube* in 1891 to meet the sealing fleet which had a rendezvous off Alitak Bay, to transfer their skins—previous to their departure to the Russian side—from the schooners to the steamer, to be brought here, emphatically stated that it was practically impossible to tell the male from the female skin by the teats or otherwise, and the only sure way, in his opinion, was to see the animal skinned. It might, however, in exceptional cases of very choice skins, be determined by the fur or whiskers, and to tell a barren female from a male was almost impossible.

Mr. Macoun, of Ottawa, with Mr. Munsie, a ship owner, and others, in 1892 examined in warehouse here about 200 skins, and they could not determine in that number the males from the females; and they selected skins, said to be males by Mr. Kautzauer, an expert for Messrs. Boscowitz & Co., and they were found to have teats as prominent upon them as those found on any female.

It is known, however, that a skin off a female seal that has been killed whilst very heavy with young is broader in proportion to its length than the male skin, which is more oblong.

It is my opinion that an expert examination would be almost impracticable and its effectiveness uncertain in establishing the sex of the seals killed, and I consider would not be necessary or useful.

The adoption of an inspection of this character would no doubt, if reliable and conducted with certainty, afford a check as to the accuracy of log entries, but this I am certain would not be done at the time of landing without much irritation and disputation regarding the sex of seals.

I can only, therefore, say that it appears to me that if the sealers, in addition to keeping their logs accurately as to each day's fishing, were compelled to label or tag each skin as to sex at the time of skinning and splitting the animal, would insure the most reliable evidence which could be obtained.

I might state that 1,037 seal skins were landed here and sold from the State of Washington during the year 1894, which certainly were not examined as to sex by expert inspectors, and those that were landed at other Puget Sound ports you will see by the inclosed letter I received from Mr. J. C. Nixon, who is largely interested in the seal industry, that no such examination took place at any Puget Sound ports during last year or any previous year.

I have the honor to be, sir, your obedient servant,

A. R. MILNE, *Collector.*

ANNEX D.

SEATTLE, WASH., *March 24, 1895.*

COLLECTOR CUSTOMS, *Victoria, British Columbia.*

DEAR SIR: Replying to your favor of the 20th instant, the number of skins shipped via Suez Canal to England were as follows: *Allie I. Algar*, 1,326; *Henry Dennis*, 864. The *Willard Ainsworth* also shipped 724.

Skins were not examined by experts when landed at Sound ports to determine their sex.

Respectfully, J. C. NIXON.

ANNEX E.

British Columbia sealing fleet, 1893-94.

1893:	
Catch on American side	27,663
Catch on Asiatic side	42,669
Total	70,332
1894:	
Catch on American side	11,703
Catch on Asiatic side	56,657
Catch in Bering Sea	26,341
Total	94,701
Catch landed at Canadian ports by sealing schooners in 1893	70,332
Catch landed at Canadian ports by sealing schooners in 1894	65,713
1894:	
Skins landed in Japan and forwarded to Victoria	28,761
Skins landed in Japan and sent to England by Suez	227
Total	28,988
Skins entered at Victoria by American schooners in 1893	260
1894:	
Skins entered at Victoria by American schooners	574
Skins caught by American Indians and entered at Victoria	1,037
Skins taken in Bering Sea:	
Males	11,705
Females	14,636
Total	26,341

ANNEX F.

[For tables showing the catch of the British Columbia sealing fleet in Bering Sea in 1894, with positions, sexes, and dates where seals were caught, see pages 596 *et seq.*]

ANNEX G.

British Columbia sealing fleet, 1893.

Vessel.	Tons.	Crew.		Hunters.	
		White.	Indian.	White.	Indian.
Triumph	98	6	14	1	4
Sapphire	108	7	13	1	13
E. B. Marvin	117	20	.....	7	.....
Mascot	40	6	7	1	7
Dora Sieverd	94	18	.....	6	.....
Labrador	25	8	.....	3	.....
Minnie	46	4	10	1	10
Annie E. Paint	82	17	.....	6	.....
Mischief	45	6	10	.....	10
Diana	50	14	.....	5	.....
Centure	48	4	8	.....	8
Mermaid	73	16	.....	7	.....
Fawn	59	3	11	.....	10
Walter A. Earle	68	18	.....	5	.....
Beatrice	66	5	12	.....	12
Ocean Belle	83	17	.....	8	.....
Mountain Chief	23	1	11	.....	8
Aristis	86	17	.....	6	.....
Cape Beale	13	.....	5	.....	5

British Columbia sealing fleet, 1893—Continued.

Vessel.	Tons.	Crew.		Hunters.	
		White.	Indian.	White.	Indian.
Kate	58	6	8	1	8
Favourite	80	5	13	2	13
Borealis	37	5	10	1	10
Ainoko	75	5	7	.....	7
W. P. Sayward	64	5	8	.....	8
Katharine	82	5	10	1	9
San José	31	4	8	.....	8
Enterprise	69	18	.....	6	.....
Agnes Macdonald	107	19	.....	6	.....
Victoria	63	5	10	1	10
Rosie Olsen	39	5	12	.....	12
Wanderer	25	4	8	.....	8
Viva	92	18	.....	5	.....
May Belle	58	16	.....	4	.....
Umbrina	98	18	.....	6	.....
Penelope	70	15	.....	5	.....
Vera	60	15	.....	4	.....
Pioneer	66	6	12	.....	11
Otto	86	7	12	1	12
Mary Taylor	42	14	.....	4	.....
Brenda	100	19	.....	7	.....
Libbie	93	17	.....	6	.....
City of San Diego	46	10	.....	4	.....
Geneva	92	19	.....	7	.....
Casco	63	14	.....	5	.....
Carlotta G. Cox	76	18	.....	6	.....
Oscar and Hattie	81	18	.....	6	.....
Teresa	63	15	.....	5	.....
Sadie Turpel	56	18	.....	6	.....
Maude S	97	18	.....	6	.....
Mary Ellen	63	17	.....	6	.....
Walter L. Rich	76	18	.....	6	.....
Annie C. Moore	113	19	.....	7	.....
Walter P. Hall	98	17	.....	6	.....
Coast Indians:					
Beatrice	49	16	.....	4	.....
C. D. Rand	51	16	.....	5	.....
Total	3,743	651	219	196	213

ANNEX H.

British Columbia sealing fleet, 1894.

Vessel.	Tons.	Crew.		Hunters.	
		White.	Indian.	White.	Indian.
Enterprise	69	16	.....	6	.....
Rosie Olsen	39	5	8	1	8
Umbrina	90	18	.....	7	.....
Oscar and Hattie	81	18	.....	6	.....
Diana	50	14	.....	5	.....
Brenda	100	19	.....	7	.....
Arietis	86	18	.....	7	.....
Casco	63	17	.....	5	.....
Dora Siewerd	94	19	.....	7	.....
Walter A. Earle	68	7	10	1	10
Fawn	59	5	9	1	9
Agnes McDonald	107	19	.....	7	.....
W. P. Hall	99	18	.....	6	.....
Mermaid	73	18	.....	7	.....
City of San Diego	46	11	.....	5	.....
Mary Taylor	43	14	.....	5	.....
Libbie	93	16	.....	6	.....
May Belle	58	9	.....	5	.....
Mary Ellen	63	17	.....	6	.....
Viva	92	20	.....	6	.....
W. P. Sayward	60	15	.....	5	.....
Penelope	70	14	.....	6	.....
Vera	60	14	.....	5	.....
Carlotta G. Cox	76	18	.....	6	.....
Triumph	98	6	18	2	18
Otto	86	18	.....	7	.....
S. B. Marvin	96	17	.....	6	.....
Sapphire	109	6	16	2	16

British Columbia sealing fleet, 1894—Continued.

Vessel.	Tons.	Crew.		Hunters.	
		White.	Indian.	White.	Indian.
Annie E. Paint	82	19	.....	7	.....
Geneva	92	20	.....	7	.....
Teresa	63	19	.....	6	.....
Ocean Belle	83	17	.....	5	.....
Sadie Turpel	56	16	.....	6	.....
Maude S	97	17	.....	7	.....
Aurora	41	14	.....	4	.....
Florence M Smith	99	20	.....	7	.....
Beatrice	66	5	11	.....	11
Mascot	40	4	8	.....	8
Favourite	80	5	19	.....	18
Annie C. Moore	113	7	19	1	18
Labrador	25	4	7	1	7
Wanderer	25	1	4	1	3
Pioneer	66	19	.....	5	.....
Saucy Lass	38	6	8	1	8
Borealis	37	5	10	1	10
Katharine	82	5	13	1	13
Ainoko	75	4	11	1	11
Kate	58	4	10	1	10
Shelby	16	4	5	1	5
Venture	48	3	8	.....	9
Walter L. Rich	76	8	13	1	13
Mountain Chief	23	1	7	.....	6
Fisher Maid	21	.....	4	.....	4
Minnie	46	6	8	.....	12
San Jose	31	5	7	.....	7
Kilmeny	19	2	6	.....	6
Henrietta	31	5	8	.....	9
Coast Indians:					
C. D. Rand	51	7	11	.....	11
Beatrice	49	15	.....	6	.....
Total	3,866	673	258	215	260

Mr. Olney to Lord Gough.

No. 124.] DEPARTMENT OF STATE,
Washington, June 14, 1895.

MY LORD: I have the honor to apprise you of the receipt of a letter of the 11th instant from the Secretary of the Treasury, reporting, in view of a communication of the 11th ultimo from Captain Munger, of the U. S. revenue cutter *Corwin*, the seizure of the British sealing schooner *Shelby* on May 11 last.

The declaration of seizure prepared by Captain Munger and delivered to the commanding officer of H. M. S. *Pheasant* states that the vessel was seized for disregarding the proclamation of the President of the United States and the act of Congress of April 6, 1894. From an examination of the report of Captain Munger, it would appear that the seizure was made on the ground that there was cause to believe that said vessel had killed fur seals within the award area during the closed season, the reason for such belief being found in the possession by the vessel of seal skins, implements, and outfits, together with salt, shotguns, and ammunition.

On receipt of said report Captain Hooper, commanding officer of the patrolling fleet, was reminded that the act of Congress of April 6, 1894, was applicable only to American vessels. He was also directed if, on investigation, he found that said vessel was seized on the charge of illegal killing during the closed season, to instruct Captain Munger to deliver to the commanding officer of H. M. S. *Pheasant* an amended declaration of seizure, assigning as the cause the violation of the second article of the regulations of the Paris award, as set forth in the schedules annexed to the British act of Parliament known as the Bering Sea award act of 1894.

In this connection the receipt signed by the commander of H. M. S. *Pheasant* is called to your attention:

SITKA, *May 13, 1895.*

In accordance with the provisions of section 12, article 9, of the Bering Sea fisheries award, I have this day received from C. L. Hooper, captain, United States Revenue-Cutter Service, commanding Bering Sea fleet, the British schooner *Shelby*, of Victoria, British Columbia, C. Classen, master, with her tackle, furniture, cargo, and documents, seized by the United States revenue steamer *Corwin*, Capt. F. M. Munger, commanding, for violation of the acts of Congress and of the British Parliament regulating the fur-seal fisheries.

FRANK A. GARFORTH,
Lieutenant, R. N., Commanding H. B. M. Pheasant.

Under these circumstances, I request that the consent of Her Majesty's Government be given for the appointment of counsel to represent the Government of the United States in condemnation proceedings against the *Shelby* and such other British vessels as may be seized this season by officers of the United States for violation of the regulations of the Paris award. It is confidently believed that such action will greatly assist in the proper enforcement of the award provisions.

In this connection, I observe that the declaration of seizure will be amended to the end that the libel in admiralty may set forth the breach of the British act of Parliament known as the Bering Sea award act of 1894.

Asking that you will have the kindness to promptly communicate to Her Majesty's Government the purport of this note and to apprise me, at your early convenience, of Her Majesty's decision upon the subject,

I have, etc.,

RICHARD OLNEY.

Mr. Bayard to Mr. Uhl.

No. 450.] EMBASSY OF THE UNITED STATES,
London, June 14, 1895. (Received June 24,)

SIR: I have to-day obtained, and have now the honor to inclose herewith, copy of the proposed bill regulating sealing in Bering Sea and other parts of the Pacific Ocean adjacent to Bering Sea.

I have, etc.,

T. F. BAYARD.

[Inclosure in No. 450.]

A BILL to provide for prohibiting the catching of seals at certain periods in Behring Sea and other parts of the Pacific Ocean adjacent to Behring Sea, and for regulating the seal fisheries in those seas.

Whereas it is expedient to repeal the seal fishery (North Pacific) act, 1893, and to reenact it with amendments: Be it therefore enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) Her Majesty the Queen may, by order in council, prohibit, during the period specified in the order, the catching of seals by British ships in such parts of the seas to which this act applies as are specified in the order.

(2) While an order in council under this act is in force—

(*a*) A person belonging to a British ship shall not kill, take, or hunt, or attempt to kill or take, any seal during the period and within the seas specified in the order; and

(*b*) A British ship shall not, nor shall any of the equipment or crew thereof, be used or employed in such killing, taking, hunting, or attempt.

(3) If there is any contravention of this section, any person committing, procur-

ing, aiding, or abetting such contravention shall be guilty of a misdemeanor within the meaning of the merchant shipping act, 1894, and the ship and her equipment and everything on board thereof shall be subject to forfeiture to Her Majesty.

2. (1) Her Majesty the Queen may, by order in council, make, as respects such parts of the seas to which this act applies as are specified in the order, regulations—

(*a*) For entering in the official log of a ship particulars respecting the hunting, killing, and taking of seals; and

(*b*) For regulating the hunting and taking of seals, with power to prohibit or restrict the use therein of any particular kind of vessels, methods, or implements.

(2) If there is any contravention of any such regulation any person who committed, procured, aided, or abetted such contravention shall be liable to a fine not exceeding one hundred pounds.

(3) If the regulations under this section provide for the entry of particulars in the official log of a ship, the provisions of the merchant shipping act, 1894, with reference to official logs (including the penal provisions) shall apply to every ship engaged in seal fishing within such of the seas to which this act applies as are specified in the order.

3. (1) Any offence or fine under this act may be prosecuted or recovered in like manner as if it were an offence or fine under the merchant shipping act, 1894.

(2) For the purpose of the forfeiture of any ship under this act, section seventy-six of the merchant shipping act, 1894, shall apply.

(3) Where any commissioned officer on full pay in the naval service of Her Majesty the Queen has reasonable cause to believe that during the period and in the seas specified in an order in council under this act, any British ship has been used or employed in contravention of this act, or of any regulation made thereunder, he may stop and examine her, and detain her or any portion of her equipment or any of her crew, and may seize the ship's certificate of registry.

(4) For carrying into effect an arrangement with any foreign State, an order in council under this act may provide that the powers under this act of such commissioned officer may, subject to any limitations, conditions, modifications, and exceptions specified in the order, be exercised in relation to a British ship and the equipment crew and certificate thereof by such officers of the said foreign State, as are specified in the order, or in relation to a ship of the said foreign State and the equipment, crew, and papers thereof, by such British officers as are specified in the order.

4. (1) Where an officer has power under this act to seize a ship's certificate of registry, he may, subject to the directions of an order in council under this act, either retain the certificate and give a provisional certificate in lieu thereof, or return the certificate with an indorsement of the grounds on which it was seized, and in either case may, if the ship appears to him to be liable to forfeiture, direct the ship, by an addition to the provisional certificate or to the endorsement, to proceed forthwith to a specified port, being a port where there is a British court having authority to adjudicate in the matter, and if this direction is not complied with the owner and master of the ship shall, without prejudice to any other liability, each be liable to a fine not exceeding one hundred pounds.

(2) Where in pursuance of this section a provisional certificate is given to a ship, or the ship's certificate is indorsed, any officer of customs in Her Majesty's dominions or British consular officer may detain the ship until satisfactory security is given for her appearance in any legal proceedings which may be taken against her in pursuance of this act.

5. (1) A statement in writing, purporting to be signed by an officer having power in pursuance of this act to stop and examine a ship, as to the circumstances under which or grounds on which he stopped and examined the ship, shall be admissible in any proceedings, civil or criminal, as evidence of the facts or matters therein stated.

(2) If evidence contained in any such statement was taken on oath in the presence of the person charged in the evidence, and that person had an opportunity of cross-examining the person giving the evidence and of making his reply to the evidence, the officer making the statement may certify that the evidence was so taken and that there was such opportunity as aforesaid.

6. (1) Her Majesty the Queen in council may make, revoke, and alter orders for the purpose of this act, and every such order shall be forthwith laid before both houses of Parliament and published in the London Gazette.

(2) Any such order may contain any limitations, conditions, modifications, and exceptions which appear to Her Majesty in council expedient for carrying into effect the object of this act.

7. (1) This act shall apply to the animal known as the fur seal, and to any marine animal specified in that behalf by an order in council under this act, and the expression "seal" in this act shall be construed accordingly.

(2) This act shall apply to the seas within that part of the Pacific Ocean known

as Behring's Sea and within such other parts of the Pacific Ocean as are north of the forty-second parallel of north latitute, and shall be in addition to and not in derogation of the provisions of the Behring Sea award act, 1894.

(3) The expression "equipment" in this act includes any boat, tackle, fishing or shooting instruments, and other things belonging to a ship.

(4) This act may be cited as the seal fisheries (North Pacific) act, 1895.

(5) The seal fishery (North Pacific) act, 1893, is hereby repealed as from the passing of this act, but shall be deemed until that passing to have continued in force, and any order in council in force under that act shall continue as if it had been made in pursuance of this act.

(6) This act shall remain in force until the thirty-first day of December, one thousand eight hundred and ninety-seven and no longer unless continued by Parliament.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., June 17, 1895.

SIR: With reference to Mr. Uhl's note of the 5th of April last, requesting information in regard to two vessels, the *C. E. Fox* and the *Sea Lion*, reported to have been engaged in sealing during the last season, I have the honor to inform you that I referred the question as to the identity of these ships to the Governor-General of Canada.

I now have the honor to forward to you copy of an approved minute of his excellency's privy council, from which you will observe that no such vessels are registered in British Columbian ports. The minute, however, supplies information in regard to the *Diana* and the *Carlotta G. Fox*, which it is thought may be the vessels intended.

I have also the honor to inclose copy of a further minute correcting certain particulars as to the *Diana* supplied in the first minute.

I have, etc.

GOUGH.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 5th June, 1895.

On a report dated May 27, 1895, from the minister of marine and fisheries, submitting with reference to the annexed dispatch, dated April 11, 1895, from Her Majesty's ambassador at Washington (in which information is requested as to two vessels, the *C. E. Fox* and the *Sea Lion*, reported to have been engaged in sealing during the last season), the appended communication just received from the collector of customs at Victoria, British Columbia, on the subject, from which it will be observed that, so far as known, there are no such vessels as the *C. E. Fox* and the *Sea Lion* registered in British Columbia ports, nor can the names of those vessels be found among those mentioned in the list of American vessels sealing in or voyaging from ports on the Pacific Ocean. The collector of customs states, however, that there was, on the register of the port of Victoria, a sealing vessel, named the *Sea Lion*, built in 1889, official No. 94811, but on the 19th of January, 1893, the name of this schooner was changed by order in council to the *Diana*, under which name the vessel was reported in 1894, with her catch, having departed on a sealing voyage to the Asiatic side in the spring and returning in the fall. The particulars respecting this vessel are given as follows: Tonnage, 50; white crew, 19; boats, 6; Japanese coast catch, 1,961; Copper Island catch, 43; total, 2,394 seal skins.

The minister observes touching the inquiry in connection with the *C. E. Fox*, that the collector of customs is of the opinion that it is not improbable that the vessel referred to is the *Carlotta G. Fox*, official No. 97154, the particulars of whose catch are as follows: Tonnage, 76; white crew, 24; boats, 7; catch, 1,947 (Japanese coast).

The minister observes that this vessel, which cleared from and returned to Victoria, was included in the tabulated statements which have been already forwarded.

The committee advise that your excellency be moved to forward a certified copy of

this minute, as well as of the communication from Collector of Customs Milne to Her Majesty's ambassador at Washington, and also to the right honorable Her Majesty's principal secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

CUSTOMS, CANADA.
Victoria, British Columbia, May 9, 1895.

JOHN HARDIE, Esq.,
Acting Deputy Minister of Marine, etc., Ottawa.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d ultimo, conveying the information that the honorable the minister of marine and fisheries had received, through his excellency the Governor-General, a request from the State Department of the United States for information concerning two schooners, the *C. E. Fox* and the *Sea Lion*, which were reported to have been engaged during 1894, in the seal fishery.

I beg to state for the information of the honorable minister that there are no such vessels as the *C. E. Fox* and *Sea Lion* registered at this or any other British Columbian port, nor can I find those names mentioned in a list of American vessels sealing in, or voyaging from ports on the Pacific Ocean.

There was on the register of this port a sealing schooner named the *Sea Lion*, built in 1889, official No. 94811, but on the 19th day of January, 1893, the name of the same schooner *Sea Lion* was changed by order in council to the *Diana*, under which name this vessel was reported in 1894 with her catch, having departed on a sealing voyage to the Asiatic side in the spring and returning in the fall.

The particulars of her catch are as follows: Tonnage, 50; white crew, 19; boats, 6; Japanese coast catch, 1,961; Copper Island catch, 43; total 2,394.

Regarding the other vessel which you mention, named the *C. E. Fox*, I am impressed that this is intended to refer to a sealing vessel on the register of this port, named the *Carlotta G. Cox*, official No. 97154. The particulars of the catch of this vessel are as follows: Tonnage, 76; white crew, 24; boats, 7; catch, 1,947 (Japanese coast); total catch of skins taken by this vessel, 1,947.

This vessel clearing from and returning to this port in the fall, and her catch is included in the tabulated statements of the sealing catch of 1894.

I have, etc.,

A. R. MILNE, *Collector.*

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 8th June, 1895.

On a report dated 3d June, 1895, from the minister of marine and fisheries, submitting, in reference to the minute of councilapproved under date 5th June, 1895, forwarding certain information asked for by the United States Government in respect of two vessels (the *C. E. Fox* and the *Sea Lion*) reported to have been engaged in sealing during the season of 1894, the appended communication just received from the collector of customs at the port of Victoria, correcting a slight error which occurred in his previous letter, appended to the minute of council above referred to, in connection with the catch of the schooner *Diana* (formerly *Sea Lion*).

The committee advise that your excellency be moved to forward a certified copy of this minute, if approved, together with its appendix, to Her Majesty's ambassador at Washington and to the right honorable the principal secretary of state for the colonies.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

CUSTOMS, CANADA,
Victoria, British Columbia, May 23, 1895.

JOHN HARDIE, Esq.,
Acting Deputy Minister of Marine, etc., Ottawa.

SIR: Reverting to my letter of the 9th instant, in answer to yours of the 22d ultimo, re schooners *Sea Lion* and *C. E. Fox*, I find in examining the copy that an unaccountable error was made in giving the catch of the schooner *Diana*, formerly the *Sea Lion*, on the twenty-second line, by giving the Copper Island catch as 43 instead of 433, the total, however, being correct. The particulars should have been as follows: Japanese coast catch, 1,961; Copper Island catch, 433; total, 2,394.

I have, etc.,

A. R. MILNE, *Collector.*

Mr. Olney to Mr. Roosevelt.

No. 749.] DEPARTMENT OF STATE,
Washington, June 18, 1895.

SIR: Among the correspondence transmitted with the Department's instructions, Nos. 713[1] of May 23, and 740[1] of the 12th instant, you will find mention of the cases of the British sealing schooners *Wanderer* and *Favorite*, the seizure of which, according to Sir Julian's note of May 11, affords grounds for Her Majesty's Government to reject for the current year the provision of last year's regulations concerning the sealing up of arms on board of vessels traversing the award area during the closed season.

I am informed by the United States consul at Victoria, British Columbia, that the *Wanderer* having been seized June 9, 1894, in the North Pacific Ocean by the commander of the U. S. cruiser *Concord* and formally delivered to the commander of H. M. S. *Pheasant*, was subsequently taken to Victoria and released by Admiral Stephenson of H. M. S. *Royal Arthur*.

The consul states that upon investigation it was found that all the guns of the *Wanderer*, except one, were secured under seal; that her master had no knowledge that there was a gun on board unsealed in violation of last year's regulations; and further, that Admiral Stephenson "after careful investigation, and acting under legal advice, ordered the release of the schooner, the conclusion having been reached that no case could be made out against her."

I am also advised by the Secretary of the Treasury that his Department understands that the British sealing schooner *Favorite*, seized in Bering Sea, August 24, 1894, by the commanding officer of the U. S. S. *Mohican*, was similarly released upon being turned over to the British naval authorities.

I have to instruct you to represent to Her Majesty's Government that this action of the British naval authorities is not in accord with the evident intent and spirit of the legislation enacted by the respective Governments for carrying out the provisions of the Paris award.

These vessels were seized under authority of the order in council of Her Majesty's Government, dated April 30, 1894, whereby United States officers, duly commissioned and instructed by the President, were authorized to seize any British vessel which had violated the Paris award regulations as contained in the act of Parliament, known as "the Bering Sea award act, 1894," and bring her for adjudication before any British court of admiralty, or in lieu thereof to deliver her to any British officer for adjudication before said court.

The plain purpose of the law necessarily required judicial proceedings for the condemnation and forfeiture of every vessel seized for violation of the award provisions, especially those seized by United States officers and delivered to the British authorities as aforesaid, or conversely. In the case in question, however, it would appear that Admiral Stephenson, in discharging said vessel, took upon himself to decide a question which undoubtedly could properly be decided only by the competent British court of admiralty.

By no process of reasoning can it be inferred from the terms of the Paris award or of the concurrent legislation of the two countries thereunder, that conviction or acquittal of any offense thereby contemplated could be reached by other than due process of law. No concurrent authority of the naval commanders to decide the question of guilt or

[1] Merely transmits copies of correspondence with the British embassy.

innocence appears, and certainly it was never contemplated that the naval commander of the vessel's nationality should alone and on his own account revise and overrule the action of the seizing commander.

The evidence in the case of the *Wanderer* seems clearly to justify the suspicion and belief that some, at least, of the 400 seal skins found on board had been taken during the prohibited season by means of shotguns, in violation of the award regulations and of the British and American laws. The master gave his arms and ammunition to the commander of the U. S. cruiser *Yorktown* to be secured under seal. Later in the same day he was boarded by the commander of the cruiser *Concord* and stated that the arms and ammunition sealed up by the *Yorktown* were all he had on board. Upon search, however, a breech-loading shotgun and a bag of loaded shells were found concealed in the extreme forward part of the vessel under a pile of iron cans, between decks. While the officer was making an entry in the log book as to this weapon, the master of the vessel was heard to say to the mate, "God damn it, I told you you ought to have had that put in with the others," or words to that effect. This deception of the master, together with the concealment of the weapon and the presence on board of seal skins and other suspicious evidence revealed on search, clearly should have been submitted to a court of admiralty as evidence in condemnation proceedings.

In the case of the *Favorite*, 1,230 seal skins were found on board, together with a shotgun, whose barrels were cut off to 12 inches. It was found that it would shoot accurately for the distance of 50 yards; its use was prohibited by the award regulations.

The cause particularly assigned for these seizures, namely, the carrying of firearms unsealed, taken in connection with the fact that such weapons were forbidden then and there to be used, and that there were also found seal skins on board, would plainly justify the belief that said firearms had been used in violation of article 6 of the award as contained in the British Bering Sea award act of 1894, and the American act of Congress of April 6, 1894.

That the notices of seizure, as prepared by the United States seizing officers, do not with particularity specify the illegal use of these weapons, but rely chiefly upon their presence on board unsealed, clearly would not prevent such use being proved in subsequent proceedings in court for condemnation and forfeiture, the effect of said notices being merely to acquaint the authorities to whom the ships are turned over of the fact of the seizure, and of the particular offenses relied upon for maintaining a libel in condemnation proceedings. It would seem perfectly clear that additional breaches of the law could be assigned and made the subject of condemnation proceedings at any time before the trial.

The instructions issued by the British Government to the commanders of its cruising vessels for the season of 1894, would, it is submitted, have imposed upon such officers under similar circumstances the duty of seizing these vessels. Said instructions, in part, were as follows:

> If you are satisfied that a vessel has hunted contrary to the act, you will seize her. * * * Whether the vessel has been engaged in hunting, you must judge from the presence of seal skins or bodies of seals on board, and other circumstances and indications.

The preceding facts and considerations justify the formal protest of this Government against the aforesaid action of the British naval authorities, as reported, in releasing the seized vessels, without due judicial process, and constrain it to request that in future every vessel seized by United States officers under the provisions of the award and the concurrent legislation and regulations in regard thereto shall

be proceeded against for condemnation in the admiralty court having jurisdiction in the premises.

You will communicate the foregoing to the Earl of Kimberley, by reading this instruction and, should he so desire, furnishing him with a copy.

I am, etc., RICHARD OLNEY.

Mr. Olney to Lord Gough.

No. 133.] DEPARTMENT OF STATE,
Washington, June 21, 1895.

MY LORD: On the 27th ultimo Her Majesty's ambassador handed to Mr. Uhl a printed copy of an instruction from the foreign office, No. 93, dated May 17, 1895, in answer to Mr. Gresham's proposals of the 23d of January last, touching the necessity of further provisions to preserve the fur-seal herd of the northern Pacific and Bering Sea from extermination in view of the inadequacy of the regulations laid down by the Paris Tribunal of Arbitration, and specifically replying to the proposal of this Government for the appointment of an international commission by the Governments of the United States, Great Britain, Russia, and Japan, respectively, to investigate the fur-seal fisheries of those waters, and, pending a report by said commission, for a modus vivendi prohibiting sealing in Bering Sea and extending the regulations of the Paris award along the thirty-fifth degree of north latitude to the shores of Asia.

With regard to Mr. Gresham's statements concerning the startling increase in the pelagic slaughter of both the American and Asiatic herds, I note that the reply of the foreign office takes the position that this Government, because of its contention before the Paris Tribunal that the Asiatic and American fur-seal herds are distinct and do not commingle, can not now with propriety draw any inference as to the effect of pelagic sealing on the American fur-seal herd from figures indicating increased catches over previous seasons in the total of seals killed on the Asiatic and American sides of the North Pacific Ocean.

The claim is further advanced that, although the catch of fur seals during last season on the Asiatic side was greater than in any previous year, yet the catch taken from the American herd (that is, within the Paris award area), while admittedly larger than in most previous seasons, was, in fact, not as large as that of the season of 1891. And in this connection this Government is further reminded that the success or failure of the regulations established by the Paris Tribunal must be judged solely by their effect on the herd which they were "intended to protect."

I have the honor to reply that during the hearings before the Tribunal of Arbitration at Paris it was earnestly contended by counsel representing Great Britain that the Asiatic and American herds did commingle. That fact was disputed by the American counsel in the light of the evidence before them. The Tribunal, however, was not called upon to make any definite finding upon this important question. While I do not wish to be understood as expressing any opinion upon the subject, yet, in view of the admission contained in the note of your Government, in which I cordially join, that "our knowledge of seal life is still far from complete," I feel that this disputed question as to whether said herds commingle still requires most careful consideration

and study. It has been suggested that the American seal herd, even if not naturally commingling with the Asiatic herd, may have been driven over to Asiatic shores by incessant slaughter during the past seasons. If such were found to be the fact on careful investigation, which investigation is unfortunately refused by Her Majesty's Government—it might appear that the total slaughter of fur seals on both sides of the North Pacific Ocean has a more intimate connection with the present condition of the American fur-seal herd than is now admitted.

However this may be, the foreign office seems to have fallen into the serious error of assuming that the proposition of the United States Government, contained in Mr. Gresham's note of January 23 last, was selfish in its character, having application only to the material interests of the United States Government in the American, as distinguished from the Asiatic, fur-seal herd. Nothing could be further from the truth. The President acted in the desire to protect the fur-seal fisheries on both sides of the North Pacific Ocean, Asiatic as well as American, for the benefit of mankind. Incidentally, it is conceded, this might have resulted in benefit to the interests of the United States, but the proposition was based on broad humanitarian principles, no peculiar benefit or gain being sought save what would have occurred to all mankind from the proper regulation of these valuable fisheries. It will be recalled that a proposition of similar nature, limited to Bering Sea, was made by my predecessor, Mr. Bayard, through the United States ministers in England, Japan, Russia, and Sweden and Norway to those respective Governments in 1887, and that subsequently, at the request of Lord Salisbury, then Her Majesty's secretary for foreign affairs, its scope was broadened so as to embrace the whole northern Pacific Ocean, including Bering Sea, from the Asiatic to the American shores north of the forty-seventh degree of north latitude. Unfortunately, and apparently at the dilatory instance of the Canadian Government, this proposal was indefinitely postponed by Her Majesty's Government in June, 1888.

The development of valuable fur-seal fisheries off the coasts of Japan and Russia, followed by the closed season established by the Paris award, has induced many sealing vessels to frequent those waters, thus causing a notable increase in the pelagic slaughter off the Asiatic shores. The figures given by the foreign office included only the slaughter in Japanese waters. Adding the seals killed in Russian waters we have a total of over 73,000 in 1893 and over 79,000 in 1894. It was to regulate the killing in those waters, as well as within the Paris award area, that Mr. Gresham's proposition of January 23 was made.

But even if it be assumed that the American and Asiatic herds are distinct and have never commingled, the fact still remains that the slaughter of the so-called "American" or "Alaskan" herd during the past season has been greater than in any season in the history of pelagic sealing. The foreign office's instruction states that about 12,500 fewer seals were killed from this herd in the award area in 1894 than in 1891. There is good ground, however, to conjecture that the British computation of seals killed in Bering Sea in 1891, namely, 29,146, swelling their total computation to 68,000, comprised a number of seals taken on the western side of that sea in the vicinity of the Russian islands. The figures for the catch in the same sea in 1894 (31,585) it should be remembered, are limited to seals killed on the eastern side within the area of the Paris award.

It was a matter of evidence before the Paris tribunal that after the promulgation of the modus vivendi of June 15, 1891, 41 British vessels

were warned out of the American side of Bering Sea by American cruisers between the dates of June 29 and August 15 of that year. It is believed that many of the vessels so warned went over to the Russian side of Bering Sea and made catches there. From statistics in the possession of this Government it would appear that some 8,432 seals were so taken—6,616 by British vessels and 1,816 by American vessels. There should be deducted, therefore, from the British figures 6,616, leaving about 23,000 as the catch of British vessels in the award area in Bering Sea during the season of 1891. A closely similar result is reached by careful examination of all the reported catches of 1891, and of the affidavits scattered through the cases and counter cases of the United States and Great Britain, whereby, deducting from the catch stated in the United States counter case, 28,605, the number of seals estimated to have been killed off the Russian coasts, 5,847, a result of 23,041 is reached. Adding to this computed British catch in Bering Sea during 1891 the number of seals computed as killed in Bering Sea by American vessels in that year, 4,920, the total number of seals killed and recovered within the award area in Bering Sea for the season of 1891 falls below 28,000.

The communication of the foreign office states the total catch of the American and British vessels within the award area, comprising the North Pacific, in addition to Bering Sea, in 1891, as 68,000. A careful computation made by the Treasury Department of the total catch for 1891, based on an elaborate calculation of all the evidence disclosed in the case and counter case of each Government, estimates the number of seals known to have been killed within the award area at 45,000, leaving about 18,000 undetermined as to the locality of the slaughter. Taking, however, the figures as given by the foreign office, 68,000, and subtracting the number estimated by other computations by the Treasury Department to have been killed in Russian waters, 8,432, we have left 59,568 as the maximum catch within the award area for 1891.

The official statement of the catch for 1892 contained in the report of the Canadian department of marine and fisheries credits 14,805 out of a total of 53,912 to the Asiatic shores; the report for 1891 gives only a total of 52,995, none being credited to Russian waters; neither does the report of the British commissioners of the catch of 1891 give any number as killed in said waters. While admittedly these Russian catches were relatively small in this year, and hence may by inadvertance have escaped the attention of the Canadian authorities, yet it is clear that the British computations of 1891 and 1892 are reached by different methods, omission, if not error, to the extent stated above being distinctly imputable to the figures of 1891.

In computing the catch of 1894, the instruction of the foreign office states that 55,602 seals were killed within the award area, including 17,558 as the catch of American vessels. It should be remembered, however, that in the Treasury Department tables, from which the details mentioned in Mr. Gresham's note of January 23 were taken, 6,836 skins taken by American vessels were stated as undetermined as to location. Assuming that these unlocated catches were divided between the American and Asiatic herds in the same proportion as the other skins landed during the season of 1894 at American ports by United States vessels, we should have for the total catch within the award area 55,686, plus 6,152, or 61,838 in all, representing the bodies actually recovered, disregarding those killed but not recovered, from two to five times as many, according to the evidence before the Tribunal at Paris.

This total of seals killed and recovered justifies the repetition of the

statement previously made that the pelagic catch within the award area during the last year's season was the largest in the history of pelagic sealing, the nearest approximation being the season of 1891, in which, even on the theory of the British figures, not more than 59,568 seals were killed and secured. The significance of this catch of 1894 will be better appreciated when it is considered that only 95 vessels were employed as against 115 in 1891.

It is further contended in the foreign office note that the increased catch, with proportionately fewer vessels, indicates an increased number of seals in 1894 as compared with 1891, and consequently a better condition of the fur-seal herd. When, however, the startling decrease of seals on the Pribilof Islands, pronounced by experts to be at least one-half since 1890, taken in connection with the great destruction of pups from starvation on the islands last season, caused by the slaughter of their mothers at sea, is considered, it will appear, it is respectfully suggested, conclusively demonstrated that the increased catch is but a measure of the increased efficiency of the crews employed as hunters on the sealing vessels; that the seal herd is rapidly diminishing in numbers and that it is in danger of speedy extermination unless changes are made in the regulations established by the Paris award as proposed by this Government.

It is correctly stated by the foreign office note that the catch in the award area of last season outside of Bering Sea was less than during the season of 1893. It should be remembered, however, that it falls only a little short of the catch of 1893, and that it was taken during four months, January to April, while the catch of 1893 was taken during seven months, January to July. The prohibition in the award regulations of pelagic sealing during the months of May, June, and July, however, was calculated undoubtedly to do much good to the herd, and some favorable results might naturally have been expected early in the season on the islands. Nevertheless, after the sealing fleet had finished its work in Bering Sea, the alarming increase in the number of dead pups found on the islands (amounting by accurate estimate to about 20,000), revealed unmistakably the fatal error of the award regulations in opening said sea to pelagic sealing.

The marvelously increased efficiency of the pelagic seal hunters in the use of the shotgun and spear, as shown by the enormous catches of late years, and especially of the last season under the award regulations, can not fail, it is again submitted, to speedily deplete the fur-seal herd. This depletion has already necessitated a reduction of the land catches on the Pribilof Islands of 85 per cent since 1890, and the pelagic catches must soon decrease in like degree on peril of complete extermination. Reports of the coast catch of the present season of 1895 would seem to indicate that this decrease is already observable. It is to be presumed, however, that for some few years the pelagic slaughter in Bering Sea, the great nursery of the fur-seal herd, can be maintained at figures approximating to or possibly exceeding those of last year. But the end can not be far off. It is respectfully submitted that such slaughter as has taken place within the last year—largely of nursing females—affords conclusive evidence that the regulations as established by the Paris award are not giving that measure of protection that the arbitrators intended. Commercial extermination of the fur-seal herd—Asiatic as well as American—is imminent. It is to be deeply regretted, therefore, that Her Majesty's Government has declined our propositions for the appointment of an international commission, and for an efficient modus vivendi pending a more comprehensive agreement in which all the parties in interest may justly share.

While thus rejecting the suggested international commission and modus vivendi, the foreign office instruction suggests that resident agents be appointed by the United States and Great Britain to be stationed on the Pribilof and Commander islands, there to make joint investigation during the next four years, and to report from time to time as to the condition of the fur-seal fisheries.

Although this Government firmly believes that this suggestion of Her Majesty's Government is inadequate and can not satisfactorily take the place of an international commission of scientists, nor supply the need of all asked for in said modus, it is unwilling to block the way to a better approximate understanding of the important conditions of seal life. It is thought, however, that the British suggestion may be advantageously modified in the interest of all concerned, and I am directed by the President to make a new proposition to Her Majesty's Government, based largely upon that now submitted by the foreign office, to wit: That three agents each be appointed by the respective Governments of Great Britain, Russia, Japan, and the United States, twelve in all, who shall be stationed on the Kurile, Commander, and Pribilof islands, respectively; that these agents be instructed to examine carefully into the fur seal fishery and to recommend from time to time needful changes in the regulations of the Paris award and desirable limitations of the land catches of each of the said islands; that within four years they shall present a final report to their respective Governments, and that, pending such report, a modus vivendi be entered into extending the award regulations along the line of the thirty-fifth degree of north latitude from the American to the Asiatic shores.

The importance of the subject, of which the Governments interested must by this time be abundantly convinced, leads me to hope for the early and favorable attention of Her Majesty's Government to this amended proposal.

I have, etc., RICHARD OLNEY.

Mr. Roosevelt to Mr. Olney.

No. 467.] EMBASSY OF THE UNITED STATES,
London, June 25, 1895. (Received July 5.)

SIR: Referring to my dispatch No. 456,[1] of the 19th instant, I have the honor to inclose herewith clippings from the London Times of to-day and the 26th instant, containing the account of the passage through both houses of Parliament of the seal fisheries (North Pacific) bill,[2] copies of which I have already had the honor of transmitting to you. Owing to the resignation of the ministry and the necessity of the passage of this bill before July 1 (the date on which the previous act expires by limitation), it was agreed by both parties in Parliament that the seal-fisheries bill should be regarded as "non contentious matter," and it was accordingly passed without amendment or extended debate.

I have, etc., JAMES R. ROOSEVELT.

[1] Not printed.

[2] For bill, see page 643.

[Inclosure in No. 467—From the London Times.]

SEAL FISHERIES (NORTH PACIFIC) BILL.

This bill was brought up from the Commons.

The Earl of Kimberley, in moving that it be read a first time, said that, as it was extremely urgent that the bill should pass into law, he should move the second reading to-morrow, and also give notice of his intention to move that the standing orders be suspended in order that it might pass through all its stages.

(June 25, 1895.)

The Earl of Kimberley moved the second reading of this bill. He said he did not think it necessary for him to explain the bill. It was simply for the purpose of enabling the Government of this country to fulfill their agreement with Russia which had lately been renewed, and it reenacted provisions in former acts, with alterations. The only remark he wished to make was with regard to one single point. He understood that objection was taken in another place to leaving out the scheduling of the clauses of the merchant shipping act which were applicable to the bill. The reason why that had been done was that when they were in the former act there was this inconvenience, that the provisions of the merchant shipping act having been altered a year afterwards the schedule was no longer correct, and therefore any person having the act in his hands, and not knowing the changes that had been made, would be misled. It was thought better, therefore, that the provisions should not be scheduled, but that a copy of them should be given to the captains of fishing vessels.

The bill was read a second time, and the standing orders having been suspended, the remaining stages were taken and the bill passed.

(June 26, 1895.)

Mr. Roosevelt to Mr. Olney.

No. 472.] EMBASSY OF THE UNITED STATES,
London, June 28, 1895. (Received July 8.)

SIR: I have the honor to acknowledge your instruction No. 740, of the 12th instant, addressed to Mr. Bayard, in relation to the concurrent regulations for carrying out the provisions of the Paris award in Bering Sea, together with your instruction to me, No. 749 of the 18th instant, on the same subject.

On the reception of the latter, I at once paid a visit to Lord Kimberley at the foreign office, in order that I might, as instructed, communicate to him the formal protest of the Government of the United States against the action of the British naval authorities in releasing the sealing schooners *Wanderer* and *Favorite*, without due judicial process, and to request that in future every vessel seized by United States officers, under the provisions of the award and concurrent legislation and regulations, should be proceeded against for condemnation in the admiralty court having jurisdiction in the premises.

Lord Kimberley received me courteously, but upon mentioning to him the object of my visit, he informed me that during the few days which must elapse before the final transfer of the seals of office from the retiring to the incoming ministry, it was quite out of his power to receive any communications, or to transact anything but routine business.

It is expected that Lord Salisbury will formally take up the duties of foreign secretary on Tuesday of next week, and I shall then take the earliest possible opportunity of requesting an interview with him for the purpose of carrying out your instruction.

I have, etc.,

JAMES R. ROOSEVELT.

Mr. Uhl to Lord Gough.

No. 139.] DEPARTMENT OF STATE,
Washington, July 1, 1895.

MY LORD: Your note of May 27 last, informing me that Her Majesty's Government had designated the naval vessels *Nymph* and *Pheasant* to patrol that part of the North Pacific Ocean and Bering Sea embraced within the terms of the award of the Tribunal of Arbitration during the season of 1895 was duly received and communicated to the Secretary of the Treasury, to whose Department the supervision of the corresponding control of those waters under the award and regulations of the Paris tribunal duly pertains.

It is proper, however, in the interest of the efficient fulfillment of the obligations of the respective Governments under the award and findings of the Paris tribunal, that the attention of Her Majesty's Government should be drawn to the obvious inequality and inadequacy of the measures adopted by Her Majesty's Government to that end, both with regard to the work necessarily to be accomplished and as compared with the steps taken by the United States Government to the same end.

This discrepancy was especially marked during the season of 1894, when Her Majesty's Government designated only one patrolling vessel, the *Pheasant*, although a majority of the schooners engaged in fur-seal fishing within the award area were under the British flag; while of those which entered Bering Sea less than one-half were United States vessels. In that year twelve United States vessels were designated by the President to patrol the award area, viz: *Mohican*, *Bennington*, *Alert*, *Ranger*, *Yorktown*, *Adams*, *Concord*, and *Petrel;* the revenue cutters *Corwin*, *Rush*, and *Bear*, and the Fish Commission steamer *Albatross*. The expense attending the presence of these vessels in the North Pacific Ocean and Bering Sea for the season of 1894, exclusive of the pay of officers and men and also excluding rations, was $198,304.49.

For the present season of 1895 the discrepancy, although less marked, is still noteworthy; the conditions under which the patrol of those sealing waters is conducted impose in some respects more onerous duties upon the contracting parties in the protection of seal herds from illicit destruction.

There is grave reason to suspect that during the approaching season in Bering Sea, which opens on the 1st of August, sealing vessels will take advantage of the refusal of the British Government to continue the agreement of 1894, which provided for the sealing up of the arms of such vessels while in Bering Sea, thereby increasing the demands upon the vigilance of the patrolling fleet to detect evasions and infractions of the provisions of the Paris award. In a report from the United States Fish Commission recently transmitted to the Treasury Department it is stated:

> We may reasonably expect a fleet of 56 vessels in those waters (Bering Sea). * * * Regarding Bering Sea, the sealers appear gratified over the fact that their firearms can not be sealed up. They considered the sealing of arms a gr at hardship, and their satisfaction over carrying them unsealed must mean a determination to use them whenever they think it safe to do so. Some of them say that when the Japan fleet hear of this they will send more vessels to the sea. There is little doubt but that firearms carried into the sea will be used.

While the sealing fleet in the award area is about the same in numbers as in 1894, the British vessels already cleared for the fur-seal fisheries outnumber the American so cleared in about the proportion of 2 to 1. The United States patrolling fleet for this season consists of seven

vessels, viz: The revenue cutters *Rush*, *Bear*, *Corwin*, *Wolcott*, *Grant*, and *Perry*, and the Fish Commission steamer *Albatross*.

In view of the vast area to be patrolled, this Government is constrained to suggest that the detail of two naval vessels only on the part of Her Majesty's Government is totally inadequate to the performance of the proper share of the work and responsibility of patrol which necessarily falls to that Government.

I am therefore moved to invite, through you, the earnest attention of Her Majesty's Government to this matter, and to ask for the more active and efficient cooperation in enforcing the legislation concurrently enacted for carrying out the provisions of the Paris award, which this Government believes it has a right to expect from Her Majesty's Government in view of the joint obligations which rest upon them in this regard.

While treating of this subject I beg to advert to the importance of obtaining from Her Majesty's Government a speedy answer touching the changes proposed in the scope of the Paris award, and the practicable suggestions and requests contained in my note to Sir Julian Pauncefote of May 10 last, and in the note of Secretary Olney to you of the 14th ultimo. I refer particularly to the proposition in my note of May 10, that the carrying of firearms in Bering Sea be prohibited, or that illegal use shall be presumed from the possession of weapons the use of which is prohibited, as now provided for in section 10 of the act of Congress of April 6, 1894, and as was formerly provided for in the British Bering Sea act of 1891 and the seal fishery (North Pacific) act of 1893. The note of May 10 further requested permission to appoint experts on behalf of the Government of the United States to examine all seal skins landed at British Columbia ports with regard to sex, mode of slaughter, etc., the results found being compared with the log-book entries. In the note of June 14 a request was made that counsel in representation of the Government of the United States be admitted in condemnation proceedings of vessels seized by United States or British officers. The foregoing suggestions being particularly applicable to Bering Sea, where the season opens on the 1st of August next, it will be highly desirable to have a distinct understanding upon the subject reached before that time, and I therefore renew the previous request for an early answer.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Roosevelt to Mr. Olney.

No. 475.] EMBASSY OF THE UNITED STATES,
London, July 3, 1895. (Received July 15.)

SIR: Referring to my dispatch, No. 472, of June 29, I have the honor to report that I have to-day had an interview with Lord Salisbury, Her Majesty's secretary of state for foreign affairs, and read to him, as instructed, your No. 749, of the 18th of June, containing the formal protest of the United States Government against the action of the British naval authorities in releasing, without due judicial process, the British sealing schooners *Wanderer* and *Favorite* seized by the naval vessels of the United States during the season of 1894. Lord Salisbury desired me to leave with him a copy of the instruction, and said that the matter should have immediate attention.

During the conversation which ensued his lordship asked me several

questions as to the present status of the regulations for the enforcement of the award of the Paris Tribunal of Arbitration, and I took the opportunity of referring to the deep regret felt by the Government of the United States at the refusal (and especially at the tardy communication of such refusal) of the British Government to concur in the proposed regulations for the season of 1895 (drafted by the Secretary of the Treasury and Sir Julian Pauncefote in January last) in relation to the sealing up of firearms on board vessels desiring to traverse the area covered by the award during the close season.

I have, etc., JAMES R. ROOSEVELT.

Mr. Adee to Mr. Roosevelt.

No. 780. | DEPARTMENT OF STATE,
Washington, July 8, 1895.

SIR: Referring to the Department's note of May 10 to Sir Julian Pauncefote, Her Majesty's ambassador at Washington, copy of which was inclosed in the Department's No. 713, of the 23d of that month, on the subject of sealing up arms and recommending concurrent recognition of presumption of illegal use of arms from their presence on board, I inclose herewith a copy of a letter from the Acting Secretary of the Treasury, calling attention to the significant omission from the proposed British bill, inclosed with your No. 450, of the 14th ultimo, regulating sealing in Bering Sea, of the sixth clause of the first section of the seal-fishery act of 1893, which expired by limitation on the 1st instant, in which the presumption of illegality is drawn from the presence of implements or seal skins on board.

The Acting Secretary of the Treasury observes that if the pending bill should reenact this clause referred to "it would be possible by subsequent orders in council to bring the British law into harmony with that enacted by Congress upon this question, to which I have had the honor in previous communications to call your attention. Should, however, the pending bill become law with said clause omitted, it is feared that it may prove a source of embarrassment in the effort to properly enforce the provisions of the Paris award in the future."

The Department has since received your No. 467, of the 25th ultimo, saying that the bill in question had passed both houses of Parliament without amendment.

This circumstance does not, however, preclude this Government from expressing its deep regret, in view of the importance of the question involved, that the clause referred to in the Treasury letter should not have been reenacted, and it is earnestly hoped that some means may yet be provided whereby this omission may be remedied and the two Governments brought into a more harmonious attitude on the subject.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 780.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., July 3, 1895.

SIR: I have the honor to acknowledge the receipt of your communication of June 25, inclosing a copy of a dispatch, No. 450, of the 14th ultimo, from the United States ambassador at London, in regard to proposed British legislation with reference to sealing in the North Pacific Ocean. I have further to acknowledge the inclosures therein contained, namely, a copy of the said proposed act (seal fishery, North Pacific, act) and of the merchants' shipping act of 1894.

I have carefully read the same, and desire to call to your attention the significant omission in said pending bill of the sixth clause of the first section of the seal fishery (North Pacific) act of 1893, which expired by limitation on the 1st instant, and for which the present pending bill is to be substituted. This clause is as follows:

> If during the period and within the seas specified by the order a British ship is found having on board thereof fishing or shooting implements, or seal skins, or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this act.

A similar provision was contained in the seal fishery (Bering Sea) act of 1891, upon which the modus vivendi of 1891 and 1892 was founded, clause 5 of section 1 of which provided as follows:

> If a British ship is found within Bering Sea having on board thereof fishing or shooting implements, or seal skins, or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this act.

Inasmuch as the pending bill expressly states that its provisions shall not be in derogation of the provisions of the Bering Sea award act of 1894, but in addition thereto, this omission is significant and becomes of the utmost importance.

Under the Bering Sea award act of 1894, enacted to carry out the provisions of the Paris award, the subject-matter of orders in council is strictly limited to provisions for carrying into effect the scheduled provisions (that is, the Paris award and the merchants' shipping act), and for giving the necessary authority to United States officers to seize British vessels which have violated the award provisions. The scope of such orders in council as may be issued under said act is also limited to the area designated in said award.

The seal fishery (North Pacific) act of 1893, however, extends the scope of orders in council to all of the Pacific Ocean and Bering Sea north of the forty-second parallel of latitude, and further, gives the widest latitude to said orders as to limitations, conditions, qualifications, and exceptions which appear to Her Majesty in council expedient for carrying into effect the object of this act as expressed in the title, "For prohibiting the catching of seals at certain periods in Bering Sea and other parts of the Pacific Ocean adjacent to Bering Sea."

If, therefore, the pending bill should reenact the clause above quoted in which the presumption of illegality is drawn from the presence of implements or seal skins on board, it would be possible by subsequent orders in council to bring the British law into harmony with that enacted by Congress upon this question, to which I have had the honor in previous communications to call to your attention. Should, however, the pending bill become law with said clause omitted, I fear that

it may prove a source of embarrassment in the effort to properly enforce the provisions of the Paris award in the future. I have the honor to request, if such course be approved by you, that our ambassador at London be instructed to present these views to the British Government.

I have, etc., C. S. HAMLIN,
Acting Secretary.

Mr. Adee to Mr. Roosevelt.

No. 786.] DEPARTMENT OF STATE,
Washington, July 9, 1895.

SIR: I have to inform you that your dispatch, No. 472, of the 29th ultimo, reporting that you had, in accordance with instructions Nos. 740 and 749, respectively, called upon Lord Kimberley to protest against the action of the British naval authorities in releasing the sealing schooners *Wanderer* and *Favorite* without due official action, has been received.

The Department notes your statement that Lord Kimberley, being about to retire from office, declined to receive your communication, and it is presumed that you have sought an interview with Lord Salisbury as early as possible after his assumption of office as secretary of state for foreign affairs.

I am, etc., ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Lord Gough.

No. 156.] DEPARTMENT OF STATE,
Washington, July 19, 1895.

MY LORD: I have the honor to advise you of the following facts:

On the 8th instant the Secretary of the Treasury informed the Attorney-General that in a communication dated the 27th ultimo the collector of customs at San Francisco stated that he had reported to the United States attorney at that port the action of the master of the sealing schooner *Sophia Sutherland* in taking seals within the limits of the area of the award of the tribunal of Paris. In transmitting this information the Secretary of the Treasury requested of the Attorney-General such instructions to the district attorney as might be necessary to secure prompt action in the case.

On May 11 last the collector of customs at Port Townsend, Wash., telegraphed the Treasury Department that "the small schooners *Perkins* and *Puritan*, duly licensed, report with 10 and 12 skins, respectively, caught off Cape Flattery, a distance not exceeding 15 miles, both schooners owned and manned entirely by Indians. Kept no log book. Recommend they be allowed to enter skins."

The Treasury Department further states that the expression "not exceeding 15 miles" is taken to mean 15 miles from the shore.

In reply the collector was instructed by telegraph on the 15th of the same month as follows:

If cases of schooners *Perkins* and *Puritan* are not within article 8 of Paris award and section 6, act of Congress, April 6, 1894, report matter to district attorney for proper proceedings under sections 8 and 9 of said act.

This information is communicated to you in order that if you deem such proceeding advisable, measures may be taken by you to secure the attendance at the trials of these vessels of British legal representatives, provided a like courtesy is extended by Her Majesty's Government, as requested in this Department's note of June 14 last, in the case of the British schooner *Shelby*, should proceedings be instituted in the courts of the Dominion of Canada against vessels charged with violations of the regulations made under the award of the Tribunal of Paris.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Lord Gough.

No. 157.] DEPARTMENT OF STATE,
Washington, July 19, 1895.

MY LORD: In view of a letter from the Secretary of the Treasury of the 18th instant, I have the honor to request that I may be furnished, for his use, with a list of the sealing vessels of the British Columbia sealing fleet to which were given special licenses during the years 1894 and 1895.

Asking that this matter may be expedited as far as lies in your power to do so, I have the honor, etc.,

ALVEY A. ADEE,
Acting Secretary.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., July 25, 1895.

SIR: I have the honor to forward to you herewith, acting on instructions which I have received from the Marquis of Salisbury, copy of a note addressed to his lordship by M. de Bille, Danish minister at the court of St. James, respecting the regulations for the protection of the fur-seal species prescribed by the award of the Tribunal of Arbitration on the Bering Sea question.

M. de Bille states that his Government does not at present consider it necessary to make these regulations binding upon Danish subjects.

I have, etc.,

GOUGH.

[Inclosure.]

M. de Bille to Marquis of Salisbury.

DANISH LEGATION,
London, July 3, 1895.

MY LORD: By a circular forwarded the 20th of August last to this legation, Lord Kimberley invited the adhesion of my Government to the regulations established between Great Britain and the United States on the eastern side of the North Pacific Ocean from the thirty-fifth degree of north latitude to the Bering Straits, for the proper protection and preservation of the fur-seal species.

As it has been ascertained that no Danish ships participate in the fur-seal hunting in the waters referred to, the Royal Government has directed me to inform your lordship that they do not, at least for the moment, find sufficient reason to ask the Danish Parliament to pass the law authorizing them to give effect to the regulations in question.

I have, etc.,

DE BILLE.

Lord Gough to Mr. Adee.

BRITISH EMBASSY,
Newport, R. I., July 26, 1895.

SIR: I have the honor to acknowledge receipt of your note, No. 157, of the 19th instant, requesting to be furnished with a list of the sealing vessels of the British Columbian sealing fleet to which were given special licenses during the years 1894 and 1895.

I am taking steps to procure the information you require at as early a date as possible.

I have, etc., GOUGH.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 6, 1895.

SIR: With reference to Mr. Uhl's note, No. 121, of June 8, and to previous correspondence concerning the scope of the arrangements entered into between Her Majesty's Government and the Government of the United States with regard to seal hunting in the award area, I am instructed by the Marquis of Salisbury to inform you that the arrangement of 1894 on the subject of the sealing up of arms and other implements on board sealing vessels was altogether outside the purview of the order in council of that year.

Under that arrangement no action was contemplated except on the application of the master of the sealing vessel. Consequently no executive measure was required in respect of it and, so far as Her Majesty's cruisers were concerned, any action taken was under the instructions issued by the board of admiralty.

In the opinion of her Majesty's Government, the inference drawn by Mr. Uhl from the identity of the order in council of this year with that of 1894 can not in the circumstances be sustained.

I have, etc., GOUGH.

Mr. Adee to Lord Gough.

No. 173.] DEPARTMENT OF STATE,
Washington, August 14, 1895.

MY LORD: Referring to the Department's note to you of the 19th ultimo, in regard to the case of the American sealing schooner ***Sophia Sutherland***, I have the honor to inform you that I have received a letter from the United States attorney at San Francisco, stating that a libel of information for the forfeiture of the vessel in question for violations of the act of Congress of April 6, 1894, giving effect to the award rendered by the Tribunal of Arbitration at Paris concerning the preserva-

tion of the fur seals, was filed on the 2d instant, and publication commenced thereunder.

The United States attorney adds that proceedings for the imposition of the penalty imposed by the above-mentioned act will be forthwith instituted against the offending parties; and that a claim to the schooner will shortly be filed on behalf of the master, Mr. A. C. Sutherland.

The above information is communicated to you in order that Her Majesty's Government may, if it sees fit, appoint counsel to take part in the proceedings for the condemnation of the *Sophia Sutherland*.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Instruction to Lord Gough.

[Handed by Lord Gough to Mr. Olney, September 6, 1895.]

No. 140.] FOREIGN OFFICE, *August 16, 1895.*

MY LORD: The Earl of Kimberley, in his telegram, No. 23, of the 9th of May, requested Sir J. Pauncefote to inform Mr. Gresham that Her Majesty's Government were unwilling to renew the agreement with the United States of the 12th May, 1894, relative to the sealing up of arms on board sealers during the close season in Bering Sea, because the possession of arms was not contrary to the award of the Paris Tribunal of Arbitration, and because, as proved by the seizures of the *Wanderer* and *Favourite*, the agreement had not in practice worked for the protection of British sealers from unnecessary interference.

His excellency was also requested to remind Mr. Gresham that United States naval officers have no right to seize British sealing vessels, except under the order in council for offenses against the British act of Parliament which embodies the award regulations.

The circumstances in connection with the seizures of the *Wanderer* and *Favourite*, above referred to, have been most carefully considered, after some delay occasioned by the necessity of obtaining full information, including reports from Admiral Stephenson, the commander in chief on the North American station.

The *Wanderer*, while in the waters affected by the award, and during the close season, was boarded and the master warned by an officer from the U. S. S. *Yorktown* of the provisions of the award act.

A certain quantity of arms and ammunition was sealed up, and the master signed a statement that the firearms, etc., then produced were all that belonged to the vessel or to any person attached to her. The seal skins on board were counted, and the number amounted to 400.

On the same day the vessel was again boarded while within the award area by an officer from the U. S. S. *Concord*. The seals placed on the arms in the morning were found to be intact, and the number of seal skins on board corresponded with the number counted by the officer of the *Yorktown*. Further search was, however, made, and in the extreme forward part of the ship a shotgun, with 39 cartridges, were found, which the mate said belonged to him.

The vessel was thereupon towed to St. Paul, Kadiak Island, formally seized, and sent thence with a prize crew to Unalaska, and handed over to Her Majesty's ship *Pheasant*.

The grounds for the seizure, as given by the commander of the *Concord*, were "the possession of an unsealed gun and ammunition in contravention of the Bering Sea award act, 1894, clause 1, paragraph 2, and clause 3, paragraph 2, as well as of section 10 of the President's proclamation."

The master protested, one of his grounds of protest being that the gun and ammunition were the private property of the mate, and had been hidden without his orders or knowledge. The master also said that he was making direct for St. Paul, a port in United States territory.

Admiral Stephenson, the commander in chief on the North American station, having, after due consideration, come to the conclusion that the vessel could not be successfully prosecuted, decided not to take proceedings against her, and directed that she should be released.

The vessel, however, was unable to complete her voyage, and the master, on behalf of those interested in her, advanced a claim to the amount of the market value of 1,000 seal skins, $250 on account of damage done to guns through sealing up, and $120.50 paid for provisions, with interest to be added.

The *Favourite* was seized by the United States war vessel *Mohican* while sealing in Bering Sea during the open season. There were no firearms on board, with the exception of one rocket gun, to be used for signaling purposes, and this appeared on the ship's manifest, signed by the collector of customs at Victoria. While the schooner's papers were under examination by an officer of the *Mohican* the master produced the signaling gun and placed it on the table before the examining officer, who expressed himself satisfied, and entered the following in the schooner's log:

> Boarded the *Favourite*. Found log correctly kept. No violation of regulations, as per log. One shotgun unsealed.

The *Mohican* steamed off about 2 miles, but returned. The same officer boarded the *Favourite* again and ordered the master to take the schooner's papers and the signal gun on board the *Mohican*. There he was informed that his vessel was seized for having firearms on board.

Lieutenant Wadhams, who was in command of the *Mohican*, stated the grounds for seizure to be that the vessel had on board a double-barrel shotgun, which was found upon trial to carry No. 10 gauge cartridges, and to shoot accurately at least 50 yards, and that the possession of this shotgun was in contravention of article 6 of the Paris award and of the United States act of Congress.

The gun in question was carried for the sole purpose of firing rockets as night signals. It was old, barely 11 inches long in the barrels, with a pistol-handle grip of 9 inches, and quite unfit for killing seals. Not only was the gun mentioned in the ship's manifest, but the master stated that he was verbally authorized by the custom-house official at Kyuquot, where, previous to the opening of the fishery season, his fishing implements had been sealed up, to carry it and rockets unsealed. Moreover, Commander Hunter Blair, of Her Majesty's ship *Pheasant*, and Captain Clark, the commander of the *Mohican*, had agreed to authorize sealing vessels to carry the means of signaling, and the former stated that had application been made to him he would certainly have permitted the *Favourite* to carry the weapon on account of which she was seized. No cartridges or shot of any kind were found on the vessel.

In spite of the master's protest, a prize crew was placed on board the steamer, by which she was taken to Unalaska, and there handed over to the commander of Her Majesty's ship *Pheasant*, by whom she was

ordered to proceed to Victoria and report to the collector of customs. The latter applied to the admiral for instructions, considering that he was not justified, under the Bering Sea award act, 1894, in taking any action against the vessel; and the admiral replied that, in his opinion, there was no ground for a prosecution, and, therefore, requested that the schooner should be released.

The master has preferred a claim for $22,430, the amount at which he estimates the loss incurred by the interruption of his voyage.

It thus appears, both from the information obtained by Her Majesty's Government and from the statements of the United States naval officers themselves, that no evidence existed of any unlawful fishing operation on the part of either of these vessels.

Had the master of the *Wanderer* intended to violate the regulations, he would presumably not have limited his preparations to a single gun and a few cartridges; and it seems highly improbable that, after having been boarded and having had the skins on his vessel counted, he would have run the risk of being discovered with fresh skins on board.

With regard to the *Favourite*, the evidence seems conclusive that the gun found on board was intended solely for signaling purposes, and that it was not suitable for killing seals. The fact that no cartridges or shot of any kind were found on the vessel affords presumption almost amounting to proof that this view is correct.

It must also be remembered, in considering the case of the *Wanderer*, that the arrangement for the sealing up of fishing implements was not obligatory, but was to operate only on the application of the master of a vessel traversing Bering Sea for any legitimate purpose during the close season as a protection to the vessel against interference by any cruiser in the said waters.

The *Favourite* was seized during the open season, when the agreement was not in force, though the entry made in her log by the United States officer seems to indicate that he was not cognizant of this fact.

The statements made by the United States officers of the grounds of seizure show, moreover, that in both cases they relied upon that part of section 10 of the United States act of Congress which reads:

> Or if any licensed vessel shall be found in waters to which this act applies, having on board apparatus or implements suitable for taking seals, but forbidden then and there to be used, it shall be presumed that the vessel in the one case, and the apparatus or implements in the other, was or were used in violation of this act, until it is otherwise proved.

That section has the obvious effect that without affecting directly to enlarge the obligation which the award imposes upon sealing vessels, it creates an artificial presumption of guilt springing from facts which otherwise might not be evidence of guilt at all, and thereby indirectly makes the award weigh heavier on these vessels.

It is not, however, necessary to discuss the provisions of the act of Congress. Whether an offense against that act was committed or not by either the *Wanderer* or the *Favourite*, a point which seems open to doubt, especially in the case of the *Favourite*, the officers of the United States cruisers were not empowered to seize the vessels except under the order in council for offenses against the British act of Parliament which embodies the award regulations. Those regulations do not prohibit the possession of firearms, nor do the Bering Sea award act and order in council of 1894 contain any provision corresponding to that in article 10 of the act of Congress. A duly authorized officer of the United States is warranted in seizing a British vessel if he believes, or has reasonable grounds for believing, that the British law has been vio-

lated. But he is not warranted in seizing her if there are no reasonable grounds for that belief, nor is he warranted in applying to British vessels the doctrine of presumptive guilt which is contained in section 10 of the United States act.

The seizure of both the *Wanderer* and the *Favourite* was grounded on what, even if it was an offense against the United States law, was not an offense against British law. For this reason Her Majesty's Government considers that the officers of the United States cruisers were not justified in seizing the vessels, and they feel bound to present to the United States Government the claims for compensation which have been made by the owners, and to request that they may receive the consideration to which they are entitled.

You will read and give a copy of this dispatch to the Secretary of State.

I am, etc., SALISBURY.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 19, 1895.

SIR: Her Majesty's Government have had under consideration your note No. 133, of the 24th of June last, containing a new proposal from your Government for the appointment of three agents by Great Britain, Russia, Japan, and the United States, respectively, to be stationed on the Kurile, Commander, and Pribilof islands.

In your above-mentioned note a lengthy criticism is made of the figures relating to the catch of seals in successive years which were given in the Earl of Kimberley's dispatch No. 93, of May 17 last, to Sir Julian Pauncefote. A copy of this dispatch was left with Mr. Uhl on May 27 by his excellency. Those figures were taken from the Canadian official returns, the estimate of the total catch of 1891 (British and American) being that of the British Bering Sea commissioners. The statement that a small part of the catch of 1891 was actually made on the Asiatic side of Bering Sea has been noted, and steps are being taken to investigate this particular point.

I have the honor to state, however, at the same time, that in any case the criticisms of the United States Government do not appear to invalidate the contention of Her Majesty's Government that there has been no such alarming increase in the pelagic catch of seals on the American side as to justify any extension of the regulations solemnly laid down by an International Board of Arbitration for a fixed period of five years, after an elaborate examination and an exhaustive discussion of the voluminous evidence presented on both sides. Nothing but the absolute concurrence of the two Governments in the necessity of a change, based on new and undisputed facts, could, in the views of Her Majesty's Government, justify any departure from the regulations prescribed by that tribunal before the time appointed under the award for their revision, should such revision then be called for.

I have further the honor to point out that even on the figures given by the United States Government the catch of 1891 on the American side was practically the same as that of 1894, and that the greatly increased dexterity with which the sealers are credited, and especially the fact that the bulk of the catch was made with spears instead of firearms, justifies the conclusion that the catch of 1894 was secured at less cost to the herd than that of 1891.

I am authorized, further, to state, in reply to your above-mentioned note, that Her Majesty's Government can not recognize that Russia and Japan have any interest in the seal fishery on the American side of the North Pacific, and that they can not, therefore, take part in any inquiry on the Pribilof Islands in which those powers are associated, but Her Majesty's Govermnent is ready to appoint at once an agent to inquire, conjointly with an agent of the United States alone, as already proposed; and they would also be ready to consider any request from the two powers concerned to join in an inquiry on similar terms with Russia and Japan, respectively, in the Commander and Kurile islands.

I have, etc.,

GOUGH.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 29, 1895.

SIR: I have the honor to inform you that Her Majesty's ambassador is returning to his post in the course of next month, and that Sir Mackenzie Bowell is prepared to come to Washington in October next to take part in discussion of the Bering Sea questions. I have accordingly been instructed by Her Majesty's secretary of state for foreign affairs to ask you if it will be convenient to the Government of the United States that negotiations should be resumed in October next.

I have, etc.,

GOUGH.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 29, 1895.

SIR: In the note No. 124, which you did me the honor to address to me on the 14th of June last, you requested that the consent of Her Majesty's Government be given to the appointment of counsel to represent the United States Government in condemnation proceedings against the *Shelby* and such other British vessels as may be seized this season for violation of the Paris award.

With reference to the above, I have now the honor to inquire whether the presence of counsel representing the United States Government is desired only for the purpose of watching the case of the *Shelby* and other similar cases, and not of taking part in the proceedings of the courts.

I have, etc., GOUGH.

Mr. Bayard to Mr. Olney.

No. 507.] EMBASSY OF THE UNITED STATES,
London, September 3, 1895. (Received Sept. 12.)

SIR: Having reference to the Department's No. 786, of July 9 last (by Mr. Adee, Acting Secretary), relating to the release by the British naval authorities of the sealing schooners *Wanderer* and *Favourite* in advance of and without judicial proceedings to test the legality of the action, I have now the honor to transmit, herewith inclosed, copy of a

note just received (and of my acknowledgment thereof dated this day) from the Marquis of Salisbury, under date of August 30, which is intended as a reply to the case of the seizure of the two sealing vessels above referred to, and which was presented to the foreign office by Mr. Roosevelt under your instruction No. 749, of June 18 last.

Before making reply to Lord Salisbury's note I conceive it better to transmit, for your consideration, an expression of my own views, which are respectfully submitted, on the case as it appears in the correspondence.

Two points are conceded in his lordship's communication, and which form the basis of the claim put forward by the United States: First. "It is not disputed that, in the case of a vessel arrested upon an alleged breach of the English act of Parliament bearing on the question, additional breaches may be assigned;" and, second, that "it was never intended that the naval authorities should take upon themselves to decide questions which undoubtedly could only be decided by a British court of admiralty."

But it is sought to qualify and impair both of these propositions by assuming, in connection with the conceded admissibility of supplementary evidence and "the assignment of additional breaches of the British act," that the naval officers making such seizures "should be in a position to adduce evidence of such additional breaches;" and this is followed by the allegation that "there was, up to the time of release, no allegation of any such charge."

It can not be doubted that the date of the judicial hearing is the date up to which evidence authorizing the seizure and assigning additional breaches relates, and not the date when the accused vessel was handed over to the naval officer of her own nationality for the express purpose of having her seizure (as provided by the British act) subjected to examination and adjudication in the civil court, and that the assumption of judicial functions by such naval officer, and his decision that no case has been then adduced or will be made out by the time of trial, is wholly without warrant and is in violation of the British act as well as of the spirit and letter of the award.

It is therefore begging the question to allege that, because vessels can not be condemned for any other offenses or "upon any other charges than those which were the subject of the Bering Sea award and consequent legislation," that British naval officers are justified, when receiving accused vessels from American captors for the sole and express purpose of sending them for trial in the civil courts, in anticipating the date of such trial and the evidence which may then and there be forthcoming, either under the original charge or under such additional breaches of the British act as may then be assigned; for this would be the assumption of judicial functions by a ministerial officer, in plain violation of the provisions of the British statute, and of the award, whose execution it was intended to enforce.

As to the concluding paragraph of Lord Salisbury's note it would seem sufficient to say that, while we admit that the authority for the arrest by a naval officer of the United States of a British sealing vessel is restricted by the terms of the British statute and the award it recites and professes to carry into execution, yet the mere allegation by such officer that he was proceeding under the authority of the act of Congress (both acts being in *pari materia*, although not identical in terms and in cooperative execution of an award by which each Government was equally and honorably bound) should not of itself be held to be conclusive, and to warrant the summary release of the vessel

without such hearing and trial as were stipulated in the award and the laws of both nations, or to prevent the condemnation of Her Majesty's judicial courts, should evidence be then and there adduced of an infraction of the British statute and violation of the award.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 507.]

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE, *August 30, 1895.*

YOUR EXCELLENCY: I have received and taken into consideration the dispatch from the United States Secretary of State to Mr. Roosevelt, which the latter was good enough to communicate to me on the 3d ultimo, relating to the seizures of the British sealing vessels *Wanderer* and *Favourite* by the U. S. cruisers *Concord* and *Mohican*, for an alleged infringement of the Bering Sea award act of 1894.

With reference to the arguments contained in Mr. Olney's dispatch, I would point out that if the *Wanderer* and the *Favourite* had been arrested for any alleged breach of the above-mentioned act, it is conceded that it would be contrary to the intent and spirit of the legislation that the British naval authorities should release the vessels before trial before a court of competent jurisdiction, but it must be observed that in the case of the *Wanderer* the ground of seizure as given by the commander of the *Concord* was the possession of an unsealed gun and ammunition, in contravention of the Bering Sea award act of 1894 and section 10 of the President's proclamation; and in the case of the *Favourite*, as given by the commander of the *Mohican*, was the possession of an unsealed gun, in contravention of Article VI of the Paris award and section 10 of the act of Congress.

No allegation was made in either case that the vessels had committed or attempted to commit any actual breach of the Bering Sea award act of 1894.

Inasmuch, therefore, as it was clear upon the face of the proceedings that the arrest was not justifiable, it does not appear that the British naval authorities acted contrary to the intent or spirit of the legislation in question. It is not disputed that in the case of a vessel arrested upon an alleged breach of the English act of Parliament bearing on the question additional breaches might be assigned, assuming the seizing officer to be in a position to adduce evidence of such additional breaches, but in this case, as has already been pointed out, there was, up to the time of the release of the vessels, no allegation of any such charge.

While it is conceded that it was never intended that the naval authorities should take upon themselves to decide questions which undoubtedly could only be decided by a British court of admiralty, it was, on the other hand, equally never intended that vessels should be interfered with, arrested, and handed over to the naval authorities upon any charges other than those which were the subject of the Bering Sea award and consequent legislation.

It is, moreover, quite clear, from the proceedings in these cases, that the seizing officers purported to act under section 10 of the act of Congress (Public, No. 48) of April 6, 1894, which is not binding upon British subjects.

I have, etc., SALISBURY.

[Inclosure 2 in No. 507.]

Mr. Bayard to Lord Salisbury.

EMBASSY OF THE UNITED STATES,
London, September 4, 1895.

MY LORD: I have the honor to acknowledge your lordship's note of the 30th ultimo, conveying your views in relation to the summary discharge, by Her Majesty's naval authorities in the North Pacific, of the British sealing vessels *Wanderer* and *Favourite*, without sending them for trial in the judicial courts, when handed over by a naval officer of the United States, for alleged violation of the Bering Sea award and the statutes coordinately enacted by the two Governments to make it effective.

I shall at once transmit your lordship's reply to the complaint of my Government of the transaction referred to, to the Secretary of State, and as soon as possible hereafter convey the views entertained by my Government in the matter.

I have, etc.,

T. F. BAYARD.

Mr. Adee to Lord Gough.

No. 182.] DEPARTMENT OF STATE,
Washington, September 5, 1895.

MY LORD: I have the honor to acknowledge the receipt of your note of the 29th ultimo, whereby you inform me that Her Majesty's ambassador is returning to his post in the course of next month, and that Sir Mackenzie Bowell is prepared to come to Washington in October next to take part in discussion of the Bering Sea questions; wherefore you have been instructed to ask if it will be convenient to the Government of the United States that negotiations on that subject be resumed in October next.

In reply I have the honor to inform you that, while it now appears probable that it will be found convenient for the United States Government to take up the Bering Sea question during the coming month of October, a more definite reply to your inquiries will have to await the return of the Secretary of State and will necessarily be somewhat dependent upon the condition of the business of the Department as then found to exist. You may, however, rest assured that no delay will be interposed by this Government which can practically be avoided.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Lord Gough.

No. 186.] DEPARTMENT OF STATE,
Washington, September 11, 1895.

MY LORD: In connection with the Department's note of May 18 last to Sir Julian Pauncefote, in regard to the action of the Government of Great Britain in refusing to permit British sealing vessels to have their arms and equipments placed under seal by naval officers, I have the honor to transmit herewith an extract of a report to the Secretary of the Treasury from Capt. C. L. Hooper, commanding the United States

patrolling fleet, dated Dutch Harbor, Alaska, August 8, 1895,[1] in which he states that at one time during this season there were twenty-eight British sealing vessels in the harbor, and that they formally applied to him to have their arms and equipment placed under seal, but that, acting in accordance with his instructions, he declined to accede to their request.

In view of the fact that the British Government has communicated to that of the United States its refusal longer to permit the sealing up of arms and equipment on sealing vessels, on the ground that such arrangement had not worked satisfactorily in practice, I desire to call to your attention the further statement of Captain Hooper in this report that said British masters are unanimous in their desire to have their equipments placed under seal, stating that the refusal of the British Government above referred to has exposed them to unnecessary risk.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Lord Gough.

No. 188.] DEPARTMENT OF STATE,
Washington, September 12, 1895.

MY LORD: In connection with this Department's note of July 1, 1895, in regard to the inadequacy of the naval force provided by the British Government for patrolling Bering Sea and the North Pacific Ocean during the present season, I have the honor to transmit a copy of a report to the Secretary of the Treasury from Capt. C. L. Hooper, commanding the United States patrolling fleet, dated St. George Island, August 14, 1895,[1] in which it is stated that the British naval officers have made no efforts to enforce the provisions of the Paris award; that only one vessel, H. M. S. *Pheasant*, is in Bering Sea, and that she has taken no active part in the patrol. Captain Hooper further states that the work of sealing up arms, boarding vessels, counting and examining seal skins to ascertain if they correspond in sex and number with the entries in the official logs, or whether any have been shot within the prohibited waters, searching for arms, and guarding the 60-mile prohibited zone has been done and is being done by the United States cruisers unaided by the British naval vessels.

Requesting that you will bring these facts to the attention of your Government,

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Lord Gough.

No. 193.] DEPARTMENT OF STATE,
Washington, September 13, 1895.

MY LORD: Referring to Mr. Uhl's note of the 10th of May last to your embassy, asking the British Government to consent to the stationing of United States inspectors at British Columbian ports for the purpose of verifying log entries of British sealing vessels and examining the skins as to sex, with reciprocal privileges to British inspectors

[1] Not printed.

in American ports, I have the honor to inquire whether Her Majesty's Government has as yet reached any conclusion in regard to the matter in question.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Olney to Lord Gough.

No. 200.] DEPARTMENT OF STATE,
Washington, September 18, 1895.

MY LORD: Your note of June 18 last transmitted a report of Hon. John Costigan, Canadian minister of marine and fisheries. These papers have had careful consideration. Although they purpose only to give the information requested in Mr. Gresham's note of January 23, 1895, touching Canadian pelagic sealing in 1893 and 1894, yet they contain certain statements and denials which, in our opinion, merit reply.

In answering in the negative the question whether the pelagic seal skins taken by British sealers were examined at the British ports of entry as to sex (as Mr. Gresham's note stated was done in the case of skins entered in United States ports), the collector of customs at Victoria, British Columbia, in his letter to Mr. Costigan enters a general denial that seal skins were examined as to sex by expert inspectors at San Francisco or Puget Sound ports, and states that it is impossible to distinguish the sex of seals by inspection after the skins have been salted, and that any examination at ports of entry, therefore, would be impracticable and useless.

The statement that all skins landed at United States ports during the season of 1894 were examined as to sex by expert inspectors was supposed by this Department to be true when it was made in its note of January 23. Inspectors were duly appointed for this purpose and instructed to make such examination, and their returns were on file in the Treasury. It was discovered later, however, that at Port Townsend the inspector, although examining and verifying the skins landed, made no examination as to sex. On receipt of this discovery, Sir Julian Pauncefote was notified of it on February 27, last. At the time, therefore, when the collector at Victoria made this denial, your Government had in its possession this Department's note fully explaining the matter.

The Department does not understand the reference, contained in Mr. Costigan's report, to the young and inexperienced lad employed by Liebes Bros. in the examination of seal skins at San Francisco. Such an examination, if it took place, was wholly unofficial and had no connection whatever with that made by the United States Government. The official expert employed by the Treasury Department at San Francisco, is a practical furrier by occupation. He has been engaged constantly and exclusively for the past eleven years in the fur business, and has handled large quantities of salted seal skins and all kinds of raw furs. He was highly recommended by persons well qualified to judge of his ability, and is a man of great experience. Every seal skin landed at San Francisco was carefully examined by him as to sex.

As to the further statement contained in said report that the sex of seals can not be determined after the skins have been removed, I have the honor to say that the Treasury Department has consulted experts of reputation upon this subject, and is informed that any ordinarily

intelligent person at all acquainted with the subject could in at least seven cases out of ten accurately determine the sex before the skins go to the dresser. That such is an admitted fact may be seen from the sworn statement of British, French, and American furriers before the Tribunal of Arbitration at Paris. In this connection I inclose a copy of a Treasury circular giving instructions to customs officers as to ascertainment of sex.

In this Department's note of May 10 last the consent of the British Government was asked to the appointment of expert inspectors to examine all skins landed at British Columbian ports. The reason for this request was that there was a great discrepancy in the British and American returns made by sealers as to the proportion of females killed, the American sealers reporting a very much greater proportion than the British. Although in many instances the British sealers were close to the American sealers, yet the Americans reported from two to five times as many females as males, a result entirely at variance with the British returns. Certain masters, moreover, of British vessels in Bering Sea explained to the agent of the United States Fish Commission that the seals were skinned in the canoes by Indians and the pelts thrown on board, and that under the circumstances they had no time to bother with inspecting skins minutely as to sex.

Under such circumstances it would seem that the reports of the British sealers are unreliable, and that the proportion of female skins taken by the Canadian fleet is much greater than that returned. This would seem to be corroborated by sworn statements, now in the possession of the Treasury Department, of experts who personally inspected in London some of the largest consignments of seal skins taken in 1894, and found from 85 to 90 per cent of them were skins of females.

The Department is therefore still of the opinion that examination by inspectors of all skins landed at British Canadian ports would greatly assist in arriving at a more thorough knowledge of seal conditions, and I have the honor to renew the inquiry made in Mr. Adee's note of the 13th instant, as to whether Her Majesty's Government has reached a conclusion in regard to this matter.

I have, etc., RICHARD OLNEY.

Mr. Olney to Lord Gough.

No. 201.] DEPARTMENT OF STATE,
Washington, September 19, 1895.

MY LORD: Referring to your note of the 29th ultimo, asking for an explanation of the proposition of this Government for a reciprocal arrangement for the presence of counsel in condemnation proceedings against vessels seized for violations of the Paris award, I have the honor to inform you that it is desired that counsel representing this Government in such cases as those referred to be permitted to examine the pleadings, to be present at the trials, and to make such suggestions to the Government counsel as may seem necessary for the protection of the interests of the United States and for the proper enforcement of the Paris award, it being, of course, understood that a like courtesy is to be extended to counsel representing British interests in similar cases before the courts.

I have, etc., RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., September 24, 1895.

SIR: With reference to your note to Lord Gough of the 18th instant, in which you renew the inquiry contained in Mr. Adee's note to him of the 13th instant, as to whether Her Majesty's Government have come to any conclusion respecting the suggestion made in Mr. Uhl's note of the 10th of May last as to the stationing of United States inspectors at British Columbian ports for the purpose of verifying log entries of British sealing vessels and examining the skins as to sex, with reciprocal privileges to British inspectors in American ports, I have the honor to inform you that at the time of my departure for England on leave of absence early in June last I was under the impression that the answer of Her Majesty's Government to that proposal, as well as to all the other proposals contained in Mr. Gresham's note of the 23d of January and Mr. Uhl's note of the 10th of May, had been substantially communicated by me to Mr. Uhl on the 27th of May, when I had the honor to read to him and to leave in his hands a copy of the Earl of Kimberley's dispatch to me of the 17th of that month.

As regards the particular proposal relating to inspectors, I had previously been informed by the Earl of Kimberley that it was not acceptable to Her Majesty's Government on the ground that the matter is already provided for by the award regulations, the sealers being bound thereunder to keep a record of sex.

The proposed examination by inspectors would, therefore, only be of use in the case of skins taken outside the award area, which is not a matter of special concern.

I regret that the reply of Her Majesty's Government to the proposal in question should not have been made more clear, and that it should have remained in any doubt at the Department of State during the period of my absence.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., September 28, 1895.

SIR: With reference to your note No. 124, of the 14th of June last, addressed to Viscount Gough, in which you inform him that the Canadian sealing schooner *Shelby*, of Victoria, British Columbia, had been seized by the U. S. revenue cruiser *Corwin* for infringing the Bering Sea award act of 1894, I have the honor to inform you that I am in receipt of a communication from Rear-Admiral Stephenson, commander in chief on the Pacific Station, informing me that he has placed the matter in the hands of Messrs. Davie, Pooley & Luxton, admiralty lawyers in Victoria, British Columbia.

Rear-Admiral Stephenson states that the trial can not take place until the close of the sealing season, and he would be obliged if arrangements could be made for the necessary witnesses being directed to attend at Victoria as soon as possible after the return of the *Corwin*.

Messrs. Davie, Pooley & Luxton state that the witnesses whose presence is required are Capt. Frederick M. Munger, commanding the U. S. revenue cutter *Corwin*, the officer under whose order the seizure of the said schooner took place, and Lieut. W. E. W. Hall, the seizing officer.

The evidence of any witnesses would be acceptable who can state whether the seal skins, or any of them, found on the schooner *Shelby* had been taken within a few days previously.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Bax-Ironside to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., September 30, 1895.

SIR: With reference to Mr. Adee's note No. 157, of the 19th of July, last, requesting to be supplied, for the use of the Secretary of the Treasury, with a list of the sealing vessels of the British Columbian sealing fleet to which were given special licenses during the years 1894 and 1895, I now have the honor to forward herewith copy of an approved minute of the privy council for Canada supplying the information asked for.

I have, etc.,

H. O. BAX-IRONSIDE,
For Sir JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 21st September, 1895.

On a report dated 10th September, 1895, from the minister of marine and fisheries, submitting with reference to the minute of council approved under date 27th August, 1895, respecting a request of the United States Government to be furnished with a list of the vessels of the British sailing fleet to which were given special licenses during the years 1894 and 1895, in which minute it was stated that, while certain of the information had already been forwarded to Her Majesty's Government, he, the minister, had caused instructions to be issued for the collection of the information required, which would be forwarded immediately on its receipt for communication to Her Majesty's ambassador at Washington, that he is in receipt of a statement containing the information asked for, which is hereto appended.

The minister observes that the statement reveals that during the year 1894 47 British sealing vessels (Canadian) received special licenses for the prosecution of their vocation, while in 1895 the total number of vessels returned as receiving licenses is 64, and upon an examination of the list of 1894, he, the minister, further observes that while but 47 sealing vessels are shown to have received licenses, 15 being issued at the home port and 32 by Her Majesty's consuls in Japan, the total number of Canadian vessels returned as engaged in the sealing industry that year is placed at 59.

It will thus appear that the following vessels, although contained in the official list as being engaged in the industry during 1894, with their catches, do not appear on the list of licensed vessels: *Casco, Dora Siewerd, W. P. Hall, Viva, Wanderer, Pioneer, Shelby, Venture, Walter L. Rich, Mountain Chief, Fisher Maid, C. D. Rand.*

The minister believes that in order to obviate any significance being given to this incident, it may not be out of place to explain that as the year 1894 was the first season in which the award regulations were applicable, and as the machinery to enforce their application for that year was completed only after the fleet had sailed, and were distributed over the whole of the North Pacific Ocean from America to Asia, it was practically impossible that each and every of the vessels could be reached with absolute certainty.

The minister further states that, appreciating this fact, Her Majesty's Government agreed and directed that all vessels which had cleared prior to the promulgation of the legislation should be regarded as licensed for that year. Nevertheless, strenuous efforts were made by your excellency's Government to fulfill the obligations of Her Majesty's Government under the award and the legislation to give effect thereto, and it is gratifying to the minister to be in a position to state that, with the prompt assistance rendered by Her Majesty's Government, through her representatives in

Japan, even in the face of such apparently unsurmountable difficulties, your excellency's Government were able to reach practically the entire sailing fleet, with the exception of the 12 vessels above named.

The minister believes, in this connection, that it is worthy of special mention that of the 47 vessels to which it was possible to deliver licenses, 32 were reached in a foreign country thousands of miles from their port of clearance. It is, perhaps, needless to point out that the conditions of 1895, in this respect, were entirely different from those of the previous year. Hence, all vessels which cleared for participation in the sealing industry were this year provided with the requisite licenses on their clearance from the home port.

The committee advise that your excellency be moved to forward a certified copy of this minute, together with its appendix, to the right honorable the principal secretary of state for the colonies and to his excellency Her Majesty's ambassador at Washington.

All which is respectfully submitted for your excellency's approval.

JOHN J. McGEE,
Clerk of the Privy Council.

SPECIAL SEALING LICENSES, 1894.

[Issued by the collector of customs, Victoria, British Columbia.]

Vessel.	Tonnage.	Master.
Saucy Lass	38	Robert Crowell.
Beatrice	49	Danl. G. Macauley.
Triumph	98	Clarence Cox.
Sapphire	108	William Cox.
Favourite	8	Lachlan McLean.
Annie C. Moore	113	Charles Hackett.
Katherine	81	Isaac Gould.
Ainoko	75	George Heater.
Borealis	37	George Meyer.
Minnie	46	Victor Jacobson.
Henrietta	31	John Daly.
Labrador	25	John J. Whiteley.
Kilmeny	18	James Jamieson.
Kate	58	George Schore.
San José	32	Michael Foley.

[Issued by Her Majesty's consuls, Yokohama and Japan ports.]

Rosie Olsen	39	A. B. Whidden.
Enterprise	69	Oscar Scarf.
Umbrina	99	C. Campbell.
Arietis	86	Abel Douglass.
Walter A. Earle	68	L. Magnesen.
Fawn	59	Michael Keefe.
Oscar and Hattie	81	A. Folger.
Diana	50	A. Nelson.
Brenda	100	Colin E. Locke.
Agnes McDonald	107	M. F. Cutler.
Mermaid	73	W. H. Whiteley.
City of San Diego	46	Mark Pike.
Mary Taylor	43	E. Robbins.
Libbie	93	F. Hackett.
May Belle	58	E. Shields.
Mary Ellen	63	W. O. Hughes.
W. P. Sayward	60	C. Ferey.
Penelope	70	L. McGrath.
Vera	60	W. Shields.
Carlotta G. Cox	76	W. Byers.
Otto	86	J. McLeod.
E. B. Marvin	96	C. J. Harris.
Annie E. Paint	82	A. Bissett.
Geneva	92	Wm. O'Leary.
Teresa	63	F. Gilbert.
Ocean Belle	83	T. O'Leary.
Sadie Turpel	56	C. Le Blanc.
Maud S	97	R. E. McKeil.
Aurora	41	H. J. Lund.
Florence M. Smith	99	J. Allen.
Mascot	40	H. F. Sieverd.
Beatrice, of Vancouver	49	C. G. Doring.

SPECIAL SEALING LICENSES, 1895.

[Issued by the collector of customs, Victoria, British Columbia.]

Vessel.	Tonnage.	Master.
Rosie Olsen	39	Augustus B. Whidden.
Mascot	40	Ernest Lorenz.
Geneva	92	William O'Leary.
Viva	92	Mark Pike.
City of San Diego	46	Samuel Pike.
Ocean Belle	83	Patrick Martin.
Borealis	37	Edgar F. Robbins.
Diana	50	Andrew Nelson.
Mermaid	73	William H. Whiteley.
Annie E. Paint	82	Alfred Bissett.
Casco	63	Charles Le Blanc.
Agnes McDonald	107	Melville F. Cutler.
Carlotta G. Cox	76	Charles J. Harris.
E. B. Marvin	96	William D. Byers.
Saucy Lass	38	Danl. Martin.
Pioneer	66	Wentworth E. Baker
Mary Ellen	63	George R. Ferey.
Umbrina	99	Charles Campbell.
Brenda	100	Colin Locke.
Mary Tay	43	Robert O. Lavender.
C. D. Rand	51	John J. Whiteley.
Vera	60	William Shields.
Dora Sieverd	93	Henry F. Sieverd.
Beatrice	49	Daniel G. Macauley.
Sadie Turpel	56	J. W. Anderson.
Maud S	97	Robert E. McKeil.
Katharine	81	Isaac Gould.
Oscar and Hattie	82	Theo. Magnesen.
Triumph	98	Clarence N. Cox.
Sapphire	108	William Cox.
Annie C. Moore	113	Charles Hackett.
Libbie	92	Frederick Hackett.
Otto	86	John McLeod.
May Belle	58	Edward Shields.
Arietis	86	Oscar Scarf.
Ainoko	75	George Heater.
Fisher Maid	21	Charles Chipps
Amateur	18	Charles Jipson.
San José	32	Michael Foley.
Fawn	59	Michael Keefe.
Victoria	63	Reuben Balcam.
Walter L. Rich	76	Spratt Balcam.
Kate	58	Otto Bucholz.
Aurora	41	Thomas Harold.
Teresa	63	George Meyer.
Pachwellis	19	Jimmie Nye-tam.
Labrador	25	Joseph Williams.
Favourite	80	Lachlan McLean.
Mountain Chief	23	James Nawassum.
Kilmeny	18	Richard Southby.
Enterprise	69	John Daley.
Shelby	16	Christian Claussen.
Florence M. Smith	99	Luke McGrath.
Walter A Earle	68	Louis Magnesen.
Sultan	5	Richard Cains.
Annie	10	Charles Spring.
South Bend	21	Charles F. Dillon.
Director	87	Frederick F. Gilbert.
Henrietta	31	Wm. D. McDougall.
R. J. Morse	23	R. Southby.
Penelope	69	William Heater.
Wanderer	25	Henry Paxton.
Minnie	46	Victor Jackobson.
Beatrice, of Vancouver	48	Lot is Olsen.

Mr. Olney to Sir Julian Pauncefote.

No. 208.] DEPARTMENT OF STATE,
Washington, October 1, 1895.

EXCELLENCY: I have the honor to inform you that from a report dated the 21st ultimo, received at the Treasury Department from Capt. C. L. Hooper, R. C. S., commanding the Bering Sea fleet, it appears that on the morning of August 20 last, in latitude 54° 54′ 03″ north,

longitude 168° 31′ 21″ west, the British sealing schooner *Beatrice*, of Vancouver, was boarded by two officers from the revenue steamer *Rush*, and found to have 147 seal skins on board, while her official log recorded but 64, and that 4 of the skins showed evidence that the seals had been shot, and that he seized the *Beatrice*, her tackle, cargo, etc., for violations of the fifth article of the regulations of the Paris award, set forth in the British act of Parliament known as the Bering Sea award act, 1894.

In view of the report made by Captain Hooper as to the shooting of seals, the Treasury Department has instructed that officer to prepare and file an amended declaration with the commander of Her Majesty's steamship *Pheasant*, specifying the killing of seals with firearms by the crew of the *Beatrice* in Bering Sea, in violation of the sixth article of the regulations referred to and of the Bering Sea award act.

I have, etc.,

RICHARD OLNEY.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., October 10, 1895.

SIR: With reference to my note of the 28th ultimo, in which I stated that Rear-Admiral Stephenson would be obliged if arrangements could be made for the necessary witnesses being directed to attend at Victoria to give evidence in the case of the seizure of the *Shelby*, and to your reply of the 3d instant, I have now the honor to inform you that I am in receipt of a telegram from Rear-Admiral Stephenson on the subject.

Admiral Stephenson is anxious to secure the presence at Victoria of the commanders of the U. S. ships *Corwin* and *Rush*, and other officers who can give evidence regarding the seizure of the sealing schooners *Shelby* and *Beatrice* and *E. B. Marvin*.

In the case of the commander and officers of the U. S. S. *Corwin*, Admiral Stephenson telegraphs that their immediate presence is desired, whereas in the case of the officers of the *Rush*, their testimony as witnesses will not be necessary for a period of from two to three weeks.

I have, etc.,

GOUGH.
(For Sir Julian Pauncefote.)

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 14, 1895.

SIR: With reference to previous correspondence relating to the seizure of the sealing vessels *Wanderer* and *Favourite* by United States cruisers, I have the honor to inform you, acting under instructions which I have received from the Marquis of Salisbury, that British naval officers will in future decline to take over any British vessel seized by an American cruiser unless the declaration of seizure alleges a specific offense which is a contravention of the Bering Sea award act, 1894 (57 Vic., c. 2).

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 220.] DEPARTMENT OF STATE,
Washington, October 14, 1895.

EXCELLENCY: Referring to previous correspondence concerning the seizure of the *Shelby* and certain other British sealing vessels, I have the honor to acknowledge the receipt of your note of the 10th instant, stating that you have received a telegram from Rear-Admiral Stephenson asking that measures may be taken to secure the immediate attendance of the commander and officers of the U. S. S. *Corwin* and, in due time, of other officers who can give evidence regarding the seizure of the *Beatrice* and the *E. B. Marvin.*

In reply I beg to inform you that measures had already been taken to secure the immediate presence of the officers of the *Corwin* at Victoria as witnesses in the case of the *Shelby*, and that I have hastened to bring the contents of your note to the attention of the Secretary of the Treasury in order that suitable action may be promptly taken in regard to the other cases.

I shall be obliged for early information as to the time when the libels against the British sealing vessels *Beatrice* and *E. B. Marvin* will be brought to trial.

I have, etc., RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 223.] DEPARTMENT OF STATE,
Washington, October 16, 1895.

EXCELLENCY: I have the honor to state that in response to the suggestion contained in your communication of the 10th instant I am informed by the Secretary of the Treasury that the commander and other officers of the U. S. revenue-cutter *Corwin* who can give evidence in the case of the seized British sealing schooner *Shelby* will be instructed to report at Victoria.

I am requested by the Secretary of the Treasury to ask whether those officers should report to Admiral Stephenson or to the Crown officer having charge of the proceedings against the *Shelby.*

Immediately on receipt of your reply, instructions will be sent to the officers referred to.

I have, etc., RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 17, 1895

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in which you inform me that the commander and certain other officers of the U. S. revenue-cutter *Corwin* will proceed to Victoria to give evidence in the case of the sealing schooner *Shelby*, and you inquire whether they should report themselves to Admiral Stephenson or to the Crown officer having charge of the proceedings.

I beg that you will be so good as to cause these officers to be instructed to report themselves to Rear-Admiral Stephenson, or in his absence to the senior naval officer of the station.

I have, etc., JULIAN PAUNCEFOTE.

Sir. Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 21, 1895.

SIR: With reference to your note, No. 230 of the 14th instant, and to previous correspondence concerning the seizure of the *Shelby* and certain other British sealing vessels, I have the honor to inform you that I am in receipt of a telegraphic communication from Rear-Admiral Stephenson, informing me that the authorities are awaiting the arrival of the United States naval officers in order to commence the trial of the *Shelby* and the *Marvin*.

Admiral Stephenson adds that he will communicate further about the *Beatrice*.

I should be much obliged if you would kindly draw the attention of the Secretary of the Treasury to the admiral's statement about the *Marvin*, in order that suitable action may be taken in regard to the attendance of witnesses in the case.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Uhl to Sir Julian Pauncefote.

No. 228.] DEPARTMENT OF STATE,
Washington, October 22, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, in regard to the trial of the seized British sealing schooners *Shelby* and *Marvin*, and to apprise you of the receipt of a letter from the Acting Secretary of the Treasury of the 21st instant, wherein it is stated, with reference to your note of the 17th, that the commanding officer of the revenue steamer *Corwin* had been directed to proceed, with his command, to Victoria, British Columbia, and report to Rear-Admiral Stephenson or the senior naval officer at that station, for the purpose of giving testimony.

I have, however, given the Secretary of the Treasury a copy of your note of the 21st instant, to the end that the necessary steps may be taken to secure the attendance at once of the persons able to give testimony in the case of the *Marvin*.

Asking that I may be advised of the date fixed for the trial of the *Beatrice*, for a like communication to the Secretary of the Treasury,

I have, etc.,

EDWIN F. UHL, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 25, 1895.

SIR: I have the honor to acknowledge, with thanks, the receipt of Mr. Uhl's note, No. 228, of the 22d instant, in which he informs me that the commanding officer of the revenue steamer *Corwin* has been directed to proceed, with his command, to Victoria, British Columbia, and report to Rear-Admiral Stephenson or the senior naval officer at that station, for the purpose of giving testimony in regard to the trial of the British sealing schooner *Shelby*.

I have taken steps to obtain early information as to the date which will be fixed upon for the trial of the *Beatrice*, and I will not fail to communicate further with you in regard to this subject.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 233.] DEPARTMENT OF STATE,
Washington, October 26, 1895.

EXCELLENCY: In connection with the Department's note of the 22d instant, I have the honor to apprise you of the receipt of a letter from the Acting Secretary of the Treasury, wherein it appears, with reference to the trial of the schooner *Marvin*, that Capt. C. L. Hooper, commanding the revenue steamer *Rush*, which vessel seized the *Marvin*, and Lieut. F. S. Van Boskerck, jr., who boarded and examined that vessel, have been instructed by telegraph to proceed immediately to Victoria for the purpose of giving testimony in that case.

The officers of the *Corwin*, which vessel seized the *Shelby*, were ordered several days ago to proceed to Victoria.

I have, etc., RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 234.] DEPARTMENT OF STATE,
Washington, October 30, 1895.

EXCELLENCY: Adverting to the Department's note of the 26th instant, concerning the testimony of Capt. C. L. Hooper and Lieut. F. S. Van Boskerck, jr., of the revenue steamer *Rush*, which seized the *E. B. Marvin*, I have now the honor to apprise you of the receipt of a letter from the Acting Secretary of the Treasury, of the 28th instant, saying that, in view of the opinion expressed by the United States district attorney at San Francisco, who had conferred with Captain Hooper on the subject that his testimony in the *Marvin* case was unnecessary, the orders of that officer have been countermanded.

I have, etc., RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 247.] DEPARTMENT OF STATE,
Washington, November 8, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 31st ultimo, in relation to Lieut. F. S. Van Boskerck, jr., whose presence was desired at Victoria, British Columbia, to testify at the trial of the British sealing schooner *E. B. Marvin*, and in reply to say, in view of a letter from the Acting Secretary of the Treasury of the 6th instant, that Lieutenant Van Boskerck is at present at Victoria.

In this connection it further appears that a telegram was recently received from him at the Treasury Department, stating that the cases

of the *Marvin* and the *Beatrice* were awaiting the arrival of Lieut. J. G. Ballinger, of the revenue steamer *Rush*. Lieutenant Ballinger was accordingly directed by telegraph to proceed immediately to Victoria.

I have, etc.,

RICHARD OLNEY.

Mr. Bayard to Mr. Olney.

No. 541.] EMBASSY OF THE UNITED STATES,
London, November 26, 1895. (Received Dec. 7.)

SIR: To-day I obtained copies of a royal order in council, of November 21st instant, regulating the capture of seals in the zones of Bering Sea contiguous to the Russian coasts and islands, together with a definition of the mutual powers of Russian and British officers in relation to such seal captures.

I have now the honor to inclose herewith the copies above referred to.

I have, etc.,

T. F. BAYARD.

[Inclosure in No. 541.]

Royal order in council regulating the capture of seals, etc.

At the court at Windsor, the 21st day of November, 1895.

Present, the Queen's Most Excellent Majesty, Lord President, Lord Privy Seal, Marquess of Lansdowne.

Whereas by "the seal fisheries (North Pacific) act, 1895," it is enacted that Her Majesty the Queen may by order in council prohibit, during the period specified by the order, the catching of seals by British ships in such parts of the seas to which that act applies as are specified by the order; and that for carrying into effect an arrangement with any foreign State an order in council may provide that the powers under the act of any commissioned officer on full pay in the naval service of Her Majesty the Queen may, subject to any limitations, conditions, modifications, and exceptions specified in the order, be exercised in relation to a British ship, and the equipment, crew, and certificate thereof, by such officers of the said foreign State as are specified in the order, and that any such order may contain any limitations, conditions, modifications, and exceptions which appear to Her Majesty in council expedient for carrying into effect the object of that act;

And whereas the said act applies to the seas within that part of the Pacific Ocean known as Behring Sea, and within such other parts of the North Pacific Ocean as are north of the forty-second parallel of north latitude;

And whereas an arrangement has been made between Her Majesty the Queen and His Majesty the Emperor of Russia whereby British ships engaged in hunting seals within such parts of the said seas as are hereinafter specified may be seized by Russian cruisers;

And whereas Her Majesty was pleased, by and with the advice of her privy council, on the 24th day of August, 1895, to make an order in council as a *provisional* order within the meaning of the rules publication act, 1893;

And whereas the provisions of the rules publication act, 1893, have been complied with:

Now, therefore, Her Majesty, in virtue of the powers vested in her by the said first-recited act, and of all other powers enabling her in that behalf, is hereby pleased, by and with the advice of her privy council, to order, and it is hereby ordered, as follows:

1. From and after the date of the present order, until Her Majesty in council shall otherwise direct, the catching of seals by British ships is hereby prohibited within such parts of the seas to which the recited act applies as are comprised within the following zones (in this order referred to as "the prohibited zones"), that is to say:

(1) A zone of ten marine miles on all the Russian coasts of Behring Sea and the North Pacific Ocean; and

(2) A zone of thirty marine miles round the Kormandorsky Islands and Tulenew (Robben Island).

2. The powers under the recited act of a commissioned officer on full pay in the naval service of Her Majesty may be exercised in relation to a British ship, and the equipment, crew, and certificate thereof by the captain or other officer in command of any war vessel of His Majesty the Emperor of Russia (hereinafter referred to as an "authorized Russian officer"), but subject to the limitations, conditions, modifications, and exceptions following, that is to say:

(1) The said powers shall not be exercised by an authorized Russian officer, except in relation to British ships engaged in hunting seals within either of the prohibited zones.

(2) A British ship shall not be liable to seizure or detention by an authorized Russian officer by reason of the contravention of any regulations made under section 2 of the recited act.

(3) The powers under section 3 of the recited act of detaining any portion of the equipment or any of the crew, and the powers under section 4 of giving a provisional certificate in lieu of a ship's certificate which is seized and retained, or of indorsing on a certificate the grounds on which it was seized, and of directing the ship to proceed forthwith to a specified port, shall not be exercised in relation to a British ship by an authorized Russian officer.

(4) Where an authorized Russian officer in exercise of the said powers stops and examines and detains a British ship or her certificate of registry, he shall as soon as possible hand over the ship, or deliver or transmit the certificate, as the case may be, either to the commanding officer of a British cruiser or to the nearest British authority, as defined by this order, and shall then, or within a reasonable time thereafter, satisfy such officer or authority that there were reasonable grounds for the detention or seizure, and that the case is proper to be adjudicated in a British court, and also furnish to such officer or authority the evidence sufficient, in the opinion of such officer or authority, for such adjudication; and if the said Russian officer fails to satisfy such officer or authority, or to furnish to such officer or authority such sufficient evidence as aforesaid, the said officer or authority may release the ship.

3. (1) Where the commanding officer of a British cruiser receives a British ship from an authorized Russian officer, and is satisfied that there were reasonable grounds for the detention or seizure, and that the case is proper to be adjudicated in a British court, he may exercise the powers conferred by section 4 of the recited act as if he had himself stopped and examined and detained the ship, and that section shall apply accordingly.

(2) Where the commanding officer of a British cruiser, or a British authority, receives a British ship from an authorized Russian officer, and sends the case for adjudication in a British court, he shall, for the purposes of section 76 of "the merchant shipping act, 1894," be deemed to have himself seized or detained the said ship.

4. For the purposes of this order the expression "British authority" means any officer of customs in Her Majesty's dominions, and any British consular officer having authority as such in any port or place.

5. "The seal fishery (North Pacific) order in council, 1894," is hereby revoked, without prejudice to anything done or suffered under that order.

6. This order may be cited as "the seal fisheries (North Pacific) order in council, 1895."

And the most honorable the Marquess of Salisbury, K. G., and the right honourable Joseph Chamberlain, two of Her Majesty's principal secretaries of state, and the lords commissioners of the admiralty, are to give the necessary directions herein as to them respectively appertain.

C. L. PEEL.

Mr. Bayard to Mr. Olney.

No. 544.] EMBASSY OF THE UNITED STATES,
London, December 2, 1895. (Received Dec. 13.)

SIR: Referring to your instruction No. 883 of the 12th ultimo, requesting information for the use of the Acting Secretary of the Treasury as to the amount paid by Russia to Great Britain for the seizure of Canadian sealing vessels in 1892, I have the honor to report that further inquiry made at the foreign office discloses the fact that while the claim in question is fully admitted by Russia in principle, nothing has as yet been actually paid and no definite amount has been suggested or agreed upon by Great Britain.

A general claim for damages has been made and allowed, but the exact sum to be demanded is still under discussion in the different departments of Her Majesty's Government.

I have, etc., T. F. BAYARD.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.[1]

Mr. Uhl to Mr. Bayard.

No. 617.] DEPARTMENT OF STATE,
Washington, March 4, 1895.

SIR: Referring to your dispatches No. 383 of the 6th ultimo, and No. 385 of the 8th ultimo, relative to pending questions as to the "Rules of the Road at Sea," I inclose for your information copies of an act of Congress approved February 23, 1895, entitled "An act to postpone the enforcement of the act of August 19, 1890, entitled 'An act to adopt regulations for preventing collisions at sea;'" also copies of the President's proclamation of the 25th ultimo, issued in pursuance of said act.

In this connection I inclose for your further information a copy of a letter of the Treasury Department of the 29th ultimo, asking at what date Her Majesty's Government will issue an order in council designating the date upon which the revised international regulations will be put into force by Great Britain. To enable the Department to answer this inquiry I will thank you to ascertain, if possible, when that country proposes to put the rules in question in operation.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

[Inclosure 1 in No. 617.]

[PUBLIC—No. 72.]

AN ACT to postpone the enforcement of the act of August nineteenth, eighteen hundred and ninety, entitled "An act to adopt regulations for preventing collisions at sea."

Whereas the President, in accordance with the proposition of Great Britain to enforce on March first, eighteen hundred and ninety-five, the revised international regulations for preventing collisions at sea, and on the representations of that Government that those regulations had received the general approval of the several foreign maritime powers, pursuant to section three of the act of August nineteenth, eighteen hundred and ninety, entitled "An act to adopt regulations for preventing collisions at sea," issued on July thirteenth, eighteen hundred and ninety-four, his proclamation fixing March first, eighteen hundred and ninety-five, as the time when the provisions of said act, as amended, embodying said revised international regulations shall take effect; and

Whereas the Government of Great Britain has withdrawn from the position, communicated to this Government on April twenty-fifth, eighteen hundred and ninety-four, that no time should be lost in carrying those regulations into effect, and on January sixteenth, eighteen hundred and ninety-five, announced to this Government that the Government of Great Britain now finds it impossible until Parliament has been consulted to fix a date for bringing the regulations into force, and earnestly requests this Government to consent to a temporary postponement of the enforcement of said regulations; and

Whereas it is desirable that the revised international regulations for preventing collisions at sea shall be put into force simultaneously by the maritime powers: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America

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[1] See Foreign Relations, 1894, pp. 260–275.

in Congress assembled, That said act of August nineteenth, eighteen hundred and ninety, take effect not on Marcl first, eighteen hundred and ninety-five, but at a subsequent time, to be fixed by the President by proclamation issued for that purpose.

Approved, February 23, 1895.

[Inclosure 2 in No. 617.]

COLLISIONS AT SEA.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an act of Congress entitled "An act to postpone the enforcement of the act of August nineteenth, eighteen hundred and ninety, entitled 'An act to adopt regulations for preventing collisions at sea,'" was approved February 23, 1895:

Now, therefore, I, Grover Cleveland, President of the United States of America, do hereby give notice that said act of August nineteenth, eighteen hundred and ninety, as amended by the act of May twenty-eighth, eighteen hundred and ninety-four, will not go into force on March first, eighteen hundred and ninety-five, the date fixed in my proclamation of July thirteenth, eighteen hundred and ninety-four, but on such future date as may be designated in a proclamation of the President to be issued for that purpose.

In testimony whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington this 25th day of February, one thousand eight hundred and ninety-five, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.] GROVER CLEVELAND.

By the President:

W. Q. GRESHAM, *Secretary of State.*

Mr. Bayard to Mr. Gresham.

No. 429.] EMBASSY OF THE UNITED STATES,
London, May 15, 1895. (Received May 27.)

SIR: Referring to my previous correspondence on the subject, I have the honor to acknowledge your instructions, No. 617, of March 4, and No. 682,[1] of April 30, with their respective inclosures, relating to the pending consideration by Her Majesty's Government of the regulations proposed by the International Maritime Conference at Washington in October, 1889, for the prevention of collisions on the high seas.

I have the honor also to inclose herewith copies of correspondence I have subsequently had on this subject with the foreign office, being a note dated March 14 to Lord Kimberley, and his lordship's reply thereto of the 21st of March and of May 4 instant.

It is not yet in my power to make adequate and definite reply to your latest instruction (April 30), because I am indirectly and informally apprised that evidence is at this time being taken by the committee of the House of Commons having the subject under consideration; and that the intention is to confine the attention of the committee to questions relating to sound signals in fog, assuming the new rules, as recommended by the Washington conference, and heretofore agreed to by Great Britain and the United States, to be in all other respects outside the scope of the present committee's investigation.

The report of this committee may, as I am privately informed, be reasonably expected within a month, and although its conclusions can not

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[1] Not printed.

be definitely predicated, yet I have received very positive assurances that Her Majesty's Government feel very strongly the desirability of having uniform international regulations to prevent collisions at sea, and are doing everything in their power to secure so desirable an object.

No time shall be lost in transmitting to you the results of the action of the parliamentary committee referred to, and in the interim, with the above suggestion, you may possibly feel enabled to make a tentative reply to the communication of the German ambassador, a copy of which was inclosed in your instruction of April 30.

I have, etc., T. F. BAYARD.

[Inclosure 1 in No. 429.]

Mr. Bayard to Lord Kimberley.

EMBASSY OF THE UNITED STATES,
London, March 14, 1895.

MY LORD: I have received to-day from my Government, and have the honor to inclose herewith, copies of an act of Congress approved February 23, 1895, entitled "An act to postpone the enforcement of the act of August 19, 1890, entitled 'An act to adopt regulations for preventing collisions at sea,'" together with copies of the President's proclamation of the 25th ultimo, issued in pursuance of said act revoking his prior proclamation.

In this connection I have also the honor to inclose, for your lordship's consideration, copy of a communication from the Treasury Department of the United States, under date of February 27, 1895, inquiring the date at which Her Majesty's Government will issue an order in council designating the date upon which the revised international regulations will be put in force by Great Britain.

Will your lordship, so soon as it is practicable, enable me to transmit to my Government the information asked for.

I have, etc., T. F. BAYARD.

[Inclosure 2 in No. 429.]

Lord Kimberley to Mr. Bayard.

FOREIGN OFFICE, *March 21, 1895.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 14th instant, in which you inquire the date on which it is proposed to issue an order in council for the enforcement of the revised regulations for preventing collisions at sea.

I beg to state that your excellency's note shall receive the early consideration of Her Majesty's Government.

I have, etc., KIMBERLEY.

[Inclosure 3 in No. 429.]

Lord Kimberley to Mr. Bayard.

FOREIGN OFFICE, *May 4, 1895.*

YOUR EXCELLENCY: With reference to my note of the 21st of March last on the subject of the proposed regulations for preventing collisions

at sea, I have the honor to state that the provisions as to sound signals are about to be considered by a select committee of the House of Commons, and that it is impossible at present to fix the date of the issue of the order in council.

I have, etc., KIMBERLEY.

Mr. Bayard to Mr. Olney.

No. 495.] EMBASSY OF THE UNITED STATES,
London, August 20, 1895.

SIR: For transmission to your colleague, the Secretary of the Navy, I have the honor to inclose herewith two copies of a Blue Book "Report on the rule of the road at sea," which was to-day issued from the office of publication.

It must be regretted that a postponement of this important subject has been resolved by the select committee of the House of Commons, by which decision an absence of all fixed understanding internationally is, unhappily, caused.

I have, etc., T. F. BAYARD.

[Inclosure in No. 495.]

REPORT.

The select committee appointed to consider the objections which have been raised to the adoption by order in council of rule 15 of the revised international regulations for preventing collisions at sea, dealing with sound signals in fog, as suggested by the Washington conference, and considered by the maritime powers (including any objections which may be taken to that rule, having regard to the sound signals prescribed by rule 28), have agreed to the following report:

The committee, in respect of the short time which remains for the consideration of their report during the present session, resolve to report the evidence to the House, and to express an opinion that a committee should be appointed, as soon as practicable, in the next session of Parliament for the purpose of considering the evidence and reporting to the House.

JULY 3, 1895.

SHOOTING OF JAMES BAIN AT NEW ORLEANS.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, March 13, 1895.

MY DEAR SIR JULIAN: In accordance with your oral request to me yesterday, I sent a telegram to his excellency the governor of Louisiana, of which the following is a copy:

The British ambassador represents to this Department that, according to advices from the British consul at New Orleans, there were continued disturbances along the wharves of that city this morning. Purser of British ship *Engineer* shot in the head. Agents and captains asking for protection. Crews state they are in danger of their lives. Meeting of consuls there at 12 o'clock to-day. The ambassador desires to know the present situation and what measures have been and are being taken for the protection of life and property.

I am now in receipt of a reply from the governor, of which the following is a copy:

NEW ORLEANS, *March 13 (12?), 1895.*

Hon. EDWIN F. UHL:

Your dispatch repeated from Baton Rouge reached me here to-night. Rioting occurred along the wharves here this morning. On my arrival this evening I find

everything on the surface quiet. Vigorous steps are being taken by the municipal and State authorities to prevent a recurrence of violence and to afford full protection to life, property, and commerce. I am satisfied that crews of vessels are in no danger. The purser of the steamship *Engineer* was shot while on wharf during the riot, and I am not satisfied that his identity was known. Grand jury now investigating the whole matter.

Very truly, yours,

EDWIN F. UHL,
Acting Secretary.

Memorandum.

[Handed to Mr. Olney by Lord Gough, August 10, 1895.]

Mr. James H. Bain, until lately purser of the British steamship *Engineer*, of the Harrison Line, states that his ship was loading at New Orleans for Liverpool last March. Shortly after 7 a. m. on the 12th of that month, while stepping on to the wharves in the discharge of his duties as purser, he was shot and wounded in several parts of his head and in his right arm by a body of men armed with rifles, shotguns, and revolvers, who, without provocation or warning, came up the wharf and attacked him.

Mr. Bain was rendered unconscious, and was sent to the hospital, where he was under treatment of the doctors.

At the time of the assault Mr. Bain suffered much from his wounds. One of the shot entered above his right eye and lodged behind it.

In April he was taken on board the steamship *Orion*. During the passage to England he suffered severely from nervous shock and weakness, which has caused him to be constantly under medical treatment.

In May last Mr. Bain underwent an operation, but only one of five pellets which had entered into his head could be extracted. The one which had lodged under the bone of the right eye could not be taken out without causing the complete loss of that eye.

Mr. Bain remained under medical treatment until June, and suffers constant pain in the right eye and head. In consequence of his wounds and subsequent loss of health he was thrown out of employment, and suffered severely from a pecuniary point of view.

The delay which has occurred in setting forth the above is explained by Mr. Bain's absence from England, and by his being under medical treatment, and he will be requested to furnish medical certificates and affidavits as to his present condition and the losses which he has sustained (apart from personal injuries) in consequence of the outrage.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., September 26, 1895.

MY DEAR MR. OLNEY: On the 10th of last month you were good enough to give me an opportunity of bringing before you, in a friendly and unofficial manner, the distressing situation of Mr. James Bain, formerly purser of the steamship *Engineer*, with a view to his obtaining, if possible, a voluntary grant of compensation.

In further explanation of the above case, I am requested by Her Majesty's ambassador, who is just leaving for Canada, to inclose papers just received from the foreign office, viz: (1) Certificate of Dr. F. F. Paul, an eminent Liverpool surgeon, under whose care Mr. Bain was

placed at the Liverpool Royal Infirmary; (2) certificate of Messrs. Richard Bulman, & Co., brokers of the Harrison Line steamers, in whose employ Mr. Bain had been for fourteen years; (3) personal affidavit made before the United States consul at Liverpool.

I am also to suggest that, under all the circumstances of the case, £500 would be a reasonable amount as compensation to Mr. Bain for the injuries he has received.

Believe me, etc., GOUGH.

[Inclosure 1.]

Statement of Richard Bulman & Co.

LIVERPOOL, W., *September 6, 1895.*

This is to certify that Mr. James H. Bain has been employed for the past fourteen years as purser in the steamers of the Harrison Line, trading between Liverpool, West Indies, Mexico, and New Orleans.

During the said period Mr. Bain was under our inspection, and was in good health.

On the 12th March, 1895, Mr. James H. Bain was shot on the wharves at New Orleans while in the performance of his duties as purser of the Harrison Line steamer *Engineer* (steamship). He was immediately taken to the Torro Infirmary, New Orleans, where his wounds were attended to, and on the 21st March he was sent to Liverpool in the steamer *Orion*, and arrived on the 11th April.

Under medical advice he went into the Royal Infirmary, Liverpool, and underwent a surgical operation.

On the 8th June, 1895, Mr. James H. Bain, although not sufficiently recovered from his injuries to resume his duties as purser, made a voyage in the Harrison Line steamer *Astronomer* to West Indies and Pensacola, rather than submit to permanent loss of employment. Mr. Bain returned to Liverpool on the 3d September and is still in impaired health and unable to discharge his duty as purser as efficiently as he did previous to being shot.

RICHARD BULMAN & CO.

On this 6th day of September, 1895, personally came and appeared before me, Richard Bulman, a member of the firm of Richard Bulman & Co., of Liverpool, and made oath to the truth of the foregoing statement.

Given under my hand and seal this 6th September, 1895.

[SEAL.] W. J. SULIS,

Vice and Deputy Consul of the United States of America at Liverpool.

[Inclosure 2.]

Certificate of Surg. F. F. Paul.

LIVERPOOL, *September 5, 1895.*

This is to certify that Mr. James H. Bain, aged 36, came under my care at the Liverpool Royal Infirmary on April 17, 1895, complaining of pains in the head and some interference with the sight of the right eye, the result of gunshot injuries sustained in New Orleans on March 12, 1895.

On admission I found marks of four shot on the scalp, one near the right eye, one in the neck, and one in the right arm.

Careful examination under chloroform only enabled me to discover one shot in the scalp, which I removed. The others were deeply placed and concealed in the tissues, and I considered it best not to cut in search of them. At the present time he is in good general health. Most of the injuries are painless, and will probably not cause any future trouble; but the shot in the right orbit is probably near the base of the brain, and is, in my judgment, the cause of the pains in the head from which he suffers and of the difficulty he experiences in using the right eye.

He is likely in consequence of this to suffer from some slight permanent disablement.

F. F. PAUL, F. R. C. S.,

Surgeon to the Royal Infirmary and Professor in Medical Jurisprudence, Victoria University.

[Inclosure 3.]

Affidavit of James H. Bain.

LIVERPOOL, *September 7, 1895.*

I, James H. Bain, of Liverpool, England, do solemnly swear that I was purser of the Harrison Line steamer *Engineer*, which steamer left Liverpool on the 19th January last, calling at Mexican ports and New Orleans, at which latter port she arrived on the 2d March, 1895, to load cotton, etc., for Liverpool.

That on the 12th March, shortly after 7 o'clock a. m., whilst stepping off the steamer on to the wharf in the discharge of my duties as purser, I was shot and wounded in several parts of my head and in my right arm by a body of men armed with rifles, shotguns, and revolvers, who, without provocation or warning, came up the wharves and attacked me and the laborers at work at said steamship.

I was unconscious and sent to the hospital, where I have been under treatment of the doctors, and suffered much from my wounds.

On the 21st March I was sent to Liverpool in the steamship *Orion*, and arrived on the 11th April, 1895.

On the 17th April, 1895, I went into the Royal Infirmary for further treatment of my wounds, and underwent a slight operation in the scalp. The shot in the orbit remaining in me cause much pain and interference in the use of my sight.

I am 36 years of age and married. My salary when serving on board the steamship *Engineer* as purser was £72 per year, and in addition to said sum as said purser I was enabled to make about £80 per year. I have been put to considerable expense in the payment of hospital expenses, medical and surgical attendance, and other incidental expenses amounting to about £11. I am permanently injured, I fear, and my pains are always with me, and was unable to follow my calling as a purser or do anything else for the space of three months after being shot.

JAMES H. BAIN.

Subscribed and sworn to by the aforenamed James H. Bain, at the United States consulate, 26 Chapel street, Liverpool, England, this 7th day of September, 1895, before me.

[SEAL.]

JAMES E. NEAL,
Consul of the United States, Liverpool, England.

Mr. Olney to Lord Gough.

DEPARTMENT OF STATE,
Washington, October 4, 1895.

MY DEAR VISCOUNT: I beg to acknowledge the receipt of your note of the 6th ultimo concerning the case of James Bain, a British subject, formerly purser of the British steamship *Engineer*, wherein you suggest the payment by this Government of £500 "as a voluntary grant of compensation for injuries received by said Bain at New Orleans, in March last, during a labor disturbance there."

In reply I have to say that the authorities of the State of Louisiana have been requested to furnish information as to the circumstances attending this affair, as developed by the investigation of the grand jury; also as to the prosecution and punishment of the guilty parties. When a report is received the Department will communicate with you further in regard to this matter.

Believe me, etc., RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 286.] DEPARTMENT OF STATE,
Washington, December 27, 1895.

EXCELLENCY: On making inquiry since my interview with you of this morning, I find that a letter relating to the case of James Bain, purser

of the British steamship *Engineer*, which had not been called to my attention, was received here on the 13th instant.

I take pleasure in inclosing a copy for your information.

I have the honor to be, with the highest consideration, Mr. Ambassador, your most obedient servant,

RICHARD OLNEY.

[Inclosure in No. 286.]

Attorney-General of Louisiana to Mr. Olney.

NEW ORLEANS, *December 10, 1895.*

SIR: Your letter of November 14 to Governor Foster has been referred to me for reply. I am unable to give you exact information derived from the examination of witnesses; but James Bain, purser of the British steamship *Engineer*, was shot during a labor riot on the levee, and I remember that the report made at the time satisfied me that no one intended to shoot him, but that he was struck by a shot fired at laborers whom the rioters wished to prevent from working on the levee.

I have sent out to the district attorney, but he does not know anything about the merits of the case. The record shows that on March 26 the grand jury returned into court indictments against six different men for shooting Bain with intent to commit murder; that they have been arraigned and pleaded not guilty, and no further proceedings have been taken in these particular cases. The district attorney sends me word, however, that Bain, the prosecuting witness, is not here, and the case can not be tried in his absence.

There were quite a number of people indicted for offenses growing out of the labor riot, and one case in which three men had been indicted for murder was put on trial as a sort of test, and the jury failed to agree. My information is that no further proceedings have been taken. This does not signify any indisposition on the part of the authorities to try these men, but cases of all grades and kinds remain untried because they are not reached.

As my official duties do not require me to prosecute criminal cases in the criminal court, and as the official adviser of the governor, I was with him during the labor troubles and heard all the reports brought in regarding the various occurrences during the trouble. From my recollection from these reports, and from my knowledge of the situation as well as the troubles which brought about the rioting, I feel satisfied that Bain was not intentionally shot, but was struck by a shot fired at other persons.

Yours, respectfully,

M. J. CUNNINGHAM,
Attorney-General,
Per P. A. SIMMON.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 16, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo enclosing a copy of a letter from the attorney-general

of Louisiana in relation to the case of James Bain, purser of the British steamship *Engineer*.

I regret to find that the appeal which I ventured to make in this very distressing case does not appear to have been considered by the governor of the State of Louisiana, and that the attorney-general in his letter ignores altogether the facts on which that appeal is based.

I beg leave to draw your attention again to the main features of the case and to express the hope that you will press upon the authorities of Louisiana the very strong claims which Mr. Bain has upon their sympathy and liberality.

There can be no doubt that for some months prior to the event in question, foreign ships and property were exposed to great danger owing to the lawless proceedings of certain societies which attempted forcibly to prevent the employment of colored laborers in the lading and unlading of ships. Also that notwithstanding the appeals of foreign consuls adequate protection was not afforded to the foreign shipping.

The rioters were allowed by the police to assemble in a building, where they notoriously kept a "perfect arsenal," as it has been described, of revolvers, rifles, and other weapons.

On the 12th of March, 1895, while the lading of the steamship *Engineer* was proceeding and the purser, James Bain, was stepping onto the wharf among the cotton bales, in the execution of his duty, he was shot in the head and arm by a body of men armed with rifles, shotguns, and revolvers, who, without provocation or warning, attacked him and the laborers engaged in loading the ship. Shots were fired across the ship, wounding a colored laborer in the chest, and the marks of the shot were to be seen on the bulwarks. The few policemen on the spot concealed themselves for safety behind the cotton bales.

The personal injuries sustained by Mr. Bain are stated in the second inclosure to this note.

A similar attack was made on the British steamship *Merrimac*, but fortunately the officers and crew were unhurt, though the armed mob fired at the laborers on her deck.

Mr. Bain, as soon as he was able to leave the hospital, was removed to England, and it can hardly be expected that he should have remained at New Orleans when his ship sailed to prosecute the offenders, whom, moreover, it was impossible to identify.

Article I, of the treaty of commerce and navigation between Great Britain and the United States of 1815, provides that "the merchants and traders of each nation, respectively, shall enjoy the most complete protection and security for their commerce."

It can not be said that on the occasion in question the British steamer had any protection whatever from the armed mob which it was the duty of the local authorities to restrain.

I can hardly doubt that upon a further consideration of the case of the purser of the *Engineer* steps will be taken to obtain for Mr. Bain the relief to which he is so justly entitled.

I have the honor to inclose in support of the statements contained in this note extracts from documents in my possession relating to the case, and I venture again to press the claims of Mr. Bain most strongly on the favorable consideration of your Government.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 1.]

Extract from a dispatch of Mr. Consul St. John, New Orleans, to Sir J. Pauncefote.

BRITISH CONSULATE,
New Orleans, March 16, 1895.

It may be well to state a few facts showing that in public opinion, at all events, the city authorities were very much to blame for their want of action in this matter.

On the 14th instant I visited the British steamship *Engineer*.

While on board I was pointed out a large red brick building situated at the corner of Decatur and St. Philip streets, on the ground floor of which is a barroom.

I was informed by the captain and crew that on the Monday (the riot took place on the Tuesday) it was an open secret that this building was a perfect arsenal, containing revolvers and Winchester rifles belonging to screw men. It was the topic of conversation on the wharves, and yet the police took no notice. On the Tuesday morning, therefore, the riotous screw men had only just to help themselves and begin the shooting, a pistol shot being the signal for an attack on the negroes.

Whether the shot that struck the purser of the *Engineer* was aimed at him, or whether he happened to be in the line of fire, is as yet uncertain, but it is an undoubted fact the purser was at that time in the execution of his duties among the cotton bales at the ship's side, and that when he fell five or six policemen, instead of affording him protection, turned their backs upon him and hid themselves behind the bales for safety. Shots, moreover, were fired at the ship and across her decks, wounding a colored laborer in the chest. The marks of the shot on the ship—that is to say, on the bulwarks on the other side of the deck—were pointed out to me by one of her officers.

[Inclosure 2.]

Extract from letter of Mr. James H. Bain, purser of British steamship Engineer, to Mr. Consul St. John.

MARCH 19, 1895.

Shortly after 7 a. m. on the 12th instant, while stepping onto the wharves, in the discharge of my duty as purser, I was shot and wounded in several parts of my head and in my right arm by a body of men armed with rifles, shotguns, and revolvers, who, without provocation or warning, came up the wharves and attacked me and the laborers at said steamship.

I was unconscious and sent to the hospital, where I have been under treatment of the doctors and have suffered and still suffer much from my wounds. One of the shot entered above my right eye and lodged behind it and can not be extracted, and it may yet cause me the loss of the sight of that eye.

Considering my hospital expenses, the wantonness of the attack, and the suffering I have had to endure and still endure from my wounds, I consider that I am entitled to compensation.

JAMES H. BAIN,
Purser of the British steamship Engineer.

[Inclosure 3.]

Extract from joint letter of various agents of steamship companies to Mr. Consul St. John.

MARCH 10, 1895.

As to the British steamship *Merrimac*, the facts are that this morning, at about 7 o'clock, an armed mob rushed from the corner of Philip street, at the foot of which said steamship was lying, and approaching within easy range of the ship fired at the laborers on her decks. Luckily, no loss of life nor wounding occurred, but one electric light in the engine room was broken by a bullet, and the ship bears several bullet marks on her chart room and elsewhere. The laborers, as the result of this attack, rushed for cover to the holds and elsewhere, where they are still concealed and virtually prisoners. Upon a second attack later in the morning one of the laborers connected with the loading of said steamship was killed on the wharf. One of the leaders of the mob attempted to board the ship, revolver in hand, but upon the protest of the master departed.

[Inclosure 4—Memorandum.]

Mr. Consul St. John states that the property of foreign shipowners, merchants, and others has been exposed to constant dangers in the port of New Orleans during several months past, owing to the lawless proceedings of certain societies of laboring men, who arrogate to themselves the sole right to work upon the levee front of the port, and who incite to the commission of crimes against persons and property, including murder, personal violence, and intimidation.

Appeals to the city and State authorities have been made in vain. The consular corps telegraphed on or about the 12th of March, 1895, to the governor of the State, notifying him of the rioting and lawlessness and requesting protection.

Mr. St. John states that a large red brick building was shown him at the corner of Decatur and St. Philip streets, on the ground floor of which is a barroom. It was an open secret that this building was a perfect arsenal, containing revolvers and Winchester rifles belonging to screw men. It was the topic of conversation on the wharves, and yet the police took no notice. On the morning of the riot the screw men had merely, therefore, to help themselves, and to begin shooting.

Mr. Bain states that shortly after 7 a. m., while stepping onto the wharves in the discharge of his duties as purser, he was shot and wounded.

The case was brought unofficially to the notice of Mr. Olney on August 10 last.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 19, 1896.

SIR: With reference to my note of the 16th instant in relation to the case of James Bain, purser of the British steamship *Engineer*, I have the honor to state that a more detailed account of the injuries which he sustained on the occasion of the attack made on his ship at New Orleans will be found in the certificate of Dr. F. F. Paul, an eminent Liverpool surgeon, under whose care Mr. Bain was placed at the Liverpool Royal Infirmary.

This certificate was forwarded to you unofficially, together with other documents relating to the case, by Viscount Gough on September 26 last.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 24, 1896.

SIR: With reference to my note of the 16th instant, and to previous correspondence in relation to the case of Mr. James Bain, I have the honor to inform you that I am in receipt of a communication from Her Majesty's principal secretary of state for foreign affairs, in which his lordship informs me that Mr. Bain will arrive at New Orleans in a few days on board the steamer *Inventor*.

Should you consider it desirable, Mr. Bain could be examined by the local authorities at that port.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 304.] DEPARTMENT OF STATE,
Washington, January 28, 1896.

EXCELLENCY: I have the honor to inform you that your notes dated the 16th, 19th, and 24th instant, respectively, in relation to the shooting

of Mr. James Bain, purser of the British steamship *Engineer*, have been received, and copies thereof sent to the governor of Louisiana for his information.

I have, etc.,

RICHARD OLNEY.

Mr. Olney to Sir Julian Pauncefote.

No. 319.] DEPARTMENT OF STATE,
Washington, February 7, 1896.

EXCELLENCY: In the matter of the claim of Purser Bain, I have the honor to inclose herewith copy of a letter just received from the governor of Louisiana, with copy of the inclosure therein referred to, to wit, a letter to me from the attorney-general of the State of Louisiana.

I have, etc.,

RICHARD OLNEY.

[Inclosure in No. 319.]

Mr. Foster to Mr. Olney.

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
Baton Rouge, La., February 3, 1896.

SIR: Your letter of the 25th ultimo, and inclosures, came while I was confined to my bed with la grippe, and was therefore referred to the attorney-general for investigation.

I herewith inclose his answer, which I adopt and make my own.

I have, etc.,

MURPHY J. FOSTER.

[Subinclosure.]

Mr. Cunningham to Mr. Olney.

NEW ORLEANS, LA., *January 30, 1896.*

SIR: Your letter of January 25, with inclosures, was received by Governor Foster while in this city, and as he is very unwell he requested me to look over the papers and make such reply as I considered proper.

When I wrote to you on December 10, 1895, I presumed that all that was expected of the State authorities was to bring the parties charged with the shooting of Bain to trial. The inclosures accompanying your letter would indicate that the British authorities are seeking to obtain some compensation to Bain for injuries received, although the claim is not specifically set out. There is no appropriation under the control of the governor or any other State officer out of which such a claim could be paid; I do not think the legislature, under the constitution of this State, has the power to make such an appropriation; and I do not think Bain has any claim against the State. If he has any claim against anyone for damages, it is against the city of New Orleans, and the courts are open to him, as to any other man, to prosecute his claim.

As stated in my former letter, certain parties have been indicted for the shooting of Bain, and the officer charged with the duty of prosecuting such offenses, the district attorney, is ready and anxious to try the case whenever practicable. It may be possible that Bain cannot afford to spare the time necessary to attend this trial; but every lawyer knows that a case cannot be tried without the witnesses. I will notify the district attorney of Mr. Bain's expected arrival soon on the *Inventor;* but no examination of Bain by any local authority at this port, except as a witness on the trial, could do any good. If the parties had not already been indicted, he could be examined any day before the grand jury, but for the trial of the case before the jury a day has to be fixed and time allowed for the summoning of witnesses. If

Mr. Bain will remain here long enough, the case can be fixed for trial; but even then no one can foresee every contingency that might entitle the one party or the other to a continuance.

With all due respect, the State authorities were guilty of no neglect of duty, and no failure to protect the commerce of this city. As in all labor troubles, there was more or less of indiscretion on both sides of the controversy. Some thought the trouble due entirely to the unreasonable attitude of the labor associations controlled by the white screwmen and white longshoremen; but many thought that the steamship agents were largely responsible for the trouble in giving the preference to unorganized colored labor. Without regard to the merits of this controversy, the governor called out the militia and gave full and ample protection to the commerce of this city as soon as practicable after his attention was called to the threatening situation.

Whether Bain was struck by shots intended for other persons, or by shots aimed at him in common with others, can only be determined by the evidence developed on the trial of the indictment now pending, or in a suit which he may institute if he wishes. But I never knew until now that it was claimed by any one that Bain was intentionally shot, and I have not the remotest idea that he was.

Ships are loaded in this port by screwmen and longshoremen, under contracts with stevedores, who employ them for the purpose. The steamship *Engineer* was being loaded by colored screwmen and longshoremen under contract with a stevedore, and neither the purser nor any other officer of the ship had anything to do with, nor any control over, these colored laborers; so that, when an attack was made by whites upon the colored laborers, there was no occasion for any hostility against Bain, direct or indirect, and the injury to him must have been accidental. This does not affect the criminality of the parties who fired the shots, who, under our law, should be punished for this unintentional injury to the same extent as if the shots had reached the destination intended; the intent with which an act is done gives character to the act, whatever its result may be.

Regarding the statements in some of these communications inclosed, that it was an open secret that a perfect arsenal was kept in a certain building, I have but to say that every man of experience knows that the idlest rumors sometimes assume the dignity of open secrets. I think one of the steamship agents notified me, on the day that the militia took control of the situation, of every place suspected by them of having arms secreted therein. I reported all these places to the officer in command nearest the locality specified, and I think that such strict guard was kept over them, and such investigation made, as would have exposed these arms if any had been secreted. What may have been secreted before the outbreak, and where, it was then impossible to ascertain. I did not go upon the ground myself, but, in conjunction with the governor, was in frequent communication with the military and police officers, and they reported from time to time at the governor's headquarters.

Whatever may be the complaints of parties affected by the unfortunate labor troubles last spring, no one can honestly pretend that the British ships were not fully protected after the real situation was made known to the governor, or claim that the State authorities were in any manner to blame for the unfortunate troubles which culminated in that disturbance of the commerce of this port. Any statements to the effect that appeals were made in vain to the State authorities for protection were doubtless made under the influence of excited passions at the time, and were in fact without any foundation in truth. The governor did not call out the militia on receipt of the first excited telegram from an unknown party, but he directed his chief military officer in this city to report the true situation to him, and came to this city on the next train. Unfortunately the rioting occurred early in the morning before his arrival, but neither he nor any other State authority was in any manner to blame for it. No further disturbance occurred after he took command of the situation.

No one deplores more than the governor the unfortunate labor troubles of last spring; no one will do more to prevent their recurrence; and no one need remind him of the injury to the commerce of this port and of the embarrassment to the officials of the Government, local, State, or national, caused by such troubles; but I respectfully suggest that he had no power to foresee and prevent these troubles any more than the authorities in any other State or country, American or European, where such troubles are of so much more frequent occurrence than they are here.

In common with the governor of this State, I regret exceedingly that this matter should have become the subject of an international correspondence, as the agents of the British steamer here, with the assistance and cooperation of the district attorney and myself, could so much more expeditiously and effectively have taken the necessary steps for the protection of Bain, and the punishment of those responsible for his injuries. Everyone here felt the deepest sympathy for Bain, as an unfortunate victim of a trouble for which he was not responsible, and have been ever willing to

extend to him such protection and redress as any other man is entitled to; but we fail to see that he is entitled to any greater rights than are enjoyed by any other man.

Very respectfully,

M. J. CUNNINGHAM,
Attorney-General of Louisiana.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, February 11, 1896.

SIR: I have the honor to acknowledge the receipt of your note, No. 319, of the 7th instant, inclosing copies of a letter from the governor of the State of Louisiana and of a further report from the attorney-general of that State on the case of Mr. Bain, the purser of the British steamship *Engineer*, who was grievously wounded during the labor riots at New Orleans. I have read those documents with grave disappointment.

The claim of Mr. Bain was presented by me as one appealing most deeply to the sympathy and liberality of the governor and authorities of Louisiana quite apart from any considerations of legal right.

I am now informed that "many thought that the steamship agents were largely responsible for the trouble in giving the preference to unorganized colored labor," and the appeal which I made on Mr. Bain's behalf is met by legal technicalities and by a suggestion that he should "sue the city of New Orleans."

Practically, Mr. Bain has no redress under the circumstances by resort to any court of law.

Nevertheless, it would appear from the report of the attorney-general that no appropriation could be made for the relief of Mr. Bain by the State legislature, and that there is no fund at the disposal of the authorities out of which any compensation can be paid to him.

It would seem useless, therefore, to press the case any further in that quarter. I hope, however, that I shall not appeal in vain to your Government to take such action as may be necessary to obtain from Congress or otherwise the relief to which Mr. Bain is so justly entitled.

I have, etc.,

JULIAN PAUNCEFOTE.

BRITISH DEMANDS ON NICARAGUA.[1]

Mr. Gresham to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 24, 1895.

Nicaraguan minister here has been informed that his Government must deal directly with Great Britain, and he says Nicaragua realizes that England's demands must be met. His Government desires, however, a fortnight in which to arrange details and make payments at London. The President advises that you say unofficially and confidentially to Lord Kimberley that, while disclaiming any right to interfere in pend-

[1] See also under Nicaragua, p. —. 1025, Part 2.

ing settlement of claim for pecuniary reparation, compliance with Nicaragua's request would avoid embarrassment to commerce of this and other countries and be very satisfactory to the United States.

GRESHAM.

Mr. Bayard to Mr. Gresham.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, April 26, 1895.

My unofficial and confidential request for two weeks' delay courteously and kindly answered. British admiral instructed to grant delay reasonable in his discretion. Am confident Nicaragua can avoid more extreme measures by giving him satisfactory assurance that indemnity will be actually paid. British minister for foreign affairs expressed anxiety to avoid commercial interruption or embarrassment.

BAYARD.

Mr. Uhl to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 1, 1895.

The President is constrained to express the hope that the British Government will give opportunity to Nicaragua to settle demands on the condition of withdrawal of forces from Corinto.

UHL, *Acting.*

Mr. Bayard to Mr. Gresham.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, May 2, 1895.

Great Britain has accepted guarantee by Salvador of payment of indemnity by Nicaragua in London within a fortnight; and so soon as Nicaragua accepts and so informs British admiral he is instructed to leave Corinto.

BAYARD.

RECIPROCAL FREE ENTRY OF BOOM LOGS.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, January 30, 1895.

SIR: The Government of the Dominion are anxious to obtain authoritative information in regard to the customs duties levied by the United States authorities upon booms of rough timber, used for the purpose of confining logs while being towed into United States harbors. I have the honor to forward herewith copy of an approved minute of the privy

council relative to the matter in question, which explains the nature of the information desired, and I should be much obliged if you could cause me to be supplied with the particulars required.

I have, etc..

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 14th January, 1895.

The minister of trade and commerce recommends that an inquiry be addressed through the usual channel to the United States Government asking authoritative information as to whether under existing United States customs laws duty is exacted on booms manufactured in and imported from Canada, when such booms are being used for the purpose of inclosing and confining logs or timber while being towed into United States harbors, it being understood that such booms are constructed from rough timber or logs of Canadian growth, flattened at the ends, through which holes are bored for the iron or steel chains or other fastenings to pass through, which hold them together and which form a part thereof; and further as to what if any regulations have been adopted in regard thereto.

The committee advise that your excellency be moved to forward a certified copy of this minute, if approved, to Her Majesty's chargé d'affaires at Washington.

JOHN J. MCGEE,
Clerk of the Privy Council.

Mr. Gresham to Sir Julian Pauncefote.

No. 31.] DEPARTMENT OF STATE,
Washington, February 16, 1895.

EXCELLENCY: Referring to your note of the 30th ultimo, asking for information in regard to the customs duties levied by the United States authorities upon booms of rough timber used for the purpose of confining logs while being towed into the harbors of this country, I have the honor to inform you in reply that the Department has received a letter from the Secretary of the Treasury stating that booms constructed from rough timber or logs, flattened at the ends, through which holes are bored for the iron or steel chains or other fastenings to pass which hold them together and which form a part thereof, are entitled to free entry as analogous to vessels containing cargoes, and that the chains and fastenings are regarded by similar analogy as part of the necessary equipment.

The Secretary of the Treasury adds that should such chains or fastenings be landed they would be classified as merchandise subject to duty.

I have, etc.,

W. Q. GRESHAM.

Mr. Gresham to Sir Julian Pauncefote.

No. 34.] DEPARTMENT OF STATE,
Washington, February 20, 1895.

EXCELLENCY: Referring to your note of the 30th ultimo, relative to the question as to whether boom sticks and chains imported into the United States from Canada are subject to duty, and to the Department's reply thereto of the 16th instant, I have the honor to inclose herewith a copy of a letter to the Secretary of the Treasury from the

Hon. T. A. E. Weadock, a Member of Congress from the State of Michigan, in regard to the assessment of duty by the Canadian Government on boom sticks and chains imported into Canada for use in towing logs and timber to the United States.

I have the honor to request that this matter may be brought to the attention of the Government of Canada, with a view to the establishment of a reciprocal arrangement in regard to the subject in question between the two countries.

I have, etc.. W. Q. GRESHAM.

[Inclosure in No. 34.]

Mr. Hamlin to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., Februarg 16, 1895.

SIR: Respectfully referring to your letter of the 6th instant, I have the honor to transmit herewith a copy of a letter from Hon. T. A. E. Weadock, M. C., dated Bay City, Mich., the 8th instant, with inclosures in regard to the assessment of duty by the Canadian Government on boom sticks and chains imported into Canada for use in towing logs and timber to the United States.

Boom sticks and chains imported into the United States under similar circumstances are admitted to entry free of duty as stated in the Department letter to you of the 11th instant, and it is suggested that the inclosures hereof be brought to the attention of the British ambassador.

Respectfully, yours, C. S. HAMLIN,
Acting Secretary.

[Subinclosure A.]

Mr. Weadock to Mr. Hamlin.

BAY CITY, MICH., *February 8, 1895.*

DEAR SIR: Referring to our conversation of several days ago on the subject of an export duty on Canadian logs, I beg leave to submit the inclosed correspondence.

I am personally acquainted with all these gentlemen, and their statements may be relied upon. I submit that any duty or toll, in whatever name levied by the Government, upon logs, or the appliances for handling them, which are exported from Canada to the United States, is, as a matter of fact, an export duty. These booms, consisting of round and unmanufactured timber, fastened by chains, which are taken off and not entered for consumption in Canada, it seems to me, are in no proper sense dutiable under the Canadian tariff act of 1894. The imposition of the duty on booms is simply an indirect way of collecting an export duty on logs, and I respectfully submit that the duty upon booms levied as above set forth is an export duty within the meaning of the Wilson tariff law.

Yours, truly, THOMAS A. E. WEADOCK, *M. C.*

[Subinclosure B.]

B. Boutell to S. C. Wilson, deputy collector of customs.

BAY CITY, MICH., *January 26, 1895.*

DEAR SIR: We are engaged in the business of towing and rafting logs from the Georgian Bay country to the United States, and, being so engaged, use for that purpose large steam tugs, tow lines, and boom sticks, with which said boom sticks the

logs towed from Canada are surrounded. In October of last year we were notified by the Canadian Government that duty must be paid before the booms would be allowed to be used in Canada, and that all booms used would be taken possession of by the Canadian Government, and unless the duty was paid the same would be sold; and we attach hereto a letter received from Thomas Flesher, esq., under date of October 15, 1894, informing us what his orders were as a customs official from the Canadian Government. We desire also to say that on or about the 6th day of October we received from the same Mr. Flesher, subcollector of customs, a letter in the words following, viz:

"To B. BOUTELL, Esq., *Bay City, Mich.:*

"Please, sir, I am requested by department of customs, Canada, to collect duty at 20 per cent if chain is five-sixteenths or over, and 27½ per cent ad valorem if under five-sixteenths, on all booms and chains of American manufacture now here (or in Canadian waters) liable to above rate of duty. I find you have 950 sticks, or more than five sets, here at this port now; and resection 15 of customs act and tariff item 319, you please according to law pay the duty on same, and arrange for duty to be paid on any or all booms and chains which may arrive hereafter belonging to you. (See section 14 of the tariff act.)

"Yours, respectfully, "THOS. FLESHER, *Subcollector.*"

That thereafter, and on or about the 6th day of November, 1894, the Canadian customs officials did levy upon 950 boom sticks, being more than five sets, and containing about 1,500,000 feet, and took steps to advertise the same for sale, when the matter was brought to the attention of the Canadian Government at Ottawa, and, upon request, the sale of said booms was postponed until we might have a hearing before the privy council of Canada.

Now, it is our judgment that, inasmuch as it is absolutely necessary to use booms for the purpose of towing logs from Canada to the United States, that to impose this duty is, in effect, an imposition of an export duty on logs, and we respectfully request a ruling upon this subject. The letter which is submitted herewith you will oblige us by returning when convenient, after the question involved has been properly determined. We understand that the Michigan Log Towing Company, a corporation engaged in the same business in which we are engaged, has been treated in a similar manner; and we earnestly solicit an early determination of the question on account of its great importance.

Respectfully, yours, B. BOUTELL.

[Subinclosure C.]

Subcollector of Customs to Saginaw Salt and Lumber Company.

[Notice, etc., dutiable goods.]

CUSTOMS, CANADA.

DEAR SIRS: I am instructed to collect duty on all American booms and chains in my port, and on any arriving hereafter, at 20 per cent ad valorem, if chains are five-sixteenths and over, and 27½ per cent if under five-sixteenths. I find *Reliance,* on 22d September, 1894, brought 300 M. L. T. your booms, on which you will please instruct your agent to enter and pay duty forthwith, and oblige,

Yours, respectfully,

THOS. FLESHER,
Subcollector of Customs.

[Subinclosure D.]

Mr. Wilson to Mr. Boutell.

CUSTOM-HOUSE, DEPUTY COLLECTOR'S OFFICE,
Bay City, Mich., January 31, 1895.

B. BOUTELL, *Bay City, Mich.*

SIR: Inclosed find ruling on the boom-stick question, from the main office of this district, with which opinion I fully concur; and it seems to me that no other construction can possibly be put upon it. It appears to me that it requires a considerable stretch of imagination to make manufactured timber out of a saw log by merely boring a hole through the end of it. It is certainly a saw log still, and can be converted into lumber.

Respectfully, SOLOMAN C. WILSON,
Deputy Collector.

[Subinclosure E.]

W. Springer to S. C. Wilson, deputy collector, Bay City, Mich.

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port Huron, Mich., January 30, 1895.

SIR: Referring to your letter inclosing letter and other papers from B. Boutell (returned herewith), I have to say that boom sticks are classified by this office as "logs and round unmanufactured timber not specially enumerated or provided for in this act, paragraph 672," and consequently are admitted the same as other logs, free of duty when imported into the United States. There is nothing in the tariff law which would authorize us to assess duty on such importations.

Respectfully,

W. SPRINGER,
Special Deputy Collector.

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, *April 1, 1895.*

SIR: With reference to your notes, Nos. 31 and 34, of the 16th and 20th of February respectively, relative to the customs duties levied on boom logs, I have the honor to forward herewith, for the information of your Government, copy of an approved minute of the Canadian privy council, submitting copy of an order in council of the 2d instant granting free entry to booms imported into Canada from the United States, for the purpose of towing logs of Canadian growth to the United States, from the 28th of August last, for such time as the United States Government permit the free entry of Canadian-made booms.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 25th of March, 1895.

The committee of the privy council have had under consideration a dispatch, hereto attached, dated February 21, 1895, from Sir Julian Pauncefote, in reference to the question submitted through him to the United States authorities, asking for information in regard to customs duties levied by them upon booms.

The minister of trade and commerce, to whom the question was referred, observes that the answer given to the inquiry, as contained in the dispatch in question, while ruling such booms to be free, bases the ruling upon entirely different grounds from those contended as applicable by the parties who have been seeking for a decision from the Canadian Government, under which such booms and fastenings might be admitted free into Canada.

The minister further observes that Canada has already taken action by authorizing free admission of such booms so long as the United States Government permits the free entry of Canadian-made booms, sticks, and chains, as per order in council of March 2, 1895, hereto attached.

The committee, on the recommendation of the minister of trade and commerce, advise that your excellency be moved to forward a certified copy of this minute and its appendices to Her Majesty's ambassador at Washington, with the request that he will advise the United States Government of the action taken by the Canadian Government in connection with this matter.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

[Subinclosure 1.]

Order in council.

GOVERNMENT HOUSE, *Ottawa, March 2, 1895.*

Present, His Excellency, the Governor-General in council.

His Excellency, under the authority conferred upon him by section 78 of the consolidated audit and revenue act, and by and with the advice of the Queen's privy council for Canada, is pleased to order that booms, consisting of sticks and chains, when imported into Canada from the United States for the purpose of inclosing, confining, or towing to the United States logs or timber of Canadian growth, be so imported free of customs duty, such exemption to date from the 28th day of August, 1894, and to continue in force so long as the United States Government permit the free entry of Canadian-made booms (sticks and chains).

JOHN J. MCGEE,
Clerk of the Privy Council.

[Subinclosure 2.]

Sir Julian Pauncefote to the Earl of Aberdeen.

WASHINGTON, *February 21, 1895.*

MY LORD: With reference to your excellency's dispatch, No. 3, of the 23d ultimo, asking for information in regard to the customs duties levied by the United States authorities upon booms of rough timber used for the purpose of confining logs while being towed into the harbors of this country, I have the honor to state that I have received a communication from Mr. Gresham informing me that the Secretary of the Treasury, to whom your excellency's inquiry was referred, has sent a reply to the following effect:

"Booms constructed from rough timber or logs flattened at the ends, through which holes are bored for the iron or steel chains or other fastenings to pass which hold them together and which form a part thereof, are entitled to free entry as analogous to vessels containing cargoes; and the chains and fastenings are regarded by similar analogy as part of the necessary equipment.

"Should, however, such chains or fastenings be landed they would be classified as merchandise subject to duty."

I have, etc., JULIAN PAUNCEFOTE.

P. S.—Since writing the above I have received further information on this subject, which I hope to have the honor of transmitting to your excellency shortly.

J. P.

Mr. Uhl to Sir Julian Pauncefote.

No. 73.] DEPARTMENT OF STATE,
Washington, April 9, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 1st instant, transmitting a copy of a Canadian order in council, granting free entry into Canada to timber booms imported from the United States.

The Department is much gratified that a reciprocal arrangement has thus been effected between the United States and Canada in regard to the matter in question.

I have, etc., EDWIN F. UHL,
Acting Secretary.

JURISDICTION OVER CERTAIN ISLANDS IN LAC LA CROIX.

Mr. Uhl to Lord Gough.

No. 143.] DEPARTMENT OF STATE,
Washington, July 3, 1895.

MY LORD: In October last the attention of this Department was called to apparently conflicting claims of territorial jurisdiction over

certain islands in Lac La Croix (otherwise called Nequowquon), on the northwestern boundary between Minnesota and Manitoba. It seems that one Frank Gardner, of Rat Portage, Ontario, purchased in 1882 and 1883 certain lands in St. Louis County, Minn., bordering on the Canadian line, among them being an island named Coleman Island, all of which were included in the survey previously made by the General Land Office of the United States and taxed by the authorities of St. Louis County, Minn. It is stated that three years ago the Canadian authorities made a survey of timber limits along the boundary including Hunter's and Coleman islands, and that notice has been served upon Mr. Gardner by the Crown timber agents forbidding him to cut timber on Coleman Island.

So far as Coleman Island is concerned it appears impossible that its jurisdiction could legitimately become a subject of contention. Not only is its position well to the south of any natural boundary line passing through the waters of Lac La Croix, but by continued occupation and governmental survey many years a presumption of title on our behalf has been established not to be set aside save upon the most absolute proof to the contrary, the burden of which would necessarily rest upon the Canadian authorities.

In examining the question, however, the demarcation of that part of the northwestern boundary lying between the Neebish Rapids of St. Mary's River and the Lake of the Woods is found to be in a vague and unsatisfactory condition, which appears to require the careful attention of the two Governments.

Under the seventh article of the treaty of Ghent, commissioners were authorized to determine the boundary between the dominions of the two powers extending from the water communication between Lake Huron and Lake Superior to the most northwesterly point of the Lake of the Woods, and to decide to which of the two nations the several islands, water communications, and rivers, respectively, belonged. The commissioners were unable to agree as to the true meaning of the description of this part of the boundary in the treaty of 1783, and their labors terminated with the decision under the sixth article of the treaty of Ghent, by which the definition of the boundary terminated westwardly at the foot of the Neebish Rapids. A long correspondence ensued between the two Governments, ending in the negotiation of the treaty of August 9, 1842, by Mr. Webster and Lord Ashburton, the second article of which purports to define the boundary from the place where the joint commissioners terminated their labors under the sixth article of the treaty of Ghent in the Neebish Channel in the most northwestern point of the Lake of the Woods.

The line so described is distinct to Ile Royale on the western shore of Lake Superior, but from this point to the Lake of the Woods the description is not sufficiently minute to designate the exact boundary through the tortuous water communication, which presents a chain of lakes and rivers filled with numerous islands. No chart of that portion of the boundary has ever been made by the two Governments jointly.

There has been furnished to this Department by Her Majesty's Government a series of maps, published by the ordnance survey office at Southampton in 1868, reproducing the original maps filed before the commission under the treaty of Ghent, including the charts upon which the commissioners marked an agreed boundary, as well as other maps showing a proposed boundary, or denoting merely the contours of the shores and islands of the boundary waters. One of these maps, filed as of October 23, 1826, is described as a true map made and presented by

Mr. James Ferguson, American principal surveyor to the commission, and certified and signed by him and the commissioners, this particular copy being intended to exhibit the course of a certain line described by the British commissioner for a proposed boundary, as set forth in the journal of the board under date of October 23, 1826. Upon this chart the British commissioner had traced a tentative line of demarcation through and among the intricate waters and islands of Lac La Croix; and Hunter's and Coleman islands appear designated therein by the numbers 25 and 27, to the south of the British commissioner's proposed line.

I have the honor to invite, through you, the attention of Her Majesty's Government to the question of reaching an exact agreement whereby this portion of the boundary line between the United States and Her Majesty's Dominion of Canada may be precisely marked, in accordance with the true intent of the contracting parties expressed in the treaty of 1842, and having due regard to prescriptive rights of undisputed occupation within the reasonable limits of such boundary.

In this relation, I invite attention to the above-described map, upon which Commissioner Barclay's proposed line is traced, and beg to inquire the views of Her Majesty's Government in regard thereto.

The conventional lines traced by the commissioners of the treaty of Ghent by the various boundary commissioners of the two Governments acting jointly have in several instances failed to denote the water boundary with sufficient precision to avert disputes of fact. This was lately seen in the discussion of certain seizures of fishing boats opposite Eastport, Me., and the treaty stipulations of July 22, 1892, were found necessary to settle the matter.

Awaiting the result of such consideration as Her Majesty's Government may give to this subject, commensurate with its importance,

I have, etc.,

EDWIN F. UHL, *Acting Secretary.*

Viscount Gough to Mr. Uhl.

BRITISH EMBASSY,
Newport, July 5, 1895.

SIR: I have the honor to acknowledge, with thanks, the receipt of your note, No. 143, of the 3d instant, respecting the apparently conflicting claims of territorial jurisdiction over certain islands in Lac de Croix, on the northwestern boundary between Minnesota and Manitoba. I have not failed to bring your communication to the notice of Her Majesty's Government.

I have, etc., GOUGH.

TRANSIT OF CATTLE ACROSS CANADIAN TERRITORY FOR EXPORT.

Mr. Olney to Sir Julian Pauncefote.

No. 239.] DEPARTMENT OF STATE,
Washington, November 2, 1895.

EXCELLENCY: The Secretary of Agriculture, having brought to my attention the circumstance that for a number of years past the Govern-

ment of Her Majesty's Dominion of Canada has prohibited the shipment of cattle from the United States across Canadian territory for export from Canadian ports, and inasmuch as the privilege of such shipment appears to be clearly granted in article 29 of the existing treaty between the United States and Great Britain of May 18, 1871, I have the honor to request that inquiry be made as to the cause of this prohibition, to the end that its revocation may be brought about in conformity with the treaty provision above referred to.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, February 4, 1896.

SIR: With reference to your note of the 3d ultimo and to previous correspondence relative to the prohibition of the shipment of United States cattle across Canadian territory for export, I have the honor to inform you that I have now received a dispatch from the Governor-General of Canada from which it appears that the Dominion Government, while admitting to the fullest extent the transit obligations defined in article 29 of the treaty of May 18, 1871, explain that the restrictions of which complaint is made have relation simply to regulations formed under the "animal contagious diseases act," and therefore pertain solely to "health of animals."

The United States Government, it is observed, make similar restrictions under the quarantine laws of the United States as respects Canadian animals in transit, for reasons connected with the health of the animals without regard to any considerations of transit obligations.

All transit animals, whether from the United Kingdom, the United States, or other countries, are subject in Canada to restrictions imposed under the quarantine regulations, and it follows therefore in the view of the Dominion Government that the restrictions in question are not in contravention of the provision of the treaty of 1871.

I have, etc.,

JULIAN PAUNCEFOTE.

DEEP-WATER CANALS BETWEEN THE GREAT LAKES AND THE ATLANTIC OCEAN.

Mr. Olney to Sir Julian Pauncefote.

No. 251.] DEPARTMENT OF STATE,
Washington, November 12, 1895.

EXCELLENCY: I have the honor to apprise you that the President has appointed Messrs. James B. Angell, of Michigan, John E. Russell, of Massachusetts, and Lyman E. Cooley, of Illinois, members of a Commission on the part of the Government of the United States to report upon the feasibility of building such canals as shall enable vessels engaged in ocean commerce to pass to and fro between the Great Lakes and the Atlantic Ocean, and upon the other matters set forth in an act of Congress approved March 2, 1895.

Mr. Angell is president of the University of Michigan at Ann Arbor, and was formerly United States minister to China; Mr. Russell was

formerly a representative in Congress from Massachusetts, and Mr. Cooley is a prominent civil engineer of Chicago, Ill.

I shall be pleased to learn the names of any commissioners upon the same subject already or hereafter appointed by the Government of Great Britain or of the Dominion of Canada.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 24, 1896.

SIR: I have the honor to communicate to you, by desire of the Governor-General of Canada and with reference to your note No. 251, of the 12th of November last, copy of the approved minute of the Canadian privy council, to which is attached copy of an order in council of the 30th of November last, appointing O. A. Howland, esq., M. P. P.; F. C. Keefer, esq., C. M. G.; and T. Monro, esq., as Commissioners to meet and confer with the Commissioners appointed by the President of the United States and to report to the Governor-General upon the feasibility of building such canals as would admit of the passage of vessels engaged in ocean commerce between the Atlantic Ocean and the Great Lakes.

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 8th January, 1896.

The committee of the privy council have had under consideration a dispatch, hereto attached, dated 15th November, 1895, from Her Majesty's ambassador at Washington, covering a copy of a note from the Secretary of State of the United States, informing him of the appointment of certain Commissioners for the consideration of the question of canal construction to accommodate ocean vessels between the Great Lakes and the Atlantic, and expressing the wish to receive intimation of similar action when taken by the Government of Canada.

The committee, on the recommendation of the minister of railways and canals, advise that your excellency be moved to forward a copy of the order in council of the 30th November, 1895, appointing Commissioners from Canada to act with the Commissioners appointed by the United States, to Her Majesty's ambassador at Washington, for the information of the Secretary of State of the United States.

[Subinclosure.]

Extract of a report of the committee of the honorable the privy council, approved by his excellency on the 30th November, 1895.

On a report, dated 22d November, 1895, from the minister of railways and canals, submitting that by petition to your excellency in council the president and members of the International Deep Waterways Association have set forth that the Congress of the United States has enacted as follows:

"The President of the United States is authorized to appoint, immediately after the passage of this act, three persons who shall have power to meet and confer with any similar committee which may be appointed by the Government of Great Britain or of the Dominion of Canada, and who shall make inquiry and report whether it is feasible to build such canals as shall enable vessels engaged in ocean commerce to pass to and fro between the Great Lakes and the Atlantic Ocean, with an adequate and controllable supply of water for continual use; where such canals can be most conveniently located, the probable cost of the same, with estimate in detail; and if any part of the same should be built in the territory of Canada, what regulations or

treaty arrangements will be necessary between the United States and Great Britain to preserve the free use of such canals to the people of this country at all times; and all necessary facts and considerations relating to the construction and future use of deep-water channels between the Great Lakes and the Atlantic Ocean. The persons so appointed shall serve without compensation in any form, but they shall be paid their actual traveling and other necessary expenses, not exceeding in all ten thousand dollars, for which purpose the said sum of ten thousand dollars or so much thereof as may be necessary is hereby appropriated."

The minister represents that, by a letter addressed on the 9th instant to the honorable the first minister by Mr. O. A. Howland, the international president of the said association, it was intimated that the President had appointed, in accordance with the aforesaid enactment, three gentlemen as Commissioners for the purpose of this inquiry and it was asked that your excellency's Government make similar appointments.

The minister, considering that the question is one of sufficient importance to justify expenditure in the directions of inquiry indicated by the said act of Congress, recommends that the undermentioned gentlemen be appointed to carry on such inquiry on the lines specified in the said act; and that they do meet and confer with the committee appointed by the President of the United States, and report to your excellency in council as to the results of their investigation, namely, O. A. Howland, esq., M. P. P., president International Waterways Association; T. C. Keefer, esq., C. E., C. M. G.; T. Monro, esq., M. Inst., C. E., president Canadian Society Civil Engineers.

The minister further recommends that it shall be understood that these gentlemen will serve without compensation but that their actual traveling and other necessary expenses will be defrayed by the Government, for which purpose, he (the minister) recommends that a special item be placed in the estimates to be laid before Parliament in the coming session.

The committee submit the foregoing recommendations for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

RECIPROCITY IN MARITIME CHARGES.

Mr. Adee to Lord Gough.

No. 151.] DEPARTMENT OF STATE,
Washington, July 11, 1895.

MY LORD: I have the honor to inclose herewith copy of a letter of the 8th instant from the Acting Secretary of the Treasury, in relation to the action of the Canadian authorities in levying a tax of $1 on American vessels entering and clearing from a Canadian port.

It is hoped that Her Britannic Majesty's Government will see its way to promptly equalize the charges on American vessels entering and clearing from Canadian ports with the entrance and clearance fees imposed on Canadian shipping in ports of the Dominion, to the end that the President may not have to issue the proclamation which this discrimination against United States shipping calls for.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 151.]

Mr. Wike to Mr. Olney.

TREASURY DEPARTMENT,
Washington, July 8, 1895.

SIR: Referring to your letter of the 29th ultimo, inclosing copy of a dispatch from the consul-general at Ottawa, dated June 22, in regard to the charges imposed upon American and foreign vessels entering

and clearing at Canadian ports, I have the honor to invite notice to the concluding statement in that dispatch:

It therefore appears that American vessels are required to pay $1 for entering and clearing from a Canadian port, from which British vessels and those of the countries mentioned above are relieved.

Section 14 of the act approved June 26, 1884, as amended by section 11 of the act of June 19, 1886, reads:

That in lieu of the tax on tonnage of thirty cents per ton per annum imposed prior to July first, eighteen hundred and eighty-four, a duty of three cents per ton, not to exceed in the aggregate fifteen cents per ton in any one year, is hereby imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or the Sandwich Islands, or Newfoundland; and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is hereby imposed at each entry upon all vessels which shall be entered in the United States from any other foreign ports, not, however, to include vessels in distress or not engaged in trade: *Provided*, That the President of the United States shall suspend the collection of so much of the duty herein imposed on vessels entered from any foreign port as may be in excess of the tonnage and light-house dues, or other equivalent tax or taxes imposed in said port on American vessels by the Government of the foreign country in which such port is situated, and shall, upon the passage of this act, and from time to time thereafter, as often as it may become necessary by reason of changes in the laws of the foreign countries above mentioned, indicate by proclamation the ports to which such suspension shall apply, and the rate or rates of tonnage duty, if any, to be collected under such suspension: *Provided further*, That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States or the import or export duties on their cargoes are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated, or on the cargoes of such vessels; and sections forty-two hundred and twenty-three and forty-two hundred and twenty-four and so much of section forty-two hundred and nineteen of the Revised Statutes as conflicts with this section are hereby repealed.

Pursuant to this statute, the President, from time to time, has issued proclamations exempting from tonnage taxes British vessels, together with those of certain other nationalities, entering the United States from Aspinwall and Panama, the Province of Ontario, the islands of Montserrat, Guadeloupe, Tobago, Trinidad, and Grenada, the ports of San Juan and Mayaguez in Puerto Rico, Greytown, Bocas del Toro, all ports of the German Empire, all ports in Europe of the Netherlands, and certain ports in the Dutch East Indies.

The statute quoted provides that the President's proclamation shall exclude from the benefits of the suspension therein authorized "the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States are in excess of the fees, dues, or duties imposed on the vessels of the country in which such port is situated."

The consul-general at Ottawa states that the fees or dues for entry and clearance imposed on vessels of the United States in Canadian ports are in excess of the fees or dues imposed on British vessels, and it appears to this Department that until the Dominion Government imposes no higher charges on American than on British vessels, the vessels of Great Britain should be excluded from the benefits of the suspension authorized by section 14 of the act approved June 26, 1884, as amended by section 11 of the act of June 19, 1886.

The Commissioner of Navigation states that this discrimination against American vessels appears to have been in operation for some years, to the considerable disadvantage of American vessels on the Great Lakes.

S. WIKE,
Acting Secretary.

Lord Gough to Mr. Adee.

BRITISH EMBASSY,
Newport, R. I., September 2, 1895.

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, informing me that, as the Treasury Department is anxious that the question of the tax levied on American ships entering Canadian ports should be settled, you would be pleased if the reply to the Treasury Department's note of July 8 could be received at the earliest practicable date.

I have immediately informed Her Majesty's Government of your wishes in this respect, and hope to be able to transmit their reply with the least avoidable delay.

I have, etc., GOUGH.

Lord Gough to Mr. Adee.

BRITISH EMBASSY,
Newport, R. I., September 19, 1895.

SIR: With reference to my note of the 2d instant on the subject of the tax levied on United States vessels entering and clearing from Canadian ports, I have the honor to inform you that in a dispatch dated the 30th ultimo, which I have just received, the Marquis of Salisbury states that Her Majesty's Government had already sent to Canada for a report on the matter.

You will notice that Lord Salisbury, writing on the 30th, had not then been informed of the substance of your note of August 31 relative to the same question, but, as I have already stated in my reply of the 2d instant, your request that the matter should be expedited was immediately transmitted to Her Majesty's Government.

I have, etc., GOUGH.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 26, 1895.

SIR: Referring to the embassy note of the 19th ultimo to Mr. Adee, and to previous correspondence on the subject of the tax levied on United States vessels entering and clearing from Canadian ports, I have the honor to inform you that the question is still under consideration and will receive prompt attention.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, October 31, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant in relation to the tax levied on United States vessels entering and clearing from Canadian ports, which you observe is still under consideration, and that it will receive prompt attention.

I have received a letter from the Treasury Department of the 29th instant making inquiry touching the subject, and adding that the season of lake navigation is nearly ended for the year.

In view of this circumstance and of your present announcement, permit me to express the hope that the Department may, at an early date, be acquainted with the decision of Her Majesty's Government upon the subject after it shall have been placed in possession of the report from the Canadian authorities referred to in Lord Gough's note of September 19, 1895.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, November 21, 1895. (Received Nov. 22.)

SIR: With reference to your note of the 31st ultimo on the subject of the tax levied on United States vessels entering and clearing from Canadian ports, I have the honor to state that I have received from the Deputy Governor-General of Canada a copy of an approved minute of council dealing very fully with the question.

Pending the reply of my Government to your representation respecting the above tax, I think it may be convenient to put you in possession of the facts urged by the Canadian Government against its repeal, and I therefore inclose herewith, for the consideration of the Secretary of the Treasury, an extract from the minute of council above referred to.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 6th of November, 1895.

The committee of the privy council have had under consideration a dispatch, hereto attached, from Her Majesty's chargé d'affaires at Washington, dated 12th July, 1895, covering a copy of a communication from the Acting Secretary of State at Washington, of date 11th of July, having reference to the exaction by the Canadian customs of an entrance and clearance fee of $1 from all "American vessels" entering and clearing from Canadian ports, and expressing a hope that Her Majesty's Government would see its way to promptly equalizing the charges on American vessels entering and clearing from Canadian ports with the entrance and clearance fees imposed on Canadian shipping in the Dominion, to the end that the President may not have to issue proclamation which this discrimination against United States shipping calls for.

The minister of trade and commerce, to whom this question was referred, desires to express regret at not having made earlier report, delay having unavoidably occurred in procuring necessary information.

The minister observes that a similar complaint was made by the United States authorities in November, 1887, which was then fully investigated and reported upon as per copy attached, marked A.

It was then shown that the fees exacted from American vessels entering Canadian ports were but small as compared with those exacted from Canadian vessels visiting American ports.

The minister further observes that since then, however, the United States law has been somewhat modified, section 22 of the act of June 10, 1890, having provided for the abolition of certain fees; but it appears from the list of fees so abolished and of those still collectible, as detailed in the Customs Regulations of 1892, published by the Treasury Department (chap. 30), that there are still collectible on the seacoast,

Gulf, and Western rivers the following fees connected with the entrance and clearance of vessels from any foreign port:

Granting permit to a vessel not belonging to a citizen of the United States to go from district to district, and for receiving manifests	$2.00
Receiving manifests and granting permit to unload on arrival from one district to another	2.00
Entry of vessels of 100 tons or more from foreign port	2.50
Entry of vessel under 100 tons	1.50
Clearance of vessel of 100 tons or more for a foreign port	2.50
Clearance of a vessel under 100 tons	1.50
Port entry	2.00

To which list may be added various fees for minor services of from 20 to 40 cents each. In addition to which there are exacted consular fees, for certifying of invoices of goods shipped, of $2.50 when the invoice amounts to $100 or over, and on invoices under $100, $1; and under special regulations a further consular fee at certain ports of $2.50 for "bill of health."

Among the fees collectible at ports and places on the Northern, Northeastern, and Western frontier of the United States, on vessels navigating otherwise than by sea, are the following:

Entry of vessels directly from a foreign port	$0.50
Clearance of a vessel sailing directly to a foreign port otherwise than by sea	.50
Port entry	2.00

And various other fees for minor services of from 20 to 50 cents each. That the exaction of entrance and clearance fees of 50 cents is still enforced is evident from the terms of a circular issued from the Treasury Department at Washington, bearing date 1st July, 1895, which reads as follows:

Fees for entrance and clearance not abolished.

TREASURY DEPARTMENT, *July 1, 1895.*

SIR: This Department is in receipt of your letter dated the 26th ultimo, submitting a protest by Messrs. F. W. Myers & Co., against your action in assessing fees of 50 cents for entrances and clearances of vessels in your district.

Such fees have been heretofore collected under section 4382 of the Revised Statutes, which prescribes a fee of 50 cents for the entry of a vessel direct from a foreign port, and a similar fee for clearance of a vessel direct to a foreign port.

These fees were not abolished by the act of June 10, 1890, or by any other act of Congress. They are plainly prescribed by the statute cited, and should be collected as provided for by the Department's instructions embodied in the circular of October 14, 1890.

Respectfully, yours, S. WIKE, *Acting Secretary.*

COLLECTOR OF CUSTOMS, *Plattsburg, N. Y.*

In addition there is still exacted, not alone at ports on the seaboard, but at inland and lake ports, a tonnage tax of 3 cents per ton on Canadian vessels, such tax being collected on each entry when not exceeding five entries per annum, vide customs receipts given at the ports of Portland and Ellsworth, Me., Boston, New York, and at Ogdensburg and Oswego, as per copies marked B.

It thus appears that the fees exacted from Canadian vessels entering United States ports are in all cases fully equal to and in some cases far exceed those exacted from American vessels entering and clearing at Canadian ports along the frontier in question.

The minister submits that the fee is not in the nature of a tonnage tax or light-house dues or other equivalent tax, but is exacted from all vessels navigating inland waters when entering or clearing at any port above Montreal, for each report inward or clearance outward, such fees to be exacted from all vessels, irrespective of their nationality, with the exception of vessels holding coasting licenses.

Such fees are considered as an equivalent for all custom-house fees which otherwise might be charged in detail, and from the only customs charges which vessels from the United States or elsewhere are called to pay in Ontario ports.

The minister is pleased to note that in accordance with recent decisions the United States authorities have very materially reduced the fees exacted in connection with the customs business, thus in a great measure facilitating the intercourse so desirable along the frontier between the two countries, the Canadian authorities having long since dispensed with all such fees with the exception of those at present in question; and while regretting that any fees are still exacted by the United States authorities, he can not, while such exactions exist, recommend legislative action with

a view to a change in the law which provides for the exaction of the one remaining fee from foreign vessels entering Canada at ports above Montreal, but would, were the United States authorities disposed to abolish those fees still exacted by its officers, heartily recommend such a change in the law as would permit of a removal of the fees exacted in Canada herein referred to.

Mr. Olney to Sir Julian Pauncefote.

No. 257.] DEPARTMENT OF STATE,
Washington, November 23, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, accompanied by an approved minute of the privy council in reference to the discriminating tax of $1 levied upon American vessels entering or clearing from Canadian ports.

A copy of this correspondence has been transmitted to the Secretary of the Treasury, to whom I shall also be glad to forward, upon its receipt, a copy of your promised further note in reply to mine of the 31st ultimo upon that subject.

I have, etc., RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, November 25, 1895. (Received Nov. 29.)

SIR: I have the honor to acknowledge with thanks the receipt of your note, No. 257, of the 23d instant, in reference to the alleged discriminating tax of $1 levied upon American vessels entering or clearing from Canadian ports.

Before communicating further with you upon this subject I should be glad to be favored with the observations of the Secretary of the Treasury on the minute of the privy council of Canada, copy of which was inclosed in my note of the 21st instant, as, if the facts therein stated are not open to dispute, it would seem that they dispose of the complaint of your Government.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 331.] DEPARTMENT OF STATE,
Washington, February 18, 1896.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of November 25, 1895, in relation to the reciprocity in maritime charges upon vessels of either country in the ports of the other. You requested that, before communicating further with me touching the matter, you might be favored with the observations of the Secretary of the Treasury on the minute of the privy council of Canada, transmitted with your note of November 21 last, since, if the facts therein stated were not open to dispute, it would seem that they dispose of the complaint of this Government.

I have now to say that this minute has had the careful consideration of the Secretary of the Treasury. His judgment, in which I concur,

is that it appears to be based on a misunderstanding of reciprocity in maritime charges. The understanding of the Government of the United States in the matter of the uniform treatment of foreign and domestic vessels is that charges on foreign vessels in the ports of the United States should be no higher than those imposed on vessels of the United States in the ports of this country, and that the charges imposed on American vessels in foreign ports should be no higher than the charges imposed on the vessels native to those ports. This is the practice of this Government, and it is in accord with nearly all of its treaties of commerce and navigation with foreign powers.

The fact cited in the Canadian minute, that the charges of this Government on lake ports are larger than those imposed by the Dominion authorities, will, upon more mature reflection, I am confident, be regarded as irrelevant, since those charges are imposed equally on American and foreign vessels.

It is acknowledged in the Canadian minute that a higher charge is imposed, at entry and clearance, on American than on Canadian or British vessels. As conclusive on this point that the Canadian tax distinctly discriminates against American vessels, I shall cite the following extract from that minute:

> The Canadian authorities have long since dispensed with all such fees, with the exception of those at present in question; and while regretting that any fees are still exacted by the United States authorities, he [the Canadian minister] can not, while such exactions exist, recommend legislative action with a view to a change in the law which provides for the exaction of the one remaining fee from foreign vessels entering Canada at ports above Montreal, but would, were the United States authorites disposed to abolish those fees still exacted by its officers, heartily recommend such a change in the law as would permit of a removal of the fees exacted in Canada herein referred to.

It is immaterial to consider whether this fee of $1 levied upon American vessels entering or clearing from Canadian ports is for tonnage or light-house dues. It is sufficient to know that it exists, and that it constitutes an unfair discrimination against American commerce.

It is evident to my mind that the Canadian council has misapprehended the essential point involved in this discussion, and has failed to see that an actual discrimination in the matter of port charges against vessels of the United States entering the ports of Canada is not offset by the circumstances that charges upon all vessels, whether under the British or American flag, in the lake ports may be, in fact, larger than similar charges in Canada upon American vessels.

Section 2 of the act of Congress approved June 19, 1886, as amended by that of April 4, 1888, provides:

> That such proclamation shall exclude from the benefits of the suspension herein authorized the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on the vessels of such country or on the cargoes of such vessels.

This Government is not without hope that the Canadian council will perceive from this full statement the obvious misunderstanding that has arisen, and that a different and more satisfactory conclusion may be speedily reached, to the end, as heretofore expressed, that Her Majesty's Government may see its way to promptly equalize the charges on American vessels entering and clearing from Canadian ports with the entrance and clearance fees imposed on Canadian shipping in the Dominion.

This Government does not desire, in case it can possibly be avoided, to resort to a revocation of the proclamations of the President made in

pursuance of section 2 of the act cited, and therewith the exclusion of British vessels from the exemptions from tonnage tax in the ports of the United States, which were authorized by that act and prescribed by those proclamations. The continuance of this discrimination, however, will leave it no option in the matter.

I trust that you will promptly bring these observations to the attention of the Dominion authorities, and, in view of the long time that has elapsed since the subject was first presented, that I may receive, for communication to the Secretary of the Treasury, the final reply of the British Government at the earliest practicable date.

I have, etc.,

RICHARD OLNEY.

NAVIGATION ON THE GREAT LAKES.

Mr. Gresham to Sir Julian Pauncefote.

No. 35.] DEPARTMENT OF STATE,
Washington, February 21, 1895.

EXCELLENCY: I have the honor to transmit herewith, for the information of the Government of the Dominion of Canada, a copy of an act of Congress approved February 8, 1895, entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters."

It is hoped by this Government that the Dominion of Canada may be disposed to adopt like regulations for the government of Canadian vessels on the Great Lakes and their connecting and tributary waters.

I have, etc.,

W. Q. GRESHAM.

[Inclosure in No. 35.]

[PUBLIC—No. 41.]

AN ACT to regulate navigation on the Great Lakes and their connecting and tributary waters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rules for preventing collisions shall be followed in the navigation of all public and private vessels of the United States upon the Great Lakes and their connecting and tributary waters as far east as Montreal:

STEAM AND SAIL VESSELS.

RULE 1. Every steam vessel which is under sail and not under steam shall be considered a sail vessel; and every steam vessel which is under steam, whether under sail or not, shall be considered a steam vessel. The word steam vessel shall include any vessel propelled by machinery. A vessel is under way within the meaning of these rules when she is not at anchor or made fast to the shore or aground

LIGHTS.

RULE 2. The lights mentioned in the following rules, and no others shall be carried in all weathers from sunset to sunrise. The word visible in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

RULE 3. Except in the cases hereinafter expressly provided for, a steam vessel when under way shall carry:

(a) On or in front of the foremast, or if a vessel without a foremast, then in the forepart of the vessel, at a height above the hull of not less than twenty feet, and if the beam of the vessel exceeds twenty feet, then at a height above the hull not less than such beam, so, however, that such height need not exceed forty feet, a

bright white light so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such character as to be visible at a distance of at least five miles.

(b) On the starboard side, a green light, so constructed as to throw an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side, a red light, so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A steamer of over one hundred and fifty feet register length shall also carry when under way an additional bright light similar in construction to that mentioned in subdivision (a), so fixed as to throw the light all around the horizon and of such character as to be visible at a distance of at least three miles. Such additional light shall be placed in line with the keel at least fifteen feet higher from the deck and more than seventy-five feet abaft the light mentioned in subdivision (a).

VESSELS TOWING.

RULE 4. A steam vessel having a tow other than a raft shall, in addition to the forward bright light mentioned in subdivision (a) of rule three, carry in a vertical line, not less than six feet above or below that light, a second bright light of the same construction and character and fixed and carried in the same manner as the forward bright light mentioned in said subdivision (a) of rule three. Such steamer shall also carry a small bright light abaft the funnel or after mast for the tow to steer by, but such light shall not be visible forward of the beam.

RULE 5. A steam vessel having a raft in tow shall, instead of the forward lights mentioned in rule four, carry on or in front of the foremast, or if a vessel without a foremast then in the fore part of the vessel, at a height above the hull of not less than twenty feet, and if the beam of the vessel exceeds twenty feet, then at a height above the hull not less than such beam, so, however, that such height need not exceed forty feet, two bright lights in a horizontal line athwartships and not less than eight feet apart, each so fixed as to throw the light all around the horizon and of such character as to be visible at a distance of at least five miles. Such steamer shall also carry the small bright steering light aft, of the character and fixed as required in rule four.

RULE 6. A sailing vessel under way and any vessel being towed shall carry the side lights mentioned in rule three.

A vessel in tow shall also carry a small bright light aft, but such light shall not be visible forward of the beam.

RULE 7. The lights for tugs under thirty tons register whose principal business is harbor towing, and for boats navigating only on the River Saint Lawrence, also ferryboats, rafts, and canal boats, shall be regulated by rules which have been or may hereafter be prescribed by the Board of Supervising Inspectors of Steam Vessels.

RULE 8. Whenever, as in the case of small vessels under way during bad weather, the green and red side lights can not be fixed, these lights shall be kept at hand lighted and ready for use, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides. To make the use of these portable lights more certain and easy, they shall each be painted outside with the color of the light they respectively contain, and shall be provided with suitable screens.

RULE 9. A vessel under one hundred and fifty feet register length, when at anchor, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a lantern constructed so as to show a clear, uniform, and unbroken light, visible all around the horizon at a distance of at least one mile.

A vessel of one hundred and fifty feet or upward in register length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty and not exceeding forty feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall not be less than fifteen feet lower than the forward light, another such light.

RULE 10. Produce boats, canal boats, fishing boats, rafts, or other water craft

navigating any bay, harbor, or river by hand power, horse power, sail, or by the current of the river, or which shall be anchored or moored in or near the channel or fairway of any bay, harbor, or river, and not otherwise provided for in these rules, shall carry one or more good white lights, which shall be placed in such manner as shall be prescribed by the Board of Supervising Inspectors of Steam Vessels.

RULE 11. Open boats shall not be obliged to carry the side lights required for other vessels, but shall, if they do not carry such lights, carry a lantern having a green slide on one side and a red slide on the other side; and on the approach of or to other vessels such lantern shall be exhibited in sufficient time to prevent collision, and in such a manner that the green light shall not be seen on the port side nor the red light on the starboard side. Open boats, when at anchor or stationary, shall exhibit a bright white light. They shall not, however, be prevented from using a flare-up in addition if considered expedient.

RULE 12. Sailing vessels shall at all times, on the approach of any steamer during the nighttime, show a lighted torch upon that point or quarter to which such steamer shall be approaching.

RULE 13. The exhibition of any light on board of a vessel of war or revenue cutter of the United States may be suspended whenever in the opinion of the Secretary of the Navy, the commander in chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it.

FOG SIGNALS.

RULE 14. A steam vessel shall be provided with an efficient whistle, sounded by steam or by some substitute for steam, placed before the funnel not less than eight feet from the deck, or in such other place as the local inspectors of steam vessels shall determine, and of such character as to be heard in ordinary weather at a distance of at least two miles, and with an efficient bell, and it is hereby made the duty of the United States local inspectors of steam vessels when inspecting the same to require each steamer to be furnished with such whistle and bell. A sailing vessel shall be provided with an efficient fog horn and with an efficient bell.

Whenever there is thick weather by reason of fog, mist, falling snow, heavy rain storms, or other causes, whether by day or by night, fog signals shall be used as follows:

(a) A steam vessel under way, excepting only a steam vessel with raft in tow, shall sound at intervals of not more than one minute three distinct blasts of her whistle.

(b) Every vessel in tow of another vessel shall, at intervals of one minute, sound four bells on a good and efficient and properly placed bell as follows: By striking the bell twice in quick succession, followed by a little longer interval, and then again striking twice in quick succession (in the manner in which four bells is struck in indicating time).

(c) A steamer with a raft in tow shall sound at intervals of not more than one minute a screeching or Modoc whistle for from three to five seconds.

(d) A sailing vessel under way and not in tow shall sound at intervals of not more than one minute—

If on the starboard tack with wind forward of abeam, one blast of her fog horn;

If on the port tack with wind forward of the beam, two blasts of her fog horn;

If she has the wind abaft the beam on either side, three blasts of her fog horn.

(e) Any vessel at anchor and any vessel aground in or near a channel or fairway shall at intervals of not more than two minutes ring the bell rapidly for three to five seconds.

(f) Vessels of less than ten tons registered tonnage, not being steam vessels, shall not be obliged to give the above-mentioned signals, but if they do not they shall make some other efficient sound signal at intervals of not more than one minute.

(g) Produce boats, fishing boats, rafts, or other water craft navigating by hand power or by the current of the river, or anchored or moored in or near the channel or fairway and not in any port, and not otherwise provided for in these rules, shall sound a fog horn, or equivalent signal, at intervals of not more than one minute.

RULE 15. Every vessel shall, in thick weather, by reason of fog, mist, falling snow, heavy rain storms, or other causes, go at moderate speed. A steam vessel hearing, apparently not more than four points from right ahead, the fog signal of another vessel shall at once reduce her speed to bare steerageway, and navigate with caution until the vessels shall have passed each other.

STEERING AND SAILING RULES.

SAILING VESSELS.

RULE 16. When two sailing vessels are approaching one another so as to involve risk of collision one of them shall keep out of the way of the other, as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is closehauled.

(b) A vessel which is closehauled on the port tack shall keep out of the way of a vessel which is closehauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When they are running free, with the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward.

STEAM VESSELS.

RULE 17. When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision each shall alter her course to starboard, so that each shall pass on the port side of the other.

RULE 18. When two steam vessels are crossing so as to involve risk of collision the vessel which has the other on her own starboard side shall keep out of the way of the other.

RULE 19. When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision the steam vessel shall keep out of the way of the sailing vessel.

RULE 20. Where, by any of the rules herein prescribed, one of two vessels shall keep out of the way, the other shall keep her course and speed.

RULE 21. Every steam vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed or stop or reverse.

RULE 22. Notwithstanding anything contained in these rules every vessel overtaking any other shall keep out of the way of the overtaken vessel.

RULE 23. In all weathers every steam vessel under way in taking any course authorized or required by these rules, shall indicate that course by the following signals on her whistle, to be accompanied whenever required by corresponding alteration of her helm; and every steam vessel receiving a signal from another shall promptly respond with the same signal or, as provided in Rule Twenty-six:

One blast to mean, "I am directing my course to starboard."

Two blasts to mean, "I am directing my course to port." But the giving or answering signals by a vessel required to keep her course shall not vary the duties and obligations of the respective vessels.

RULE 24. That in all narrow channels where there is a current, and in the rivers Saint Mary, Saint Clair, Detroit, Niagara, and Saint Lawrence, when two steamers are meeting, the descending steamer shall have the right of way, and shall, before the vessels shall have arrived within the distance of one-half mile of each other, give the signal necessary to indicate which side she elects to take.

RULE 25. In all channels less than five hundred feet in width, no steam vessel shall pass another going in the same direction unless the steam vessel ahead be disabled or signify her willingness that the steam vessel astern shall pass, when the steam vessel astern may pass, subject, however, to the other rules applicable to such a situation. And when steam vessels proceeding in opposite directions are about to meet in such channels, both such vessels shall be slowed down to a moderate speed, according to the circumstances.

RULE 26. If the pilot of a steam vessel to which a passing signal is sounded deems it unsafe to accept and assent to said signal, he shall not sound a cross signal; but in that case, and in every case where the pilot of one steamer fails to understand the course or intention of an approaching steamer, whether from signals being given or answered erroneously, or from other causes, the pilot of such steamer so receiving the first passing signal, or the pilot so in doubt, shall sound several short and rapid blasts of the whistle; and if the vessels shall have approached within half a mile of each other both shall reduce their speed to bare steerageway, and, if necessary, stop and reverse.

RULE 27. In obeying and construing these rules due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

RULE 28. Nothing in these rules shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or

of any neglect to keep a proper lookout, or of a neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

SEC. 2. That a fine, not exceeding two hundred dollars, may be imposed for the violation of any of the provisions of this act. The vessel shall be liable for the said penalty, and may be seized and proceeded against, by way of libel, in the district court of the United States for any district within which such vessel may be found.

SEC. 3. That the Secretary of the Treasury of the United States shall have authority to establish all necessary regulations, not inconsistent with the provisions of this act, required to carry the same into effect.

The Board of Supervising Inspectors of the United States shall have authority to establish such regulations to be observed by all steam vessels in passing each other, not inconsistent with the provisions of this act, as they shall from time to time deem necessary; and all regulations adopted by the said Board of Supervising Inspectors under the authority of this act, when approved by the Secretary of the Treasury, shall have the force of law. Two printed copies of any such regulations for passing, signed by them, shall be furnished to each steam vessel, and shall at all times be kept posted up in conspicuous places on board.

SEC. 4. That all laws or parts of laws, so far as applicable to the navigation of the Great Lakes and their connecting and tributary waters as far east as Montreal, inconsistent with the foregoing rules are hereby repealed.

SEC. 5. That this act shall take effect on and after March first, eighteen hundred and ninety-five.

Approved February 8, 1895.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., September 23, 1895.

SIR: With reference to Mr. Gresham's note, No. 35, of the 21st February last, inclosing copy of an act of Congress approved February 8, 1895, entitled "An act to regulate navigation on the Great Lakes and their connecting and tributary waters," and expressing a hope that the Dominion of Canada may be disposed to adopt like regulations for the government of Canadian vessels on the Great Lakes and their connecting and tributary waters, I have the honor to state that Her Majesty's Government are informed that the Dominion Government are not at present prepared to concur in the rules recently adopted by the United States Government.

In view, however, of the necessity of arriving at an agreement on this point, Her Majesty's Government are of opinion that an effort should be made both by the United States Government and the Government of the Dominion to sink minor differences.

I have, therefore, the honor to suggest that the difficulty might be settled by direct intercommunication between the United States Government and the Canadian Government, and that if necessary a representative should be appointed on either side to discuss the matter.

A similar suggestion will be made to the Governor-General of Canada by the secretary of state for the colonies.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 204.] DEPARTMENT OF STATE,
Washington, September 27, 1895.

EXCELLENCY: I have the honor to acknowledge your note of the 23d instant, and have given careful attention to its contents.

I am unable to regard it as seriously proposing that the Government of the United States shall enter into diplomatic negotiations with the Dominion of Canada upon the subject referred to, to wit, the needed regulations for the navigation of the Great Lakes and their connecting and tributary waters.

If, however, such be not the true construction of your note, then it must be intended to suggest either that you have the aid and advice in any negotiations upon the subject of some representative of the Canadian Government, or that both Great Britain and the United States appoint expert agents who shall confer with each other, ascertain facts, compare views, and thus pave the way for ultimate negotiations between Great Britain and the United States through the regular channels. Assuming this to be the proposition contained in your note, I see nothing in it to which I may not assent and which may not be for the advantage of this Government and the Government which you so worthily represent.

I have, etc.,

RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, February 25, 1896.

SIR: With reference to your note, No. 204, of the 27th of September last, and to previous correspondence on the subject of the navigation of the Great Lakes, I have the honor to inform you that Her Majesty's Government are of opinion that negotiations for an agreement on this matter should be postponed pending a settlement of the general question of the revised regulations for the prevention of collisions at sea.

I have, etc.,

JULIAN PAUNCEFOTE.

RIOTS IN CHINA.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 7, 1895.

SIR: I have the honor to inform you that Her Majesty's Government have received by telegraph from Her Majesty's consul at Foochow a report describing an attack on missionaries at Kutien, in which 8 women, 1 man, and 1 child, British subjects, were killed and others wounded, some of whom were American citizens.

Her Majesty's minister at Peking has demanded of the Yamên, as a first step, a military escort for the consul, in order that he may visit the scene of the massacre and hold an inquiry; also that stringent measures should be taken for the protection of other missionaries. He has also asked for the immediate issue of an Imperial proclamation for the punishment of the guilty parties.

I am instructed by Her Majesty's Government to express their hope that the representative of the United States at Peking may be instructed to consult with Her Majesty's minister at that capital and to act in concert with him.

In the opinion of Her Majesty's Government it is of great importance that no question of money compensation should be raised or entertained till after the punishment of the offenders, and that the mandarins, who are generally responsible for such outrages, should not be allowed to escape.

I have, etc., GOUGH.

Mr. Adee to Lord Gough.

No. 171.] DEPARTMENT OF STATE,
Washington, August 12, 1895.

MY LORD: I have the honor to acknowledge the receipt of your note of the 7th instant, in which you communicate the report received by telegraph from Her Majesty's consul at Foochow, describing the attack on missionaries at Kutien in which 8 women, 1 man, and 1 child, British subjects, were killed, and others wounded, some of whom were American citizens. You add that Her Majesty's minister at Peking has demanded from the Yamên, as a first step, a military escort for the consul, in order that he may visit the scene of the massacre and hold an inquiry; also that stringent measures should be taken for the protection of other missionaries. He has also asked for the immediate issue of an Imperial proclamation for the punishment of the guilty parties. In view of this, you are instructed by Her Majesty's Government to express the hope that the representative of the United States at Peking may be instructed to consult with Her Majesty's minister at that capital and to act in concert with him; and you add that, in the opinion of Her Majesty's Government, it is of great importance that no question of money compensation should be raised or entertained until after the punishment of the offenders, and that the mandarins, who are generally responsible for such outrages, should not be allowed to escape.

In reply I have the honor to inform you that the representative of the United States at Peking has to-day been instructed by telegraph to consult with Her Britannic Majesty's minister at Peking and to cooperate with him, so far as such cooperation will promote the security and welfare of citizens of the United States. Mr. Denby has been instructed further that, if he has not already done so, he should make demand upon the Chinese Government covering the same points as those embraced in the British demand as stated in your note.

This Government cordially concurs in the opinion of Her Majesty's Government concerning the deferment of any question of money compensation until after the punishment of the offenders, and Mr. Denby has been instructed to lay stress on the necessity of first bringing to justice any high provincial officials whose indifference or silent connivance may have contributed to bring about the distressing condition of affairs now reported.

I have also cabled to Mr. Denby authorizing the appointment of a United States consul and a commanding officer of one of the United States war vessels in Chinese waters as members of the proposed commission to visit Kutien and investigate the massacre perpetrated at that place.

I have, etc., ALVEY A. ADEE,
Acting Secretary.

BRITISH PROTECTORATE OVER AMATONGALAND

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, October 26, 1895. (Received Oct. 30.)

SIR: In pursuance of instructions received by me from Her Majesty's principal secretary of state for foreign affairs, I have the honor hereby to notify the Government of the United States, under Article XXXIV of the general act of the conference of Berlin, that the districts on the coast of the African continent hereinafter described have been formally placed under the protectorate of Her Britannic Majesty, viz, the territory known as Amatongaland, lying between the British colony of Zululand, the Portuguese possessions, and the Indian Ocean.

Requesting you to accept this notification on behalf of your Government, I have the honor, etc.,

JULIAN PAUNCEFOTE.

Mr. Olney to Sir Julian Pauncefote.

No. 245.] DEPARTMENT OF STATE,
Washington, November 8, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th ultimo, by which you inform me, under Article XXXIV of the general act of the conference of Berlin, that the territory on the coast of the African continent known as Amatongaland, lying between the British colony of Zululand, the Portuguese possessions, and the Indian Ocean, has been formally placed under the protectorate of Her Britannic Majesty.

Until the United States shall, by subsequent accession and ratification of the general act of the conference of Berlin, in the manner therein provided, become a party to the stipulations thereof, it will be impossible to determine the due and proper weight to be given by this Government to the claim which you have thus communicated.

I have, etc.,

RICHARD OLNEY.

POLITICAL TRIALS AT HONOLULU.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, April 3, 1895.

SIR: Her Majesty's Government have received from Mr. Hawes, Her Majesty's commissioner and consul-general at Honolulu, the press report of the state trials before a military commission of the political prisoners accused of complicity in the recent revolution in Hawaii.

It appears from this information, which is, however, incomplete and unofficial, that there is ground for the contention that a court was duly formed in accordance with the provisions of the Hawaiian constitution.

The proceedings of the court were conducted publicly, and the accused were, it is stated, defended by counsel, who in several instances, both

in the cases of British subjects and American citizens, took exception to the jurisdiction of the court, and to its competency to try the offenses with which the prisoners were charged.

It was maintained on behalf of the latter that there was no state of war existing; that there was no law in Hawaii authorizing the appointment of such a military commission in time of peace; that the prisoners were accused of statutory crimes, with which the ordinary tribunals were competent to deal, and that they were entitled to trial by jury in the civil courts.

These objections were, however, overruled by the judge-advocate stating, and his statement being apparently unchallenged, that "the Hawaiian constitution authorizes military trials not only for the suppression of armed disturbance but for the punishment of those engaged in it, whether principals or accessories."

Two of the British subjects concerned were accused of active participation in the revolt, the others of misprision of treason.

As sentence of death has only in one instance been pronounced on a British subject, and as the penalty has in that case been commuted into a long term of imprisonment, Her Majesty's Government prefer to defer consideration of the character of the sentences until the full report and minutes of the proceedings, which are being sent home by Mr. Hawes, have been fully examined.

I am instructed by the Earl of Kimberley to ascertain whether the United States Government have taken or propose to take any formal objection to the constitution or jurisdiction of the tribunal by which these cases have been tried, and I should be grateful for any general information as to your views in regard to these proceedings and as to the course which you propose to follow.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Gresham to Sir Julian Pauncefote.

No. 79.] DEPARTMENT OF STATE,
Washington, April 16, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 3d instant, in which you refer to the trial before a military commission at Honolulu of a number of persons for complicity in the late riot or disturbance in Hawaii, and inquire, under instructions from the Earl of Kimberley, whether the United States Government has taken, or proposes to take, any formal objection to the constitution or jurisdiction of the military tribunal, and request general information as to my views in regard to these proceedings and as to the course this Government proposes to follow.

Although I have been furnished, upon request of the United States minister at Honolulu, with the record in the cases of certain persons who were tried before the commission, and who alleged American citizenship, I am not yet prepared to positively express the views of this Government as to whether the proceedings were authorized even under the Hawaiian constitution. It is plain that, while martial law dispenses with the usual or ordinary tribunals in the administration of justice, it does not dispense with justice itself, and should it appear that American citizens have been condemned by the military tribunal at Honolulu without a fair trial, this Government will not fail to afford them protection.

I have, etc.,

W. Q. GRESHAM.

THE BOUNDARY LINE BETWEEN ALASKA AND CANADA.

Lord Gough to Mr. Olney.

BRITISH EMBASSY,
Newport, R. I., August 20, 1895.

SIR: The recent development of the mineral resources of the country drained by the Yukon River, and the growing importance of the administration of that region, have rendered it highly desirable that the precise limits of the jurisdiction of the United States and the Dominion, respectively, should be more exactly determined than has hitherto been the case. With this object the well-known surveyor, Mr. William Ogilvie, who in 1887–88 conducted a survey of this tract of country on behalf of the Canadian Government and determined the point of intersection of the one hundred and forty-first meridian of longitude (the treaty boundary line between Alaska and Canada) and the Yukon River, has been instructed to proceed with the determination of that meridian with all convenient speed.

Her Majesty's Government are desirous of securing the cooperation of the United States in this important work, and I would venture to suggest that such cooperation might, if the United States Government see fit, be given in one of two forms: First, and preferably, the appointment of a surveyor to act jointly with Mr. Ogilvie in determining so much of the line as may be found necessary for the purpose of defining the territory of the two countries at the points where the administration of public affairs actually requires this to be done; if the cooperation of the United States in surveying the line can not be had at this stage, that the demarcation of it which will be made on the ground by Mr. Ogilvie should be recognized by both countries for the present—without prejudice, however, to the rights of either party when, at a later stage, a joint delimitation of the line shall be made.

I am to point out that a precedent for the second of these alternative courses occurred in 1877 when the boundary between the possessions of the two countries on the Stikine River was surveyed by a Canadian officer, Mr. Joseph Hunter, and accepted by both on the conditions now suggested in respect of the Yukon. In the event of the latter alternative being adopted, it is thought that the United States Government would perhaps be willing to share the cost of the preliminary survey.

In having the honor to bring before you the desire of Her Majesty's Government for the cooperation of the Government of the United States in this survey of boundaries, I have the honor to add that the convention entered into at Washington in 1892 for a joint or coincident survey of the territory adjacent to the boundary between Alaska and the northwest territories of Canada has relation only to the southern part of the said boundary, and not to the part of the boundary referred to in my present note.

I have, etc., GOUGH.

Mr. Adee to Lord Gough.

No. 184.] DEPARTMENT OF STATE,
Washington, September 6, 1895.

MY LORD: A response to your note of August 20, 1895, has been deferred by reason of the consideration necessarily to be given to the important proposition of Her Majesty's Government that a provisional

determination of convenient points on the one hundred and forty-first meridian, which forms the treaty boundary line between Alaska and Canada, should be agreed upon between the two Governments, without prejudice, however, to the rights of either party when at a later stage a joint delimitation of the line shall be made.

In view of the suggestion of your note that the Government of the United States would perhaps be willing to share the cost of the preliminary survey heretofore made and now making by Mr. William Ogilvie, and of the fact that action by Congress would be necessary to confirm and carry out an understanding in that regard, I have the honor to inquire whether the proposed survey could not be delayed until after Congress has had an opportunity to act upon the alternative proposition for a joint survey, and to make the proper appropriation therefor. If it could be so delayed, the Department of State would undertake to bring the matter to the attention of Congress immediately upon the assembling of that body.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

BOUNDARY—LAKE OF THE WOODS.

Mr. Olney to Sir Julian Pauncefote.

No. 225.] DEPARTMENT OF STATE,
Washington, October 17, 1895.

EXCELLENCY: Representations have been made to this Government that the department of marine and fisheries of Canada is taking steps to secure evidence as to the channel in the Lake of the Woods around Oak Island with the alleged intention of claiming that that island is within the territorial jurisdiction of the Dominion.

The ownership of the island in question has been conventionally determined.

It is only necessary to invite your attention to the following stipulations:

The seventh article of the treaty of Ghent, December 24, 1814, relating to the boundary between the United States and the North American possessions of Great Britain, agrees that commissioners, duly appointed, shall be authorized to "decide to which of the two parties the several islands lying in the lakes, water communications, and rivers forming the said boundary do respectively belong, in conformity with the true intent of said treaty of peace of one thousand seven hundred and eighty-three; and to cause such parts of the said boundary as require it to be surveyed and marked."

Article II of the Webster-Ashburton treaty of August 9, 1842, in further specifying the line of demarcation between the two countries, refers to the boundary in the Lake of the Woods as running from "that point in Lac la Pluie, or Rainy Lake, at the Chaudiere Falls, from which the commissioners traced the line to the most northwestern point of the Lake of the Woods."

On the original signed map of the Lake of the Woods, prepared by these commissioners and upon which is traced the boundary line referred to in the treaty of 1842, Oak Island—being the island marked as No. 1 on the map—is designated as belonging to the United States. Its American character and occupancy have not admitted of any doubt,

and the reported action of the Canadian authorities in extending their surveys to the westward of that island is therefore regarded as an intrusion upon the territory of the United States, which has naturally disquieted the occupants and occasioned their present remonstrance.

I have, therefore, the honor to request you to bring this matter to the attention of the Canadian authorities, with a view to avoiding any possible conflict between the citizens of the United States having interests on Oak Island and the Dominion officials, who, it is alleged, are seeking to establish territorial jurisdiction on this portion of the United States.

I have, etc., RICHARD OLNEY.

Sir Julian Pauncefote to Mr. Olney.

BRITISH EMBASSY,
Washington, January 24, 1896.

SIR: With reference to your note, No. 225, of the 17th of October last, on the subject of an alleged attempt on the part of the Canadian authorities to assert jurisdiction over Oak Island, in the Lake of the Woods, I have the honor to forward herewith copy of an approved minute of the Canadian privy council on the subject, which I have received from His Excellency the Governor-General of Canada.

You will observe that the ministers of the Dominion report that no action has been taken by the Canadian authorities with any intention of interfering with United States jurisdiction.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Extract from a report of the committee of the honorable the privy council, approved by his excellency on the 8th January, 1896.

The committee of the privy council have had under consideration a dispatch, hereto attached, dated 19th October, 1895, from Sir Julian Pauncefote, inclosing a copy of a communication, dated 17th October, 1895, from the Secretary of State of the United States announcing that representations had been made to the United States Government that the Canadian department of marine and fisheries is taking steps to secure evidence as to the channel in the Lake of the Woods around Oak Island, with the alleged intention of claiming that that island is within the territorial jurisdiction of the Dominion.

The minister of marine and fisheries, to whom the matter was referred, observes that it is pointed out that the ownership of the island in question has been conventionally determined, and attention is drawn to Article VII of the treaty of Ghent, 24th December, 1814, relating to the boundary between the United States and the North American possessions of Great Britain, agreeing that commissioners duly appointed should decide the ownership of the several islands lying in waters forming boundaries, in conformity with the full intent and meaning of the treaty of peace, 1783. Article II of the Webster-Ashburton treaty of 9th August, 1842, is likewise cited in further specifying the line of demarcation as referring to the boundary in Lake of the Woods to run from "that point in Lac la Pluie, or Rainy Lake, at the Chaudiere Falls, from which the commissioners traced the line to the most northwestern point of the Lake of the Woods." Mr. Secretary Olney then proceeds to explain that on the original map prepared by the commissioners, and upon which the boundary line is traced, Oak Island is the island marked No. 1, and its American character and occupancy have not admitted of any doubt, while the reported extension of Canadian surveys to the westward of the island is regarded as an intrusion upon United States territory.

The minister states that the matter is therefore brought to the attention of your excellency's Government with a view to avoiding any possible conflict between citi-

zens of the United States having interests in Oak Island and the Dominion officials, who, it is alleged, are seeking to establish jurisdiction in that portion of the United States.

The minister observes that so far as the reported action of the department of marine and fisheries is concerned the information which has reached the State Department at Washington is entirely without foundation. No survey whatever of the nature has been undertaken in the vicinity by the department of marine and fisheries, nor has any attempt been made to extend the territorial jurisdiction of Canada, so far as the administration of affairs controlled by the department of marine and fisheries is concerned.

The minister further states that the only incident which has come under his notice which might have been instrumental in leading to rumor resulting in the representations to the United States Government, is connected with the issue of fishing licenses in Lake of the Woods.

It has been claimed by certain parties and supported by the opinion of a number of old settlers that the boundary line followed the steamboat channel, and that such channel was south of Oak Island. Also, some inquiries were made at the time touching the identity of the island laid down as No. 1 in the boundary map with that commonly known as Oak Island. Beyond the authoritative establishment of the boundary as laid down in the conventions cited by Mr. Secretary Olney, and of the identity of the island designated as No. 1, the department of marine and fisheries has had no concern whatever; neither has it in any way suggested an expansion of territory or jurisdiction beyond that conventionally conferred upon the Crown.

The committee advise that your excellency be moved to forward a certified copy of this minute to his excellency Her Majesty's ambassador at Washington, as well as to the right honorable Her Majesty's principal secretary of state for the colonies.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE, *Clerk of the Privy Council.*

RELEASE OF JOHN CURTIN KENT.

Mr. Uhl to Mr. Bayard.

No. 693.] DEPARTMENT OF STATE,
Washington, May 8, 1895.

SIR: I inclose for your information copies of two letters, one addressed to the President on February 15, 1895, the other to the Department on the 25th ultimo, by Mr. Hugh J. Carroll, of Pawtucket, R. I. They both refer to the case of John Curtin Kent, an American citizen, who is undergoing life sentence at Chatham, England, upon conviction under the treason-felony act in June, 1883.

I add also a copy of Department's reply to Mr. Carroll, of the 8th instant.

You are no doubt familiar with the Department's previous instructions upon this general subject, and the case of Mr. Kent is committed to you for such action in his behalf as you may find it possible to take through such discreet and proper inquiries as may suggest themselves to your mind.

* * * * * * *

I am, etc., EDWIN F. UHL, *Acting Secretary.*

[Inclosure 1 in No. 693.]

Mr. Carroll to the President.

PAWTUCKET, R. I., *February 15, 1895.*

DEAR SIR: The British Government having the other day refused the request of the Irish members to reopen the cases of political prisoners, I must again appeal to you and the State Department in behalf

of John Curtin Kent, an American citizen imprisoned in Chatham Prison, England.

During your last Administration the State Department, through Consul-General Waller, investigated and Governor Waller reported that he found that prisoner was convicted on very slight and faulty evidence and owing evidently to popular clamor.

I would respectfully ask now that more forcible representations be made by our Government. I speak for a large number of friends of the prisoner who acted under me while I was president of the Irish-American Democratic Union during the last Presidential campaign. But I do not ask it as any favor to them, as they did their work without any idea of favors to be received. I simply ask as a citizen representing interested friends.

Respectfully,

HUGH J. CARROLL.

[Inclosure 2 in No. 693.]

Mr. Carroll to Mr. Gresham.

PAWTUCKET, R. I., *April 25, 1895.*

DEAR SIR: I wrote to the President recently to inquire if anything further could be done for John Curtin Kent, American citizen in jail at Chatham, England. I am informed that my letter was referred to the State Department, but have received no further intimation in the premises from Washington. During Governor Waller's term of office at London I began to have the matter looked into, and represent the friends of the prisoner in New York.

Can you inform me if anything further has been done or is proposed? I would be pleased to furnish anything possible.

* * * * * * *

Respectfully,

HUGH J. CARROLL.

[Inclosure 3 in No. 693.]

Mr. Uhl to Mr. Carroll.

DEPARTMENT OF STATE,
Washington, May 8, 1895.

SIR: The President has caused to be referred to this Department your letter to him of February 15 last, relative to the case of John Curtin Kent, an American citizen, who is undergoing life sentence at Chatham, England, upon conviction under the treason-felony act, in June, 1883. In this connection I also acknowledge the receipt of your letter of the 25th ultimo upon that subject.

You are no doubt familiar with the strenuous but ineffectual efforts put forth during the former Administration of President Cleveland to obtain executive clemency for Mr. Kent and his fellow prisoners in the Queen's jubilee year, 1887. These were renewed under President Harrison's Administration with a like result, and again in 1893, when the question of commuting the sentences of the chief conspirators was under consideration in the House of Commons.

At that time the present honorable secretary, Mr. Asquith, was unalterably opposed to any act looking to executive clemency, as a perusal

of the debates conclusively show, and the measure was defeated by the decisive vote of 399 to 83.

Under these circumstances, although I can assure you that the President is animated by the same kindly feeling that actuated his previous action in behalf of Mr. Kent, and the other unfortunate men, the Department's judgment is that until a more conciliatory feeling prevails in England, no different result seems possible through diplomatic intervention in the premises.

Still, in order that all doubt may be resolved, and that Mr. Bayard, the United States ambassador, may be able to take advantage of any favorable change in the situation, I shall send him copies of your two letters, with an appropriate instruction. Mr. Bayard being upon the spot and fully aware of the nature of the Department's previous instructions will not hesitate to actively intervene in Mr. Kent's behalf, should that course be found prudent. In this Mr. Bayard will have the cordial approval and sympathy of the Department.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

Mr. Roosevelt to Mr. Olney.

[Telegram.]

EMBASSY OF THE UNITED STATES,
London, June 19, 1895.

Home secretary will release John Curtin Kent on "ticket of leave" as soon as friends arrange to care for him.

ROOSEVELT.

AFFAIRS IN SAMOA.

(See Samoa.)

CATTLEMEN LEFT DESTITUTE IN FOREIGN COUNTRIES.

Mr. Uhl to Mr. Bayard.

No. 651.] DEPARTMENT OF STATE,
Washington, April 5, 1895.

SIR: I inclose herewith copy of a dispatch, No. 11, of November 19, 1894, from the United States commercial agent at Swansea, in regard to the treatment of men employed to care for cattle shipped on steamers plying between the United States and European ports; also, copy of correspondence had with the Danish minister at this capital[1] and with the Treasury Department, touching this subject.

You will bring this matter to the attention of the British Government, expressing regret that our laws do not afford a means of remedying the evil complained of, and suggesting that local regulations might be invoked to prevent the landing of such men unless provision is made for their temporary support or reshipment.

I am, etc.,

EDWIN F. UHL, *Acting Secretary.*

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[1] Printed on page 214, ante.

[Inclosure 1 in No. 651.]

Mr. Davies to Mr. Uhl.

No. 11.] COMMERCIAL AGENCY OF THE UNITED STATES,
Swansea, November 19, 1894.

SIR: Three men, claiming American citizenship, this morning applied to me for assistance to return to the United States, and as their case seems typical of a large number of others that have come under my notice, I beg to lay it before the Department in the hope that what seems to be a growing evil may be mitigated.

These men state that they, with some fifteen or twenty others, were engaged at an office in Greenwich street, New York City, to take care of cattle shipped on the steamship *Monomoy*, of the Hogan (New York) Line of steamers from Hoboken to Havre. The steamers of this line, though sailing under the British flag, are said to be owned in the United States. The men say that they were promised $10 upon arrival at Havre. They also say that they signed no papers of any kind before sailing. Upon their arrival at Havre they say that the foreman who had charge of them gave each of them a franc to pay for a night's lodging, and promised to meet them the following morning and give them the money due them. This, they say, he failed to do and they received no money and no tickets for their passage back to the United States. The captain of the *Monomoy* allowed them to work their way from Havre to Swansea, but would not allow them to work their way on to the United States. The men are now here, ragged, penniless, and hungry.

The captain of the *Monomoy* says that he can not allow these men to work their passage to America except under instructions to do so from the office of the owners at New York.

The number of destitute cattlemen applying to me for assistance is so great (an average of half a dozen a week) as to indicate that men are systematically deceived and cheated by the employees of the shippers of live cattle from the United States, if the stories they tell are true.

These men coming from New York have no papers of any kind. Cattlemen coming from Baltimore and Newport News have, however, shown me "cattlemen's passports," bearing the seal and signature of a collector or deputy collector of customs.

I have in some cases been able, through the kindness of the local agents and captains of lines of steamers trading from Swansea to the United States, to secure opportunities for destitute cattlemen to work their passage to America. But the cases deserving assistance have become so numerous that my efforts in this direction are now almost uniformly unsuccessful.

Perhaps the publication of a warning in the newspapers in the cities from which live cattle are shipped, which might be effected through the United Press or Associated Press, would put possible victims on their guard.

I am, etc.,

DAVID C. DAVIES,
United States Commercial Agent.

[Inclosure 2 in No. 651.]

Mr. Hamlin to Mr. Olney.

TREASURY DEPARTMENT,
Washington, D. C., December 13, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, transmitting copy of a dispatch from the commercial agent at Swansea reporting that there are at that place three United States citizens who were employed on the steamship *Monomoy* to take care of cattle on the passage from Hoboken to Havre, and that these men are in a destitute condition. It is noted that the commercial agent reports further that on the average half a dozen destitute citizens apply to him weekly for aid.

As these citizens were not shipped under the laws of the United States, and as the vessels in this trade are mainly under the British flag, I have the honor respectfully to suggest that a copy of the dispatch be transmitted to the British ambassador at this capital.

The matter has been referred to the Bureau of Navigation.

Respectfully, yours,

C. S. HAMLIN, *Acting Secretary.*

Mr. Adee to Mr. Bayard.

No. 671.] DEPARTMENT OF STATE,
Washington, April 19, 1895.

SIR: Referring to the Department's instruction, No. 651, of the 5th instant, in regard to the treatment of men employed to care for cattle shipped on steamers plying between the United States and European ports, I inclose for your information a copy of a dispatch, No. 108, of the 3d instant, from the United States consul at Havre, France, reporting that he has dealt successfully with the question of destitute cattlemen by invoking the aid of the local authorities to force the ships to provide for them.

The Department hopes that it may be found practicable to adopt a similar remedy in British ports.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 671.]

Mr. Chancellor to Mr. Uhl.

No. 108.] CONSULATE OF THE UNITED STATES,
Havre, France, April 3, 1895.

SIR: I have had the honor to receive your dispatch No. 79, March 12, 1895, with inclosures from the Treasury Department, in reference to the evasion of quarantine laws by British ships leaving this port. There seems to have been some misunderstanding of my dispatch No. 100, December 20, 1894. It was the *Manhanset* which specifically formed the subject of my complaint and not the *Chicago City*, as written in your dispatch, though the latter vessel was incidentally mentioned as one of the delinquents. Surgeon-General Wyman is apparently in error

and knew the force of my complaint when he says: "You are respectfully informed that the bill of health of the former (the *Manhanset*) has been examined and found to be an original one taken at the port of Bristol with a subsequent supplemental bill at the port of Swansea." He must have confounded the *Manhanset* with the *Micmac*, otherwise I can not reconcile his statement with that of the commercial agent at Swansea, who, in letter herewith inclosed for your information, states with some detail of circumstance, that he granted the bill of health fow New York to the *Manhanset* at Swansea, to which port she had gone directly from Havre in order to take coals and freight before continuing her voyage to the United States, as stated in my dispatch.

The representations of the Swansea agent of the *Manhanset* to the effect that "at the time she sailed from Havre it was not decided she would go to New York," appears to have been a pure fabrication, inasmuch as it has been stated that the vessel is in fact owned by New York parties and was under contract to bring cattle to this port, as her final destination, and take back the cattlemen to New York. She manifestly began her journey to New York from this port, and should, under the provisions of article 1, bill of health, paragraph 1, of the Quarantine Regulations, issued by the Treasury Department, April 26, 1894, have taken the bill of health here, or I have misinterpreted the plain instructions therein given for the guidance of consuls.

The trouble with the *Manhanset* was, that like all other vessels bringing cattle to Europe, she wished to evade her contract to return the cattlemen, and accordingly her officers drove them destitute from the ship, with an offer of only $10 each to pay their transportation on some other vessel to the United States. The men applied to the consulate for protection, and were directed to return to the *Manhanset* and demand that the terms of the contract be complied with. They soon came back to the consulate and reported that the captain would not allow them to come on board, saying that unless they accepted the offer of $10 in lieu of passage they would get nothing, and "the United States consul might go to hell." After this defiant message, I called on Mr. Nicolle, chief of the bureau of police and immigration, who has rendered me great service in dealing with cattle ships and cattlemen, and requested that the *Manhanset* be required to take the men from Havre, as they were practically paupers and I could not provide for them. In the meantime the ship had sailed to Swansea, leaving the men on my hands. The chief of the bureau of police and immigration, however, came to my assistance, and required the consignees to take care of the men and return them to their country.

I have had untold trouble with cattlemen and the British ships bringing them to this port, and turning them out penniless into the streets, or with only money enough to insure their getting drunk and misbehaving, which would be alleged as an excuse for leaving them. As these ships were for the most part in the New York trade and returned directly, or via some English port to the United States, I could, whether properly or not, bring the bill of health to bear as a means of requesting them to take the cattlemen back or provide for their transportation, and I must think, under such trying circumstances, the end abundantly justifies the means. I make no doubt the *Manhanset* would have complied with paragraph 1 of the Treasury Regulations and have taken her original bill of health here, except that she preferred to leave the cattlemen behind and defy consular authority, as a number of English ships did during the smallpox epidemic to avoid vaccination of the crews.

I infer from Surgeon-General Wyman's letter to the Secretary of the Treasury, a copy of which you inclosed to me, that no vessel leaving the port of Havre, whose ultimate destination is the United States, can be said to have "originally cleared from the port of Havre" or be required to take a bill of health at this port if she proposes to call en route by another foreign port for coals or freight, or to ship in part a new crew as the *Manhanset* did. Under this ruling a ship leaving Havre for New Orleans and calling at Vera Cruz for freight or coals, will not be considered as violating our quarantine laws and regulations by refusing an original bill of health here and taking it at the latter city.

Until the English shipmasters found they could with impunity avoid the vaccination of their crews during the epidemic of smallpox here by running across to England on one pretence or another, all vessels leaving Havre for the United States uniformly took their bills of health at this consulate and their supplemental bills at English ports. Now, no master will take a bill of health here unless it suits his fancy to do so, and never if there is a suspicion of sickness in this city, preferring the certainty of getting a clean bill at a healthy port in England. I mention these facts, not to gainsay the evidence of the Treasury Department's decision in the case of the *Manhanset*, which I shall cheerfully abide by and follow in the future, but simply to show that great evils, in a sanitary point of view, may result from giving masters of vessels too much latitude in determining at what port they will take a bill of health.

I am, etc.,

C. W. CHANCELLOR.

[Subinclosure 1.]

Mr. Davies to Mr. Chancellor.

SWANSEA, *December 22, 1894.*

SIR: I beg to acknowledge the receipt of your favor of the 18th instant concerning the departure of the steamship *Manhanset* from Havre without your bill of health. The representations made to me by the Swansea agents of the *Manhanset* were to the effect that at the time she sailed from Havre it was not decided that she would go to New York from Swansea, and that the crew was shipped in this port. It was also stated that she took no cargo from any other port than Swansea, and that none of the cattlemen who arrived at Havre on the *Manhanset* would return to the States on her, all of them having been sent back by other vessels or paid off.

On the 20th, the day your letter reached me, I wrote the consul-general in London, placing the facts before him and saying that in the absence of telegraphic advice from him to the contrary I would issue a bill of health to the *Manhanset* at 3 o'clock the following day—the 21st. Receiving no word from the consul-general, I yesterday granted a bill of health for New York to the *Manhanset*.

I am, etc.,

DAVID C. DAVIES,
United States Commercial Agent.

[Subinclosure 2.]

Mr. Davies to Mr. Chancellor.

SWANSEA, *December 29, 1894.*

SIR: Referring again to your favor of the 18th instant, concerning the departure of the steamship *Manhanset* from Havre without your bill of health, as to which I wrote you at some length on the 22d, I beg to say that in answer to my inquiries the consul-general in London wrote me as follows:

"I fully agree with you that the vessel clears from Swansea and is entitled to a bill of health. At the same time, if I were in your place, I should afford Consul Chancellor full information as to the vessel's movements."

Since writing you before I have learned from the story of a cattleman, who said that he had been left behind at Havre by the British steamship *Micmac*, that the *Micmac* left Havre under apparently precisely similar circumstances, except that she went to Bristol before coming to Swansea. A bill of health for the *Micmac* from the United States consulate in Bristol was presented to me, and to this I attached my supplemental bill of health (Form No. 1931A½). I have no information as to where the crew of the *Micmac* was shipped or whether she took anything from Havre. She went to Boston, having left Havre shortly before the *Manhanset* did.

I am, etc.,

DAVID C. DAVIES,
United States Commercial Agent.

Mr. Bayard to Mr. Olney.

No. 505.] EMBASSY OF THE UNITED STATES,
London, August 31, 1895. (Received Sept. 7.)

SIR: I have the honor to acknowledge instructions of the State Department, No. 651, of April 5, and No. 671, of April 19, with their respective inclosures, relating to the treatment of men employed in the United States to take care of cattle shipped in steamers to European ports, where upon arrival the men landed are left in a destitude condition and unprovided with transportation back to their homes in the United States.

The subject has received the prompt and full consideration of this embassy, and I now transmit, inclosed herewith, a copy of a note, dated May 15 last, addressed by me to the foreign office, and the reply thereto of the Marquis of Salisbury, dated July 15.

I also inclose (the original) a letter from the vice-consul-general at this city, addressed to Mr. Roosevelt, the secretary of this embassy, by which it will be perceived that the attention of the representatives of the principal steamship lines between London and the United States having been called to the matter, an informal agreement was made, which has so far sufficed to check the evil complained of and has given relief to the class of persons whose sufferings caused your instructions in their behalf.

No complaint has since reached this embassy, and it may be considered as reasonably probable that hereafter the shippers of cattle in ports of the United States will not be allowed to send care takers out to Europe with the cattle without arranging for their support and safe return to the United States.

I would, however, attract the attention of those officials who are charged with the regulation of the shipment of cattle from the United States to the closing paragraph of the note of Lord Salisbury and his suggestions as to the most effectual way of dealing with the threatened evil, which is an enforcement of conditions upon shippers of cattle in the United States for European ports by which they shall be compelled to make provision for the return to their own country of the cattlemen they employ.

If the present official powers of the Treasury officials vest them with legal authority to create and enforce regulations of the character thus suggested, they can apply the remedy, or Congress would no doubt willingly enact the requisite legislation to protect a thrifty and humble class from the consequences of the commercial greed from which they have suffered in the past.

I have, etc., T. F. BAYARD.

[Inclosure 1 in No. 505.]

Mr. Bayard to Lord Kimberley.

EMBASSY OF THE UNITED STATES,
London, May 15, 1895.

MY LORD: Under instructions from my Government, I have the honor to inclose herewith copies of correspondence relating to the treatment of men employed to take care of cattle shipped in British steamers plying between the United States and European ports.

It is understood that these cattlemen (generally destitute vagrants) are employed by the owners of the cattle (or their agents), and are promised a sum of money and a return ticket on their arrival at the port of delivery of the cattle. At the end of the voyage they are, however, almost invariably defrauded, in one way or other, of their money and their return tickets and are turned out of the ship penniless and left in a strange country, totally without means of transportation to the United States.

The increasing number of helpless people thus left destitute in British and other ports, and their pitiable condition, may be said to have become a public scandal.

As the steamers employed in the conveyance of cattle across the Atlantic are nearly all under the British flag, and while I am aware that the fact of the engagement of these men by the shippers and not by the steamship owners creates a difficulty under the merchant shipping act in assigning responsibility for the care of the cattlemen when they come to port, I hope, however, that some remedy for this grievous evil may be found by Her Majesty's board of trade, by a recommendation to the steamship companies that these cattlemen be engaged by them for the round trip on the same basis as ordinary ships' hands instead of by the shippers, as at present, so that the steamship owners will thus be responsible for their proper payment and return to the United States.

An alternative remedy could possibly be found in the enforcement here of a self-protecting construction of British local regulation to protect the health and safety of their ports from the landing of men so impoverished, unless provision is made for their temporary support and reshipment.

I am instructed at the same time to express to your lordship the request of my Government that the existing laws of the United States do not prevent or control the shipment of this destitute class of people by giving them employment as cattlemen to take care of live stock in British vessels, and their consequent charge upon the British poor rates when left stranded and penniless in the ports of the United Kingdom.

I have, etc., T. F. BAYARD.

[Inclosure 2 in No. 505.]

Lord Salisbury to Mr. Bayard.

FOREIGN OFFICE,
London, July 15, 1895.

YOUR EXCELLENCY: Her Majesty's Government have had under their careful consideration the representations made in your note of the 15th of May last upon the subject of the treatment of the men employed

to take care of cattle shipped on British steamers plying between the United States and European ports.

Your note suggested that either the steamship companies should be recommended to engage the men as members of the crew for the round trip, or that some regulation should be adopted to prevent their being landed unless provision is made for their temporary support and reshipment.

With regard to these suggestions I have to observe that there is in this country no legal power vested in the State to prescribe the conditions under which cattlemen shall be engaged, or in any way to interfere with their employment, nor is there any power to regulate the landing of the men as destitute aliens.

I am informed that both Mr. Roosevelt and the consul-general for the United States have recently been in personal communication with the board of trade in regard to this question. The former was understood to admit that the real difficulty lay in the fact that the United States consular officers have no power to relieve the men or to send them home.

Her Majesty's Government fully appreciate the desire of the United States Government to protect the interests of their citizens who find themselves in a state of destitution in a foreign country. If, however, your excellency would be good enough to bring to the notice of the board of trade any case in which it can be shown that the United States cattlemen have suffered through the insufficiency of arrangements made by the owners of the British vessels in which they have been conveyed, the board will undertake to make inquiry upon the subject.

Her Majesty's Government are disposed to think that, under existing circumstances, the most effectual way of dealing with what appears to be a serious evil might be that some control should be exercised by the United States authorities over the employers of the cattlemen, who are shippers of cattle at ports of the United States, and that these persons should be required in every case to provide for the return to their own country of the cattlemen they employ; and I have, therefore, to submit this suggestion for the consideration of the United States Government.

I have, etc., SALISBURY.

[Inclosure 3 in No. 505.]

Mr. Collins to Mr. Roosevelt.

CONSULATE-GENERAL OF THE UNITED STATES,
London, July 29, 1895.

SIR: The consul-general has laid before me your letter addressed to him re cattlemen. In reply to the question therein contained, I beg leave to state that on the 5th day of June, 1895, a meeting was held at the consulate-general, which was attended by representatives of the principal steamship lines running from London to the United States of America. The question discussed was the then existing method of procedure in regard to the payment, care, etc., of cattlemen coming from the United States, and also the question of their return to their home in the United States. The whole matter was thoroughly discussed, and as a result measures proposed by me for the payment of wages, the care of, and the return to the United States of cattlemen were agreed to by all the steamship lines, and have been since lived up to by them.

I have at the consulate-general the statements in writing from the Furness Line, from the Johnson Line, from the National Line, from the Atlantic Transport Line, the Wilson Hill Line, the Allan Line of steamships, as to their agreement to deal in a fair and equitable manner with the cattlemen.

As a result (not to go into the details of this matter, which would entail much time), I may state in conclusion that since the 5th of June to the present day this consulate-general has not been visited by any cattlemen save by a stray one on rare occasions. This to me would indicate that the trouble has been cured by the steamship companies agreeing to become responsible for the cattlemen, which agreement was the outcome of the meeting of the 5th of June. I shall be pleased to forward you copies of the letters of the various steamship lines, should you wish them and would kindly acquaint me of your desire to have them.

I am, etc.,

JOHN J. COLLINS,
Vice and Deputy Consul-General.

Mr. Adee to Mr. Bayard.

No. 845.] DEPARTMENT OF STATE,
Washington, September 9, 1895.

SIR: I have to inform you that your dispatch, No. 505, of the 31st ultimo, relative to the ill treatment of cattle-tenders arriving in Great Britain from the United States, has been received.

In transmitting a copy of your dispatch to the Secretary of the Treasury for his information and consideration, the Department has expressed its approval of your suggestion as to the propriety of action by the United States authorities in the premises.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

FIRES ON BOARD OF COTTON SHIPS.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, January 8, 1895.

SIR: I have the honor to inform you that a representation has been recently made to Her Majesty's Government by the committee of Lloyds, drawing attention to the large number of fires on board cotton ships in United States ports.

The accompanying list, furnished by the committee, gives a statement of those that have occurred from the commencement of the present cotton season up to November 24 last, and I should be much obliged if you would be kind enough to favor me with such information as you may possess as to the origin of these fires.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

List of fires on cotton ships up to November 24, 1894.

[Liverpool Salvage Association.]

Vessel.	Destination.	On fire at—
Skidby	Liverpool	Savannah.
Dalegarth	do	Do.
Castlegarth	Bremen	Do.
Baltimore City	Barcelona and Genoa	Do.
Stag	Bremen	Do.
Petunia	do	Do.
Armenia	do	Do.
Whitfield	do	Do.
County Down	Havre	Do.
Hajeen	Bremen (from New Orleans)	Put into Key West.
John Bright	Liverpool	Galveston.
Georgios Michalinos	Havre	Do.
Maria Dolores (Spanish bark)	Barcelona	Charleston.
Lampasas	Galveston to New York	Breakwater (Philadelphia).
Alamo	do	New York.
Royal Welsh	Dunkirk (from New Orleans)	Marquesa, south of Key West, since off and at Norfolk.
Alvedene	Keval	New Orleans.
Paulina	Liverpool	Galveston.
Barbadian	(Wharf fire; cotton not on board.)	New Orleans.
Yucatan	do	Do.
Malabar	(Second wharf fire)	Do.
Pembridge	Bremen	Galveston.
Madrileno	Liverpool	New Orleans.
Starlight	Liverpool (from Galveston)	Put in St. Johns, Newfoundland.

This list of cases on the other side, and excludes Baltic, Bremen, Havre, and Mediterranean fires.

Mr. Uhl to Sir Julian Pauncefote.

No. 20.] DEPARTMENT OF STATE,
Washington, January 26, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 8th instant, relative to fires on cotton ships in certain ports of the United States, and to apprise you of the receipt of a letter from the Acting Secretary of the Treasury, of the 21st instant, upon the subject.

It appears from a letter from his honor the mayor of Savannah, Ga., that every possible means is being exerted to ferret out the perpetrators of the fires on shipboard at that port in November last. It is unofficially stated to the Treasury Department that the Savannah cotton fires all occurred on the same night and were the acts of incendiaries. The loss was not great, however; the fires on all but two of the vessels were quickly put out. No fires except the eight in November last have occurred on cotton ships at that port during the past year. Detectives are still endeavoring to ascertain, if possible, the incendiaries, for whose apprehension a large reward has been offered.

The investigation of the New Orleans fires is not yet completed.

I shall be glad to acquaint you with all additional information on that subject that may reach the Department.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gresham to Sir Julian Pauncefote.

No. 22.] DEPARTMENT OF STATE,
Washington, January 30, 1895.

EXCELLENCY: In further response to your note of the 8th instant, relative to fires on cotton ships in certain ports of the United States, I have the honor to transmit herewith, for your information, a copy of a letter from the Acting Secretary of the Treasury, of the 28th instant, inclosing a copy of a communication on the subject from the president of the Savannah Cotton Exchange.

I have, etc., W. Q. GRESHAM.

[Inclosure in No. 22.]

Mr. Hamlin to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., January 28, 1895.

SIR: Further replying to your letter of the 4th instant, transmitting copy of a dispatch from the American ambassador at London relative to the fires on cotton ships, I have the honor to transmit for his information copy of a letter from the president of the Savannah Cotton Exchange, dated the 22d instant.

Respectfully, yours, C. S. HAMLIN,
Acting Secretary.

[Subinclosure in No. 22.]

Mr. Gordon to Mr. Chamberlain.

THE SAVANNAH COTTON EXCHANGE,
Savannah, Ga., January 22, 1895.

MR. EUGENE T. CHAMBERLAIN,
Commissioner Bureau Navigation, Treasury Department, Washington, D. C.

DEAR SIR: I am in receipt of your favor of the 8th instant, addressed to the president chamber of commerce, inclosing copy of letter from the committee of Lloyds addressed to the ambassador of the United States to Great Britain, in reference to fires on cotton ships at the ports of the United States this season up to November 24.

In reply, I beg to say that, so far as this port is concerned, the fires on shipboard on night of November 5–6, involving nine foreign steamships, were the only cotton fires we have had this season, and in our opinion were clearly of incendiary origin.

This exchange, being always in the front of all movements for the welfare of Savannah, called a general meeting of its members on the morning of November 6 and appointed a committee composed of its president and board of directors to immediately call upon the city council and request that immediate steps be taken to ferret out the perpetrators of the crime and to prevent any recurrence of similar acts.

The city council, realizing the seriousness of the situation, affecting as it did not only the cotton business of Savannah but involving the interests of every citizen and the good name of our city, acted promptly, actively, and energetically in the matter and offered a large reward for the apprehension of the incendiaries.

This exchange immediately followed with a reward of $5,000, and the underwriters with one of $1,000. We regret to say that up to this time the measures taken have failed to bring the perpetrators of the crime to justice, but we are still actively engaged upon the work and hope for a speedy and successful termination of our labors.

Respectfully, yours, BEIRNE GORDON,
President Savannah Cotton Exchange.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, January 30, 1895.

SIR: I have the honor to acknowledge, with thanks, your notes, Nos. 20 and 22, of the 26th and 30th instant, respectively, forwarding information relative to fire on cotton ships in certain parts of the United States.

I have not failed to communicate the contents of these notes to Her Majesty's Government, and I shall be very grateful for any further information which may reach you respecting the origin of the fires on board the cotton ships at New Orleans.

I have, etc.,

JULIAN PAUNCEFOTE.

CLAIMS FOR LANDS IN THE FIJI ISLANDS.[1]

Message of the President.

To the Senate:

In response to the resolution of the Senate of January 7, 1896, I transmit herewith a report from the Secretary of State, with an accompanying report of the special agent of the United States sent to the Fiji Islands to investigate the claims of B. H. Henry and other American citizens for compensation for certain lands alleged to have been owned by them and claimed to have been appropriated by the British Government.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, February 14, 1896.

Report of the Secretary of State.

The PRESIDENT:

Having received by reference a resolution of the Senate of January 7, 1896, of the tenor and in the terms following, to wit—

Resolved, That the President be, and he is hereby, requested, if not incompatible with the public interests, to transmit to the Senate a copy of the report and accompanying documents of a special agent of the United States heretofore sent to the Fiji Islands to investigate the claims of B. H. Henry, of Oregon, and other American citizens for compensation for certain lands alleged to have been owned by them in said islands and claimed to have been appropriated by the British Government, which report is now on file in the Department of State—

I transmit herewith a copy of the report referred to in the resolution.

The resolution also calls for copies of the documents accompanying said report. They are not hereto appended, because their nature and extent and the amount of time and labor involved in making such copies

[1] Reprinted from Senate Document No. 126, Fifty-fourth Congress, first session.

can not, it is believed, have been understood by the Senate in passing the resolution. The chief clerk of this Department reports that compliance with the resolution, so far as it relates to accompanying documents, involves the copying of 1,717 pages of written matter (foolscap) and 163 pages of printed matter. In addition, the documents called for comprise 44 maps and 4 British Blue Books (852 pages folio in all), two of which at least can not be supplied by the Department nor probably be obtained by purchase.

It is obvious that months must elapse before such an addition to its ordinary work can be accomplished by the limited and already overworked clerical force of this Department. It seems highly probable, too, that the attention of the Senate being drawn to the subject, the call for accompanying documents can be greatly modified without in any way prejudicing the objects which the resolution has in view. I submit this partial report upon the resolution, therefore, in the belief that in view of the facts the Senate may desire to take some action which, while leaving the resolution equally effective for its real purposes, will make its demand upon this Department less sweeping and less onerous.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
February 14, 1896.

Report of Mr. George H. Scidmore, special agent of the Department of State to investigate claims of American citizens to lands in Fiji.

No. 86.] UNITED STATES CONSULATE-GENERAL,
Kanagawa, Japan, July 3, 1893.

SIR: In compliance with the instructions of the Department numbered 29 and 30, of September 7, 1891, I have the honor to report that I left this post November 6, 1891, and, proceeding via Honolulu, Apia, and Auckland, arrived at Levuka, Fiji, January 8, 1892. I remained in Fiji until December 6, 1892, when I reembarked, and, traveling via Sydney, Hongkong, and Shanghai, returned to Kanagawa February 8, 1893.

The Department's instructions directed me to visit Fiji as special agent for the purpose of investigating the alleged claims of American citizens to lands in that colony, of which lands the claimants asserted they had been unjustly deprived by the authorities of the British Government. Concerning these claims, I was further authorized to confer with the governor of Fiji, with a view of coming to an agreement with him, so far as possible, which agreement, however, was to be ad referendum to the Department, and I was to report upon any questions wherein an agreement could not be reached.

Upon my arrival at Levuka I consulted with Commercial Agent St. John, and after obtaining some preliminary information from the consular archives and from a number of the American claimants, on January 25, 1892, at Suva had my first interview with His Excellency Sir John B. Thurston, governor of Fiji. A report of that meeting is contained in my dispatch No. 62, of February 1, 1892.

His excellency assured me that he was prepared to furnish the fullest information and render every assistance in the prosecution of my inquiry, and this assurance he fulfilled in every instance where I thereafter had occasion to apply to him. The inclosures herewith bear testimony to

the fact that my requisitions for data from the colonial records were extensive and frequent. Not only from his excellency, but from all of the officials of the colonial government with whom I came in contact, I received most courteous assistance and attention in the prosecution of this mission.

Under the circumstances which inquiry developed, it became evident that no satisfactory agreement could be reached between the governor and myself that would possibly lead to a final settlement of some of these claims. He expressed himself to me at our first meeting in very decided terms to the effect that he had always been opposed to a reopening of these cases after they had been, as he contended, duly and properly adjudicated by a competent tribunal, of which he had for a time been a member; and in one of our interviews, after I had received from him copies of the records in nearly all of the claims, he stated that he had not found a single claim among those upon my list that merited revision in the action of the governor in council. As will be seen in the inclosures herewith, the transcripts of record are accompanied by a note or memorandum expressing his opinion of the merits of each case. In some of his views I cordially concurred, but in others an agreement was impossible. A reference to each case will be necessary to an understanding of our respective positions.

My mission, therefore, became practically one of inquiry only, and to this I devoted all of the time at my disposal. And I now feel confident that the Department, after perusal of this report, will be in possession of all of the facts in the matter obtainable in Fiji and necessary to a clear comprehension of these long-standing complaints.

The following extract from my dispatch No. 65, of March 31, 1892, will indicate the method pursued in conducting part of the investigation:

> Very soon after reaching Fiji I discovered that in order to obtain perfect information upon the subject of my mission personal interviews with the several claimants to land here with their witnesses and with disinterested parties would be necessary. These persons are scattered all over the Fiji group, which group, I may say, has an average diameter of 300 miles. All of the claimants are very poor and many of them old and decrepit. Very few of them, so far as I can learn, possess boats suitable for a voyage of any considerable length. There is a small steamer that calls fortnightly at a number of the islands, but were I to attempt to avail of her I should in nearly every instance be compelled to complete my journey in an open native canoe, if procurable, and in bad weather and at night put up with the far from attractive accommodations of a Fijian grass hut. I therefore assume that in such a case the Department would consider as reasonable and necessary expenses the costs of employment of a small, safe, and comfortable vessel suitable to the business in hand. The only craft answering this description that I could find was the 10-ton cutter *Malua*, belonging to Mr. W. H. Bruce, United States vice-commercial agent, which I secured and had overhauled and refitted. This being the hurricane season, and the Fijian seas with their thousands of coral reefs being at all times difficult of navigation, I employed a competent sailing master, two seamen, and a steward, who acted also as a pilot and interpreter.

In this vessel I visited nearly all of the localities in Fiji where there were American claimants, or their witnesses, or lands which were the subject of complaint. My constant companion during these voyages was Mr. Andrews A. St. John, United States commercial agent at Levuka, who in his dispatch to the Department, No. 88, of July 1, 1892, details some of the hardships and dangers encountered by us.

The last documents received from the colonial records bearing upon these claims reached me December 6, 1892, the date of my departure from Fiji, and since returning to Kanagawa a number of supplemental papers have been forwarded to me by claimants. While this investigation has been long and tedious it is trusted that the results now presented will suffice to enable the Department to make an exhaustive

examination of the several cases and reduce to the narrowest limits any questions that may call for future diplomatic action—such being the manifest object of my instructions.

HISTORY OF THE CLAIMS.

By deed of cession, dated October 10, 1874, King Cakoban (the Tui Viti) and twelve others, principal chiefs of Fiji, stipulated with Sir Hercules Robinson, representative of Her Britannic Majesty:

1. That the possession of, and full sovereignty and dominion over, the whole of the group of islands in the South Pacific Ocean known as the Fijis (and lying between the parallels of latitude of fifteen degrees south and twenty-two degrees south of the equator, and between the meridian of longitude of one hundred and seventy-seven degrees west and one hundred and seventy-five degrees east of the meridian of Greenwich), and over the inhabitants thereof, and of and over all ports, harbors, havens, roadsteads, rivers, estuaries, and other waters, and all reefs and foreshores within or adjacent thereto, are hereby ceded to, and accepted on behalf of Her said Majesty the Queen of Great Britain and Ireland, her heirs and successors, to the intent that from this time forth the said islands, and the waters, reefs, and other places as aforesaid, lying within or adjacent thereto, may be annexed to and be a possession and dependency of the British Crown.

2. That the form or constitution of Government, the means of the maintenance thereof and the laws and regulations to be administered within the said islands, shall be such as Her Majesty shall prescribe and determine.

3. That pending the making by Her Majesty, as aforesaid, of some more permanent provision for the government of the said islands, His Excellency Sir Hercules George Robert Robinson, in pursuance of the powers in him vested, and with the consent and at the request of the said Tui Viti and other high chiefs, the ceding parties hereto, shall establish such temporary or provisional government as to him shall seem meet.

4. That the absolute proprietorship of all lands not shown to be now alienated, so as to have become bona fide the property of Europeans or other foreigners, or not now in the actual use or occupation of some chief or tribe, or not actually required for the probable future support and maintenance of some chief or tribe, shall be, and is hereby declared to be vested in her said Majesty, her heirs, and successors.

5. That Her Majesty shall have power, whenever it shall be deemed necessary for public purposes, to take any land upon payment to the proprietor of a reasonable sum, by way of compensation for the deprivation thereof.

6. That all the existing public buildings, houses, and offices, all inclosures and other pieces or parcels of land now set apart or being used for public purposes, and all stores, fittings, and other articles now being used in connection with such purposes, are hereby assigned, transferred, and made over to her said Majesty.

7. That on behalf of Her Majesty, his excellency Sir Hercules George Robert Robinson promises: (1) That the rights and interests of the said Tui Viti and other high chiefs, the ceding parties hereto, shall be recognized so far as is consistent with British sovereignty and colonial form of government. (2) That all questions of financial liabilities and engagement shall be scrutinized and dealt with upon principles of justice and sound policy. (3) That all claims to titles of land, by whomsoever preferred, and all claims to pensions or allowances, whether on the part of the said Tui Viti and other high chiefs or persons now holding office under them, or any of them, shall in due course be fully investigated and equitably adjusted.

I have quoted above only such portions of the deed as bear upon the subject now in hand. A copy of the full text of the document and of Governor Robinson's proclamation announcing the assumption of sovereignty over Fiji by Her Majesty will be found with Mr. Scott's letter to me, dated December 7, 1892, herewith. (Inclosure No. 6.)

Preliminary to the execution of this deed an interview took place between King Cakoban and Governor Robinson on board H. M. S. *Dido*, during which the following statements were made, showing further the understanding arrived at by the contracting parties:

HIS EXCELLENCY. As to the land question, I have been surprised to hear that some misapprehension exists as to what might be the intentions of Her Majesty's Government with respect to land. That misapprehension, I am told, has arisen in consequence of the recent discussion in the House of Lords. You may be perfectly certain that nothing unjust will be done. What has occurred to me as the fairest way of

arranging the matter I have this morning discovered to be included in the code of laws of the Lau Confederacy, viz, that all lands which can be shown to have been fairly and honestly acquired by whites shall be secured to them; that all lands that are now in the actual use or occupation of any chief or tribe, and such land as may be necessary for the probable future support and maintenance of any chief or tribe, shall be set apart for them; and that all the residue of the land shall go to the Government, not for the personal advantage of Her Majesty or the members of any government, but for the general good, for the purposes of rule and order. The more public land there is the less necessity for taxation, the less burdensome to the people will be the maintenance of peace, the administration of justice, the building of hospitals and other institutions of public utility. For such purposes as these, and not for adding to the wealth of the Queen, is it a matter of necessity to have public land.

THE KING. I am very much pleased to hear your sentiments as to the land question, and that disputed titles will be finally adjusted. In some cases I fear both sides will suffer, but it is better that such questions should be set at rest, even at the cost of a little suffering. Of one thing I am afraid, that if we do not cede Fiji the white stalkers on the beach, the cormorants, will open their maws and swallow us up. The white residents are going about influencing the minds of Tui Cakau and other chiefs so as to prevent annexation, fearing that in case order is established a period may be put to their lawless proceedings. By annexation the two races, white and black, will be joined together, and it will be impossible to sever them; the "lacing" has come. The Fijians, as a nation, are of an unstable character, and a white man who wishes to get anything out of a Fijian, if he does not succeed in his object to-day, will try again to-morrow, until the Fijian is either worried out or overpersuaded and gives in. But law will bind us together.

One of the first official acts of the new governor of Fiji, after the signature of the deed of cession, was the prohibition of land transactions between natives and foreigners, pending the investigation of then existing titles.

Sir Arthur Hamilton Gordon was appointed governor of the new colony and entered upon his duties in the following summer. His instructions from the Earl of Carnarvon, secretary of state for the colonies, dated March 4, 1875, will be found, in part, on page 107 of the British Blue [Book?], marked A, herewith.* The following extracts relative to titles to land are selected, as they indicate the exact intentions of the British Government:

The broad principles to be followed in the difficult and very exceptional case of Fiji are:

1. That it should be declared that the whole of the land within the limits of Fiji, whether in the occupation of, or reputed or deemed to have been, prior to the cession of the islands, the property of either Europeans or natives, as well as all waste and unclaimed land, has, by virtue of the instrument which ceded to Her Majesty the possession of and full sovereignty and dominion over the whole of the islands, become absolutely and unreservedly transferred to the Crown, and that the Queen has the full power of disposing of the whole of the land in such manner as to Her Majesty may seem fit, having due regard to such interests as may be entitled to recognition under article 4 of that instrument.

2. That, with the view of disturbing as little as possible existing tenures and occupations, and of maintaining (as far as practicable and with such modifications only as justice and good policy may in any case appear to demand) all contracts honestly entered into before the cession, the Colonial Government, to which the rights of the Crown are delegated in that behalf, should forthwith require all Europeans claiming to have acquired land by purchase to give satisfactory evidence of the transactions with the natives on which they rely as establishing their title; and, if the land appears to have been acquired fairly and at a fair price, should issue to the persons accepted, after due inquiry, as owners a Crown grant in fee simple of the land to which they may appear entitled, subject to any conditions as to further payments and charges or otherwise which may appear just. * * *

3. That the native titles to land not so granted to Europeans should, in the next place, be as far as possible verified and simplified, and when it has been determined what lands are now in the occupation of or actually required for the probable future support or maintenance of chiefs and tribes, the Crown should hold such lands in trust for and leave them for the present in the occupation of the tribes, families, or chiefs by whom it is at present possessed.

*"Fiji. Correspondence relative to land claims in Fiji. Presented to both Houses of Parliament * * * April, 1883."

4. That henceforth all dealings in land between Europeans and natives shall not only be invalid and not recognizable by any court of law, but shall be expressly forbidden by enactment; that whenever any European desires to purchase any native lands his application must be addressed to the Colonial Government, which, if it thinks fit to sanction such purchase, shall itself acquire the land and fix the price at which it shall be granted by the Crown to the applicant, and that as between Europeans no land shall be transferable except under the provisions of the ordinance for land transfer through the registration office, which it will be your duty at once to cause to be enacted on the model of the acts on this subject now in force in Australia.

5. That in all Crown grants full power shall be taken to resume at any time such land as may be required for roads or public works, and that as far as practicable such resumptions should be made before the grants are issued and specified in them.

I believe that this sketch of the principles, according to which the settlement of the land question in Fiji should be undertaken, will be found sufficient to guide you as to the general course to be taken. It will be necessary that a commission should be at once appointed, as suggested by Sir H. Robinson, to deal with the whole question of the ownership and occupation of the land. I do not propose, however, that it should be left to this commission to decide any of the broader questions of principle, such as I have already referred to. I have preferred to give you express instructions on the principal points, in order that questions may not hereafter be raised upon them in the colony, and you will refer to me for further directions on any point as to which you are not assured that you clearly understand the views of Her Majesty's Government.

In appointing the commission you should accordingly be careful not to confer upon its members any further powers than those of inquiring and reporting to you, and it will be for you, with the advice of your executive council, to direct the action to be taken in each case. It will be necessary that the commission should inquire most strictly into the claims of European occupants, which, as Her Majesty's Government has been repeatedly warned, are likely to be in many cases excessive or unfounded; and in the case of native claims, also, great care should be taken to protect the interests of the Crown by allowing no more than a fair and liberal interpretation of the fourth article of the instrument of cession, as illustrated by the conversation between Sir H. Robinson and Thakomban on the 25th of September.

As it is most important that the commission should be independent of local influence, it will be desirable that it should be composed, as far as possible, of persons unconnected with the colony prior to the cession, and the secretary for native affairs, with the royal engineer officer, who will probably be appointed to act as surveyor-general, would probably be suitable members of the commission, with, perhaps, one or two other persons who may be selected in Australia or New Zealand.

On June 26, 1875, Sir Arthur Gordon issued a notification to claimants to land to file particulars of their claims within a specified time, which was subsequently extended. On October 30, 1875, the land commission was appointed, consisting of the chief justice, Sir W. Hacketts; Lieutenant-Colonel Pratt, of the royal engineers; Mr. C. Mitchell, commissioner of land, and Mr. H. Emberson. The last-named gentleman was an old resident of Fiji, and is still in the service of the colonial government. None of the commissioners, then or afterwards, were selected from Australia or New Zealand. Subsequently appointed members were Mr. James Blyth, a stipendiary magistrate, in lieu of Mr. Emberson, July 13, 1876; Mr. W. S. Carew, May 5, 1877, and Mr. Hamilton Hunter, August, 1877, both stipendiary magistrates, old residents of the colony, and still in the Government service; Mr. A. J. L. Gordon, August, 1877, a protégé of the governor, and Mr. Mandsley, January 25, 1875, a member of the governor's personal staff. Mr. Le Hunte, a stipendiary magistrate, was appointed in May, 1877, but never served. From 1879 to the conclusion of the labors of the commission, the members were Messrs. Carew, Blyth, and Williamson, the last-named gentleman being a British barrister of high reputation and not connected with the colony.

At the earlier hearings, the commissioners sat together, but later the investigations were conducted most frequently by single commissioners sitting in different parts of the islands at the same time. The reports of investigations made by the commissioners were forwarded to the

governor in council, and considered in camera. The claimants were not permitted access to such reports, and copies were refused. Governor Gordon, in a memorandum forwarded by Governor Des Voeux, under date of July 18, 1882, with his dispatch to the Earl of Kimberley (see British Blue Book A, p. 85, herewith),* answers the complaint of the claimants on this point as follows:

> It was felt that those of the commissioners who belonged to the colony could hardly be expected to state with perfect freedom their impression of the transaction of individual claimants, unless sheltered by the knowledge that their reports would be regarded as confidential. It was, moreover, thought inexpedient that any differences of opinion between the commissioners and the council in those cases where the recommendations of the former did not coincide with the final adjudication of the latter should be made public.

This is indeed a frank and instructive admission, and, while emphasizing the propriety of Lord Carnarvon's instructions to Sir Arthur Gordon that "in appointing the commission to deal with the question, it is most important that it should be independent of local influence and composed as far as possible of persons unconnected with the colony prior to the cession," it is evidence that those instructions were disregarded.

It is a sad commentary, too, upon the character of the commissioners to assume that they had not the courage of their opinions, and that their investigations could not be safely disclosed to public comment, but needed executive "shelter." That a free man's title to his land, to his home, even, should be finally adjudicated upon in his absence, and testimony considered vitally affecting his rights in this manner, reminds one strongly of the star chamber.

The peculiar constitution of the body that dealt with these claims, it should be noted, was directed by Lord Carnarvon's personal instructions to Sir Arthur Gordon, and none of its principal powers were derived from legislation until the passage of the Ordinance No. XXV of 1879 (see British Blue Book marked A, p. 4, herewith)* by the governor and legislative council. Previous to its passage, in the language of Sir Arthur Gordon, "the governor in council strictly followed the instructions of the secretary of state," and "the question whether legislation was in the first instance necessary was carefully considered and decided in the negative by Chief Justice Sir W. Hackett."

The commission completed its work in December, 1881, having sent to the governor 1,335 reports of cases investigated. The results of these reports were as follows:

Granted as claimed	517
Disallowed as of right, but granted "ex gratia" wholly or in part, or with modification	390
Disallowed	361
Withdrawn and otherwise disposed of	56
Not finally decided	11

The methods of conducting inquiries by the land commissioners were in many instances not calculated to do full justice to claimants, and conclusions and recommendations in the reports sent to the governor were frequently erroneous. To avoid unnecessary repetition of facts hereunder, I refer for confirmation of these assertions to the inclosures herewith, particularly Mr. Scott's letter to me, No. 6, and the claim of Shute to Naidi, No. 39. A feature deserving special attention also is

* "Fiji. Correspondence relative to land claims in Fiji. Presented to both Houses of Parliament * * * April, 1883."

that frequently the recommendations of the commissioners were not confirmed by the governor in council; but I can not find an instance among the claims herewith where the governor's opinion, when different from that of the commissioner, was favorable to the claimant. It was either the native or the Crown that benefited in such cases.

Indeed, to such an extent were disallowances decreed by the governor in council that intense and indignant protests went up from the dissatisfied claimants, the majority of whom were Americans, British, and Germans, and the colonial government was practically forced by the clamor to make a show of a desire to render impartial justice in the matter. This effort to quiet the malcontents and at the same time give an appearance of legality to the proceedings was embodied in the Ordinance XXV of 1879. The novel features of this enactment were provisions for the appointment of an additional commissioner, who was to be a barrister or advocate of seven years' standing, and, if possible, unconnected with the colony; claims to lands arising before October 10, 1874, were to be submitted to the commission for investigation within six months from the passage of the ordinance, otherwise to be barred; the governor in council was to give public notice of the decisions upon the reports of the commissioners; any person feeling himself aggrieved by any of such decisions might, within two months after publication of such notice, or, if absent from the colony, within six months thereafter, present a petition to the governor, setting forth the grounds of his objection to the decision and praying that the matter might be reheard; rehearings of decisions already made were to be petitioned for within two and six months from the passage of the ordinance; decisions of claims upon rehearing were made final and the questions involved were not to be thereafter reopened in any court of law; petitions involving any proprietary right of the Crown to lands were to be referred to the barrister member of the commission for report, and such report was to be referred to the chief justice for his opinion, and the decision of the governor in council was to be in accordance with such opinion.

This legislation did not allay the discontent, and claimants complained that what at a cursory glance looked like an appeal, was in reality nothing more nor less in nearly every case than a request to the governor in council to reverse his previous judgment, a request which they contend was invariably followed by unsatisfactory, if not disastrous, results.

Repeated representations of their grievances were made by the claimants to their respective home governments, but without results affording any relief or compensation, except in the case of the German subjects, who, in spite of the stubborn and prolonged resistance of the British Government, succeeded in having their claims reopened before joint commissioners of Germany and Great Britain. These joint commissioners sat in London during March and April, 1885, and awarded compensation to the German claimants to the extent of £10,620. The British Blue Book relating to this matter will be found herewith, marked D.*

The present governor of Fiji, Sir John B. Thurston, stated to me at Suva that he considered the settlement of these German claims more of a diplomatic compromise than a determination of right, or as establishing the fact that the governor in council had erred in his decisions. From an outsider's point of view, however, it does seem that less per

*Further correspondence respecting claims of German subjects to lands in Fiji laid before Parliament May, 1885.

functoriness on the part of the joint commissioners would have resulted in a much larger award of damages.

The American claimants have also brought their complaints to the notice of their Government through the correspondence of the commercial agent at Levuka, but their representations were not well concerted or in tangible shape until the presentation of their petition to the President and Congress, under date of July 1, 1887. (See Inclosure No. 2.) This petition was duly forwarded to the Department, and a copy was laid before the Senate June 24, 1890, referred to the Committee on Foreign Relations, and ordered to be printed. (See Senate Mis. Doc. No. 173, Fifty-first Congress, first session.)

The claims covered by this petition, and which I have investigated, are 95 in number. The area of land disallowed, so far as the accompanying papers indicate, is 170,117 acres, but this estimate does not include 26 cases wherein the claimants were ignorant of the areas or where surveys have never been made. The total amount of the compensation demanded from the British Government, so far as ascertainable, is £234,637 (about $1,141,860.96), with interest and costs.

I come now to a discussion of the mode of treatment of claims before the governor in council, which treatment is the gravamen of the complaints.

GROUNDS ALLEGED FOR THE DISALLOWANCE OF CLAIMS.

An examination of the separate cases herewith inclosed will show that claims to land were disallowed in toto or reduced upon one or more of the following grounds:

1. Nonoccupation by claimant.
2. Adverse occupation by natives.
3. Abandonment.
4. Defective title deeds.
5. No title in vendor, or defective right of vendor.
6. Inadequacy of price.
7. Nonconcurrence of "tankeis" in sale.
8. No payment to "tankeis."

(1) *Of nonoccupation by claimant.*—It hardly seems necessary here to enter upon an extended discussion of the well-settled fundamentals of the law of real property recognized in both the United States and England, yet some of the leading principles of that law bear directly upon the subject in hand. A complete title, according to Blackstone, consists in the elements of (*a*) possession, (*b*) the right of possession, and (*c*) the right of property.

The first-mentioned element if held alone, continuously, and adverse to all the world for twenty years, would in most cases extinguish the two remaining elements in favor of second parties, and a complete title would be acquired by the occupant by operation of law, or lapse of time. There was no prescriptive term under the customs or laws of Fiji at the time of these purchases, and I should assume, as the result of my inquiries there, that a much shorter period than twenty years would establish a good title in a white occupant of land, provided the occupation was acquiesced in by the surrounding natives.

The affidavit herewith (Inclosure No. 7) of William Miller, over forty years resident in Fiji, contains the following statement:

I know of my own knowledge that undisturbed occupation of land for agricultural or grazing purposes by a foreigner in Fiji was, up to the time of such annexation, sufficient evidence of a good title in the foreigner to said land; and I do not

know of a single instance of a foreigner taking possession of land in Fiji for said purposes, and not having purchased such land, or received it as a gift from the chief or owners, without the natives attempting to eject the foreigner by force, if they could not induce him to leave peaceably.

Mr. Ezra W. Work, resident in Fiji since the year 1855, states in his affidavit in re claim of heirs of J. H. Williams (Inclosure No. 19) that—

Up to the time of British annexation of Fiji the occupation of land in Fiji by a white man, without molestation by the natives, was considered by both whites and natives as of the very best evidence of such white man's ownership of such land. No people that I have ever met were then more jealous of and more disposed to resist trespassing upon their lands than the Fijians.

The Department's instruction to Commercial Agent St. John, No. 20, of October 9, 1888, contained a statement of one of the grounds of objection by the British Government to the reopening of these claims, as follows:

In no case was any American claimant ejected from his land, and anything approaching to real occupancy was habitually accepted by the tribunal as sufficient proof of good faith and of a previous purchase, even where documentary evidence was defective.

Sir Arthur Gordon, in his dispatch of May 25, 1880, to the colonial office (see British Blue Book marked A, p. 14, herewith),* referring to the claims of the heirs of J. B. Williams, said:

Dr. Brower's special complaint is that in two instances—those, namely, of Lanthala and Nabunociri—Mr. Williams's claims have been disallowed. Dr. Brower endeavors to show the conduct of the colonial government to be inconsistent, inasmuch as, while the Williams claim has been disallowed, a portion of land originally included in it, and consequently possessing only as good a title, but which had been sold by Williams to Mr. Hennings, has been allowed to the purchaser. Mr. Hennings's claim as to the land in question, as of right, was disallowed, but the land was granted to him in virtue of his bona fide occupation of it. This course has been followed in every case, where there is now, or was at the date of cession, bona fide occupation of the land, whether the title was originally bad or good, a striking proof of the indulgence shown by the Government in the investigation of the claims.

It should be borne in mind that Williams was for a long time resident on his claim at Lancala (Lanthala), that being the location of the American consulate.

Mr. Victor A. Williamson, chairman of the land commission, on page 60, British Blue Book, marked A, herewith,* says:

The principle which appeared to me to move the governor in council was that occupation acquiesced in by the natives was the best test of the legitimacy of the sale, and that such occupation should render valid a transaction which, perhaps, in strictness was doubtful and even bad; while, on the other hand, there might be cases in which no objection could be taken to the sale, but when the purchasers had slept upon their rights for years, leaving the natives in undisturbed possession, in which case it might be held that the neglect to occupy had been continued so long as to extinguish any rights acquired by the purchase. Such cases were, however, rare, and I can not recollect any case in which an unimpeachable sale has been wholly disallowed merely on the ground of nonoccupation. In many cases, no doubt, the reason for nonoccupation was the inability of the vendors to put their vendees in possession, owing to their right to such being disputed by the tankeis (occupiers), and many cases have come under my experience in which, had the purchasers attempted to take possession, they would in all probability have been eaten, according to the customs which then prevailed in many parts of Fiji.

To what extent the governor in council gave effect to the lex loci rei sitæ and to title by occupancy may be seen in a marked manner in the decision in the claim of the heirs of John Brown, Inclosure No. 51. Brown acquired the land from natives, as he alleged, by purchase. His

* Fiji. Correspondence relative to land claims in Fiji. Presented to both Houses of Parliament * * * April, 1883.

deed was lost or destroyed by fire. He and his heirs enjoyed quiet possession for nearly twenty years. Area claimed, about 150 acres. Allowed 50 acres. Upon rehearing, however, without any new testimony being introduced, the claim was entirely disallowed upon the ground that "the occupation was merely according to Fijian customs and not such as to entitle the respondent to a crown grant." This claim was sub judice nearly six years, October 30, 1875, to September 28, 1881.

The claimants justly contend that they should not be deprived of their lands where they have proved right of possession and right of property, but have failed to show continuous occupation, the rule as to which, as enforced by the governor in council, being in many cases impossible to be complied with. It will be seen that numbers of the claimants were purchasers of various tracts of land widely separated from each other. The law does not require ubiquity in the person of a landowner, and actual possession, while good prima facie evidence of title, was neither absolutely essential nor was it always possible.

(2) *Adverse occupation by the natives.*—This subject is mainly covered by the preceding remarks. I beg to call attention, nevertheless, to the claim of the heirs of T. R. Shute to Naidi, Inclosure No. 39, wherein permissive occupation by the natives was sought to be construed as adverse possession.

(3) *Abandonment.*—This ground for disallowance also is included under the discussion of the subject of occupancy. The claim of Messrs. Halstead and Brower to the Ringgold Islands, Inclosure No. 52, is one wherein abandonment is alleged against the claimants as a reason for recommending disallowance.

(4) *Defective title deeds.*—The final report of the land commissioners (p. 30, British Blue Book A, herewith)* contains the following very apposite remarks:

> In many cases the so-called deed has been merely a sale note of the most irregular and informal character, written on any scrap of paper procurable, and by any person who could be found to write it; but the largest allowance has always been made for informalities where no defect graver than informality has attached to them, and, considering the class of persons who constituted the majority of the early land purchasers in Fiji, and the rough, half-savage manner in which they lived, it is perhaps surprising that the informalities and irregularities have not been even greater than they are. The following remarks, therefore, must be taken to apply equally to the more pretentious documents drawn by persons assuming to be conveyancers and embodied in legal forms; and it is among these that we have detected some of the most scandalous frauds of any that have come under our notice, and we are of opinion, for reasons which will appear hereinafter, that the majority of the deeds which have come before us are of very little value as evidence of any particle of the transaction, except, perhaps, of the intentions of the purchaser, and we further are of opinion that in the construction of these documents the well-known maxim of English law that a grant should always, in case of doubt, be construed adversely to the grantor, should, under the very peculiar conditions which formerly prevailed in Fiji, be inverted.
>
> In civilized countries the execution of a deed is, of course, the most solemn and conclusive form of recording a contract, and consequently courts of law have been very cautious in admitting evidence to explain or modify deeds, and have always viewed with great suspicion any attempt to do so. But in civilized countries a deed is an instrument carefully prepared and fully considered in all its details by all parties, who presumably are in a position to deal together upon equal terms, and such is not the case here.
>
> The vendors, being, of course, unable to read the documents they professed to be executing, were entirely dependent for their comprehension of their acts upon such explanation as was given them from the purchaser or the interpreter supplied by him, paid by him, and who was in many cases himself continually mixed up with similar transactions.

* Fiji. Correspondence relative to land claims in Fiji. Presented to both Houses of Parliament * * * April, 1883.

Still less were they able to sign them, and consequently the execution is almost invariably by mark; and we need not point out the great facilities which this fact alone afforded to unscrupulous persons to obtain deeds which are little better than fraudulent. * * *

In English deeds we may as a rule rely upon the accuracy of a sum stated to have been given as consideration. In Fiji it is quite the reverse. In the vast majority of cases the actual payments have been made in trade, and the difficulty we have always had to encounter has been to arrive at an approximate estimate, first, of what were the articles given, and second, how far such articles fairly represented the consideration alleged upon the face of the deed. In some cases we have detected the grossest and most scandalous untruthfulness as to the sums alleged to have been given.

The most striking instances of irregularities in the deeds produced by American claimants appear in the claims of the heirs of J. B. Williams (inclosures herewith Nos. 15 and 18), where the names of some [of] the grantees were erased and no satisfactory explanation was offered for such alterations.

It is very noticeable that in some of the decisions of the governor in council but scant regard was paid to the boundaries stated in the deeds. For examples, see case of Work, Byrne and Rounds, Inclosure No. 37, and that of O. Farra, Inclosure No. 59. It is quite true, as stated by the commissioners, that in a great majority of cases the boundaries were a matter of vagueness and uncertainty to both parties, and were not, and indeed could not be, clear to either.

(5) *No title in vendor, or defective right of vendor.*—So far as affects the American claimants these matters will be found treated mainly in connection with the powers of alienation by the chiefs and "tankeis."

(6) *Inadequacy of price.*—Considering the conditions of society in Fiji in former times it is impossible to apply strictly the rules that would govern in civilized communities. The Fijians were debased in savage cannibalism, war was ever present, life and property were continually threatened by neighboring enemies, land was overplentiful, arms and ammunition were dear but necessary, and the white men had them as well as many other strange, atttractive, and useful articles. The white man wanted land and the Fijians were eager to part with it to satisfy their necessities or gratify their temporary caprices. The matter is well summed up in the very interesting affidavit of Mr. R. S. Swanston, herewith, Inclosure No. 5, as follows:

The question of what was an adequate consideration for lands purchased from natives can, to my mind, have but one answer, namely, that consideration with which the seller was satisfied. Wild lands in a savage country have no established value. The necessities of warfare, love of adornment, or childish cupidity, in most cases decided the price to be paid, and the European or American monetary value of the consideration was not a fair criterion. To my own knowledge in early days in Samoa, a large blue bead was the purchasing price of a young girl, and in Fiji a whale's tooth was the value of a man's life.

The final report of the land commissioners (see British Blue Book A, p. 31, herewith)* contains the following very appropriate remarks:

A large proportion of the sales were effected in order to obtain arms and ammunition for offensive and defensive purposes. To many this may seem iniquitous in the extreme on the part of the purchasers, but upon reflection we deem the iniquity of the transaction to rest chiefly with those, whoever they may have been, who first introduced such means of warfare into a country then in a state of rampant savageness and cannibalism.

When guns fell thus into the hands of a tribe upon whose shores the vessel conveying the first firearms was anchored, their neighbors would soon discover that it was a matter of life and death that they should likewise procure the same means of defense. And when land buying commenced, what easier than to sell a portion of land upon the desire of a white to buy? For before the arrival of whites the absolute alienation of land, in our sense of the term, must have been unknown,

*Fiji. Correspondence relative to land claims in Fiji. Presented to both Houses of Parliament * * * in April, 1883.

when the families could only understand that they had the usufruct alone of the soil for themselves and their heirs. When there were no buyers there could be no sellers.

In the matter of such sales for firearms, we are of opinion that when all interests were properly consulted before the completion of the contract, it became competent and proper for the people to alienate a part of their land to procure the means of defense against neighboring tribes and strangers at a time when the term "stranger" meant also enemy.

By Fijian custom, that is by Fijian law, the absolute alienation of land as understood by us was unknown, and, therefore, strictly speaking, illegal; yet, can it be doubted they had a perfect right in common prudence to procure by any means in their power the safety of their lives and the lives of their wives and families? Where would be the utility of preserving land when by so doing they subjected themselves to extinction altogether, and consequently left no posterity to enjoy the lands thus spared by a too rigid adherence to their old customs?

(7) *Nonconcurrence of tankeis*, and

(8) *No payment to tankeis.*—The following definition of the term "tankeis" was furnished me by Mr. R. S. Swanston (see Inclosure No. 5), whose long residence in Fiji, familiarity with the people and language, and intelligence and social standing render his opinion in such a matter of great weight. He says:

The word tankei is generally accepted to mean owner or proprietor, but it has a more realistic meaning, and that is tenant or occupant. It means proprietorship for the time being, a proprietorship subject to the capricious will of another. A tankei ni vanua was the occupant for the time being, and his children after him did, and might continue occupants in possession for any indefinite term, the limits of which term, however, at all times subject to the pleasure of the chief, and to the calls for service and supplies by the chief. During such term the tankei ni vanua must comply with these demands or take the consequences; as, for instance, if called upon for a pig, and failing to promptly deliver it, he was liable to be ordered and compelled to prepare an oven, into which oven his own carcass would most certainly be put in place of that of the pig. A tankei ni vale was simply a householder, not a house owner, and his tenure was, in like manner, subject to the pleasure of the chief. * * *

The Kaisis, or people of the land, were divided into two classes, namely, Bati and Qali.

The Bati were mercenaries whose services as fighting men were rendered to the chiefs to whom they might be for the time being Bati, and they held land as occupants from such chiefs in consideration of services. For instance, the Kai Kuku and Kai Namata were mountaineers to whom the chief of Bau gave lands on Bauan territories near the coast adjoining Rewan territory, and these people became Bati to Bau, and the lands they occupied were called after them the land of the Kai Kuku and lands of the Kai Namata, respectively; or, more directly after them, Kuku and Namata.

Again, the Nakelo lands are Bauan Qali lands, given to the Kai Nakelo, who were Rewans and Bati to Rewa, to occupy on condition that they would render Qali service to Bau. Cakoban was dissatisfied with this arrangement, and under a decision of the last court of appeal in Fiji, namely, the court of clubs, enforced his will against these Kai Nakelo, and compelled them to become Bati as well as Qali to Bau and de facto Bauans. It can be well understood how, under such customs, maintained by club law, tribal squabbles should have a continuous existence and titles to lands be involved in inextricable confusion, and only to be dealt with by recognizing the man in possession with power to hold and transfer possession as the owner with the right to transfer.

Qali were the recognized peons or serfs of a chief—menials of the lowest class—who provided food and rendered all and every kind of servile labors to their masters.

The intricacies connected with landownership and the right of any chief to sell land would lead to a waste of time to discuss in detail; and I think that the general principle, as acted on by the whites and supported by the respective consuls in Fiji, in reference to lands purchased by the whites from the natives, namely, that a sale made by a paramount chief was conclusive, provided always that the bona fide on each side was clear, was right, and an appeal to club law by the natives, or against a white man, in any case where his claim had received consular recognition, was justifiably suppressed with a strong hand. After the hoisting of the British flag, however, instances of the repudiation by natives of bona fide sales of land to whites have occurred, by the consent if not by the instigation of the colonial authorities. I make this statement knowing that the Fijians would not have dared to take such action unless with the consent, approval, and orders of their chiefs in former times, or under the warrant of the authorities of the colony in these times.

The customs and laws in reference to land while Fiji was under native rule were practically the same throughout the group.

Mr. Swanston further gives numerous illustrations of the relative positions of the chiefs and people, and his entire affidavit is worthy of most careful study.

In the earlier adjudicated cases it was recognized that the chiefs had power to dispose of tribal lands without the concurrence of the commoners or "tankeis," but, becoming alarmed at the large concessions to the whites that this recognition would involve, Sir Arthur Gordon, undoubtedly as a matter of expediency, adopted the rule of disallowing claims on the ground of nonparticipation of the "tankeis" in the sale. I use the word "expediency" for the reason that legality is not an appropriate term in this connection.

To assist the natives in disputing claims an advocate, Mr. E. O'B. Hefferman, was appointed by the Government. He preceded the commissioners in their visits to localities where investigations were to be held, interviewed the natives, collected their witnesses, and conducted their side of the cases at the hearings. The appointment of such an agent was in itself eminently just and proper, seeing that in most instances the white claimants had the assistance of trained attorneys, and that the natives were ignorant of procedure; but it has been asserted that this advocate conveyed to his clients the impression that it was the desire of the Government that claims should be disputed and disallowance effected whenever possible, and that with such ideas once implanted in their minds the Fijians resorted to the grossest perjury.

So far as I was able, I made diligent investigation of this grave charge. That the natives frequently prevaricated in their testimony there can be no doubt. The papers herewith in the matter of the claim of the heirs of T. R. Shute (Inclosure No. 39) furnish illustrations. That Mr. Hefferman was in any way instrumental in producing such irregularities, I prefer to doubt. He, however, as appears from Commercial Agent St. John's official certificate herewith (Inclosure No. 8), made an antemortem statement, confessing that he had been employed by the Colonial Government of Fiji to precede the lands commission in their tours of investigation and "coach the natives to dispute claims to land," and that he deeply regretted many things that he had done injurious to the interests of American claimants to land.

This seems to me to be too general and indefinite to be of much value.

Mr. Swanston in his affidavit (Inclosure No. 5) says:

> After the earlier portions of the land claims had been gone into, the members of the commission were changed and the mode of conducting the inquiry became markedly adverse to white claimants, with a strong bias toward the natives, evidently the result of a change in the policy of the governor, and the natives were advised and urged—I regret that I have to say this advisedly—to dispute the claims of whites to lands that up to that time had been held in peaceable and undisputed possession and occupation. The agents in this nefarious collusion were men holding official positions under the Crown, and who did their behests, representing themselves as mouthpieces of the governor.

A careful study of this question of the right of sale of native lands in Fiji prior to annexation leads to the conclusion that such right was vested in the chiefs. The general custom supporting the right was, of course, affected by the fact that while the chiefs in some places were all powerful, in other localities their authority was limited; but it must be observed that the latter were exceptional cases, and as such tend to prove or establish the prevalence of the rule. Whatever may have been the exclusive rights of the tankeis in the remote past, it is clear that with the introduction of white men and firearms there came about an increase in the authority of the chiefs, and this authority became so

firmly established over the ancient customs of the people that the chiefs were masters absolute, not only of the tribal lands, but of the lives of all their people. The present governor of Fiji, Sir John B. Thurston, in 1874, in a memorandum attached to the report to the British Government by Commodore Goodenough and Consul Layard, stated:

The ownership of the land in Fiji, whether absolute or qualified, is based upon well-settled law or custom; in some matters of detail only is this law or custom obscure. Since the advent of Europeans, Fijian customs have been slowly altering. Old ideas and usages have undergone important changes, and in no respect have they changed so much as in the relation existing between the chief and his people. * * *

From long and careful inquiry, I am of opinion that the people hold their land from their chiefs—that is to say, from their fathers or their gods—under a feudal system which has existed from time immemorial. The principle of this system recognizes the supreme chief as the grantor of land, and leaves the usufruct only, subject to certain conditions, in the hands of the grantee, i. e., quali chief and people. * * *

When a cabora (presentation) is made by any quali (subject, province, or town), its mata or herald lays hands upon the offering, and says, addressing the chief: "Be favorably disposed to accept this. We know it is little, but if it is little, '*keimani na kenai kuri*' (literally, 'our bodies can be added to it to make it more'). Be favorably disposed to us; accept this, that we may continue to occupy your land." * * * All these well-established customs point to the fact that the lands belong to the head or ruling chief of the tribe and are held by his subordinate chief or vassals, subject to a service called "lala." * * * All evidence tends to show that the lands of Fiji are vested in the ruling chiefs of tribes, occupied by their subordinate chiefs or vassals, and people, in consideration of past, present, or future service. * * * I do not think any subordinate Fijian landholder or occupant can or should alienate land without the consent of the ruling chief, inasmuch as the chief holds most important rights in respect to such land, the loss of which would seriously affect his position in regard to other chiefs, and possibly render him unable to perform certain obligations due by him to other families of the tribe. Nor, on the other hand, do I think the ruling chief should alienate land, except with the consent of the occupants, so long as they (the occupants) render the services demanded by such chief and sanctioned by immemorial usage and custom.

In their general report upon land claims in the Dreketi district (see British Blue Book B, p. 187, herewith)* the land commissioners say:

No "taukeis" were ever consulted by the chief on the sale of lands, and the munitions procured by such sales were distributed as appeared to him most advisable at the time. Land belonging to one division was sold and the arms obtained handed over to the people of another division, and again, vice versa, in the perfect discretion of the chief, whose position and rights appear to have been that of a commander in chief of an army engaged in perpetual warfare. In this condition of affairs it seems to us everyone interested acquiesced.

The power of the chiefs Ritova and Tui Cakan is exemplified in the same Blue Book, pp. 236–239.* Neither of the chiefs consulted the views of the "tankeis" in effecting sales. In the judgment of the governor in council on rehearing the claim of T. R. Shute to land near Levuka (see Blue Book C, herewith, p. 31),† the following significant language is used:

At the time when there was no law in the colony except the will of the native chiefs, Tui Levuka, who then had the power, took from William Miller, a half-caste, a portion of land, etc.

The contradictoriness of insisting upon the title of the "tankeis" as superior or even equal to that of the chiefs is manifest in the position of the British Government at the time of the deed of cession, for it was by acknowledging the feudal tenure to be the only one in actual operation that possession was obtained of the group.

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* Fiji. Further correspondence relative to land claims in Fiji. Laid before Parliament, August, 1883.

† "Minutes of the executive council of Fiji sitting for the rehearing of land claims, August 29 to October 17, 1881."

After full investigation, conducted at various times and by different agents, but more particularly by Commodore Goodenough and Consul Layard, assisted by the present governor of Fiji and others, that Government professed itself satisfied of the power and right of the chiefs to cede not only their seignorial rights but the absolute proprietorship of all lands not previously alienated.

The titles of these claimants, derived from the chiefs of Fiji, were equal in origin with that of the British Crown, and being prior in time were superior in right, and could not be affected in their validity by the deed of cession or by any subsequent departmental instructions or ordinances or judgments of the British authorities.

THE INTERESTS ACQUIRED BY THE BRITISH GOVERNMENT BY REASON OF DISALLOWED CLAIMS.

In the rejection of claims, the consequent benefit of the Crown in the disallowed lands, either directly or as ultimus hæres, is also the basis of serious complaint. Executive officers were made judges in these cases, where often the interests of the Crown were involved. Sir Arthur Gordon contends that such interests were "not direct, but very indirect and remote," and that the Crown could only become ultimus hæres "in the improbable case of the entire failure of the native owners" and "white proprietors," and I am informed that it has even been contended by members of the colonial government that there are no Crown lands in Fiji.

Actual facts, however, show that the Crown has acquired very extensive landed interests. During the first two years after the cession it is estimated that about one-third of the natives died from an epidemic of measles, and since then there has been no increase of population, but, on the contrary, regularly compiled statistics show a diminution; and while I was in Fiji the government was engaged in an inquiry into the causes that were producing what threatens in the near future the disappearance of the Fijian race. Since annexation, the white population of the islands has decreased in numbers, and there are few, if any, inducements at present to attract European immigrants.

As early as June 3, 1876, as will be seen by the copy of the Royal Gazette of that date herewith (Inclosure No. 10), the government had Crown lands in Fiji, which were offered for sale at upset prices ranging from 10s. to £1 per acre. The following advertisement, which appeared in the Fiji Times of December 12, 1891, is further evidence in the matter:

V. R.—NOTICE.

Notice is hereby given that any person found cutting or removing timber of any description from Crown lands will be prosecuted.

JOHN BERRY,
Commissioner of Lands.

LAND OFFICE,
Suva, 8th December, 1891.

By reference also to the claims of Messrs. Copeland and Henry (Inclosure No. 20), it will be observed that the Crown is now occupying, for prison, hospital, immigration, and other purposes, at Suva, land that was disallowed claimants. The Island of Mukulan, claimed by the heirs of J. B. Williams (see Inclosure No. 15), and disallowed, is also occupied as a Government quarantine station. Finally, a most important question that should be answered is: By what right could the governor in council issue Crown grants ex gratia? This was done

in a great many cases, and extensive tracts of land were thus vested in white proprietors.

These facts, I conceive, are an ample answer to the contention of the British foreign office that "there have been no conflicting claims between the Crown and any alien proprietors, and that dispute in every case was between native owners of the land and persons who claimed to have bought from natives."

HALF-CASTE CLAIMANTS.

In every case, where practicable, the accompanying inclosures furnish the evidence obtainable in Fiji of the American citizenship of claimants. It will be noted that many of the parties are the descendants of American fathers by native mothers, and have never lived in the United States. The unions of the parents in such cases were sometimes preceded by a marriage ceremony performed by a missionary, and frequently were only marriages "vaka viti" (i. e., according to the custom of Fiji). These latter nuptial contracts were, as is usual in savage countries, of a very loose and irregular character, and practically amounted to gross concubinage. Polygamy was common among the natives, especially the chiefs, and some of the early white settlers were not guiltless of it. The pleasure of the parties, particularly that of the man, determined the duration of the relation.

The views of the Department in this connection appear to have been expressed in the instruction to Consul-General Sewall, at Apia, Samoa, under date of July 19, 1888, in these words:

> One of the tests of a valid marriage in the United States is that it must be exclusive and for life. The question is not one of the intention of the parties in this regard; it is whether by the law of the place the union is compulsory and not at the will of the parties. If, by the Samoan law or custom, a man and a woman who cohabit with the intention of living together in exclusive union for life may, nevertheless, at any time freely separate and treat the union as at an end, the law or custom which permits this does not constitute such a marriage as is recognized by the laws of this country. Whatever may be the intention of the parties, such a union is, from a legal point of view, merely cohabitation at will and not of that permanent and exclusive character which American law demands.

VALUE OF LANDS.

Almost all of the claimants demand compensation for their lands, based upon the values thereof at the time of disallowance. This appears to me to be the only fair basis of measuring any damages that may be awarded. Land in Fiji is now of very little value as compared with the period when the British Government took over the islands. Owing to the complete stoppage of purchases from the natives, to the uncertainty of title acquired by whites (which titles in many cases remained in abeyance for nearly five years after annexation), to the great fall in the cotton market, and to general financial stringency naturally following, almost universal ruin fell upon planters and upon traders who had given them credit. European immigration into the islands ceased, and has not been encouraged by the colonial government, Sir Arthur Gordon going so far as to remark that Fiji was not a white man's country. The government offered crown lands in 1876 for sale at prices varying from 10 shillings to £1 sterling per acre (see Inclosure No. 10), but this offer was practically a farce, for I have in mind a number of persons who went to Fiji to purchase such lands and met with disappointment. Wherever possible, I have endeavored in each case herewith presented to obtain tangible evidence of values, and, as will be seen, have not

hesitated to express my opinions of the correctness of estimates made by claimants.

Interest and costs are also frequently asked for in these claims. The customary rate of interest in Fiji previous to cession was 10 per cent per annum. The present rate on judgments in the supreme court of the colony is 8 per cent per annum.

Respectfully referring to the inclosures herewith for details in each claim,

I have, etc., GEO. H. SCIDMORE,
Special Agent of the Department of State and Consular Clerk.

Hon. JOSIAH QUINCY,
Assistant Secretary of State.

List of inclosures.

1. Glossary.
2. Petition of American claimants, July 1, 1887.
3. Chart of the Fiji Islands.
4. Chart-Suva to Levuka.
5. Affidavit of R. S. Swanston.
6. Letter from W. Scott, December 7, 1892.
7. Affidavit of W. Miller.
8. Certificate of Commercial Agent St. John in re E. O'B. Hefferman.
9. Certificate of same in re feeling among natives.
10. Fiji Royal Gazette of June 3, 1876.
11. Sundry correspondence with governor of Fiji.
12. Sundry newspaper articles.
13. Pamphlet—A Land Appeal Case.

CLAIMS.

14. Heirs of John Brown Williams, Laucala Island.
15. Same heirs, Nukulau Island.
16. Same heirs, Nabunocere.
17. Same heirs, Wai Na Beragaga, Na Kocu, and Na Vuvu.
18. Same heirs, Nukubalavu.
19. Heirs of James Hartwell Williams, Namuka Island.
20. T. A. Copeland and B. R. Henry, land near Suva.
21. The Polynesia Company.
22. W. H. Bruce, Wai Wai.
23. G. R. Burt, Emuri.
24. W. Berwick, various claims.
25. W. Berwick, Noala.
26. W. Berwick, Dere.
27. W. Berwick, Vuci Levu.
28. W. Berwick, Koro Nubu.
29. W. Berwick, Sagunu.
30. W. Berwick, Na Vua Vua.
31. W. Berwick, Narewa.
32. W. Berwick, cutter *Psyche*.
33. Heirs of John Sparr, Vesa Island, Vanua Tabu Island, Tawadromu Island, and part of Ono Island.
34. Heirs of George Winter, Dreketi, Bulu, Mamanuca Islands, Gavo, and Veitoga and Drasa.
35. B. Morris, Udu, Naola, and Levuka town lots.
36. E. W. Work and J. Byrn, Sa Solo.
37. E. W. Work and J. Byrn, and heirs of Charles Rounds, Gau.
38. Heirs of Charles Rounds, Mataidravuni.
39. J. M. Shute, Naidi.
40. Heirs of T. R. Shute, Eld, Fox, Agate, and Sinclair islands.
41. Same heirs, Matana Levu.
42. Same heirs, Vuni Sawana.
43. Same heirs, Vuna Balavu, Na Sarawaga, and Vuni Cibi Cibi.
44. Isaac Driver, Na Sinu and Nolea.

45. Soe King, Onelasi.
46. William Peckham.
47. Robert Forbes.
48. Thomas Farrel, Toguru, and Nukuloa.
49. William Ross.
50. George Trask, Wai Savu Savu, Yagaga Island, and Dreki-ni-Wai.
51. Heirs of John Brown, Bulu.
52. G. Halstead, J. M. Brower, and W. Valentine, Yanuca-i-Lau, or Ringgold Islands.
53. Heirs of John Gallagher, Nadamanu and Nataci, Navusova, and Natuvu
54. Henry Baily, Toguru.
55. J. A. Parrott, Warikaba.
56. Mary Dyer, Na Vuni Ivi Deke, or Toga Island.
57. Mrs. K. W. Hathaway, Namena, or Direction Island.
58. Isaac Driver, Yanawai.
59. John O'Farra, Ucu-ni-Vatu.
60. Jacob Steiner.
61. John Hale, part of Toga Island.
62. Heirs of John Ryder, Drui.
63. Heirs of James McGoon, Wai Lai Lai, Rei Rei, Buri Lai Lai, and Naidiri.
64. Heirs of Thomas Hoyt.
65. Samuel Whippy and heirs of Peter Whippy, Ko-na-Lovo-ni-Sikeci, Sogobuli, Nagadi, and Koro Levu.
66. Burns, and eleven others.
67. Notice to claimants by Commercial Agent St. John, November 28, 1888.
68. British Blue Book A.
69. British Blue Book B.
70. British Blue Book C.
71. British Blue Book D.
72. Report from Consular Bureau, January 6, 1890.